RECONCEIVING OUR COMMUNITY

A COSMOPOLITAN CASE FOR OPEN BORDERS

A Thesis

by

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ABSTRACT

In this thesis I present a cosmopolitan case for open borders. First, I examine the U.S. border policy of the last several decades and challenge its cost-effectiveness and impact on undocumented immigrants. Then I tackle the undergirding assumption of the U.S. border policy, namely, that the political state is morally entitled to control its borders, by examining the most prominent argument on either side of the debate. In light of this discussion, I challenge the legitimacy of the undergirding nation-state system in our world and argue for a more global conception of community and world-order through the cosmopolitan accounts of the ancient Stoics, Immanuel Kant, and Jürgen Habermas.

DEDICATION

To my parents with love

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CONTRIBUTORS AND FUNDING SOURCES

Contributors

This work was supervised by a thesis committee consisting of Professor Linda Radzik and Professor Theodore George of the Department of Philosophy and Professor Chester Dunning of the Department of History.

All work for the thesis was completed by the student, in collaboration with Professor Linda Radzik of the Department of Philosophy.

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CHAPTER I

INTRODUCTION

The topic of immigration is among the most contentious and pressing political and cultural challenges today. From DACA to illegal immigration in the United States to refugee crises around the world, the issues around immigration and border control fill today's headlines and desperately call for our collective, conscientious response as a society. In spite of its significance and impact on individual lives, however, the issue of immigration has been almost entirely neglected within the disciplines of philosophy and ethics for most of its long history, and only began to attract scholarly attention from philosophers and political theorists in 1980s. Given the current crisis around immigration today, philosophers and intellectuals have a grave responsibility to engage in public discourse and present moral aspects that the public may not easily discern or take into account.

In this thesis, I explore some of the most important issues around immigration, from the U.S. border policy and the state's right to control immigration to the nation-state system and cosmopolitan philosophy. I begin with a concrete and most immediate issue for us: the U.S. immigration and border policy. In Chapter Two, I analyze the U.S. border policy of the last several decades with its emphasis on border security. First, I conduct a cost-benefit analysis of the U.S. border policy and evaluate its effectiveness against its costs and impact on various levels—from the national economy to undocumented immigrants. I conclude that the current policy of border enforcement fails the cost-benefit test. In the remainder of the chapter, I suggest an alternative approach that would provide a more cost-effective and humane border policy.

Throughout Chapter Two, I assume the conventional view of the sovereignty of the state over its territory. In Chapter Three, however, I will directly engage with this very assumption and ask, Does the state really have a right to enforce its borders? This question is important for two reasons: First, it deals with the most central question of the proper role of the state regarding its borders; and second, various pressing issues on immigration such as refugee crisis, undocumented immigrants, and DACA[1] hinge on the answer to this fundamental question. In other words, we can decide what the appropriate collective action and public policy concerning these issues might be only when we can agree on the extent of which the state's intervention can be legitimate.

I will address this question by examining Michael Walzer's case for the state's right to border closure in *The Spheres of Justice* on the one hand and Joseph Carens' argument for open borders in *The Ethics of Immigration* on the other. At the end of each discussion, I present my own critiques of the arguments. Ultimately I agree with Carens that borders should be generally open. Nonetheless, I have an important disagreement with his individual rights approach.

In Chapter Four, I expand the point I made at the end of Chapter Three and examine some of the aspects of the nation-state system and their implications concerning the prospect of open borders. In light of these discussions, I argue that opening borders requires reconceiving our notion of community, and, for this reason, the nation-state system is at odds with open borders. After showing that nation-states are problematic for open border thinking, I advocate a cosmopolitan ethos that encourages a much larger sense of community. I argue that cosmopolitan conception of community is a necessary and important step toward the world with open borders.

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[1] Deferred Action for Childhood Arrivals (DACA) is an immigration policy announced by President Obama in 2012, which provides protection from deportation and a work permit to some individuals brought to the U.S. illegally as minors.

CHAPTER II

THE U.S. IMMIGRATION AND BORDER POLICY

"They can build as many walls as they want. They can send as many soldiers to the border as they want,

but a people's need and desire for a better life is stronger."

– Migrant from El Salvador[2]

In this chapter I will explore the border policy in the United States intended to address the illegal immigration through the southwestern border. I will analyze and evaluate the consequences, both economic and moral, of border closure and enforcement efforts.[3] In the course of the analysis, I will argue that U.S. border policy that focuses on the border enforcement fails the cost-benefit test. In its place, I will advocate a more cost-saving and humane alternative policy approach, one that focuses on the root causes of illegal immigration.

2.1   Cost-Benefit Analysis of Border Enforcement in the United States

History of Border Enforcement

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[2] Nicholas Kulish, "What It Costs to Be Smuggled Across the U.S. Border," *New York Times*, June 30, 2018, https://www.nytimes.com/interactive/2018/06/30/world/smuggling-illegal-immigration-costs.html?action=click&module=Trending&pgtype=Article&region=Footer&contentCollection=Trending.

Throughout the thesis, I will refer to unauthorized immigration mostly as either "unauthorized immigration" or "illegal immigration," and unauthorized immigrants as "undocumented immigrants" for the sake of consistency. Also, I don't think an individual can be "illegal"; actions can. For more on this topic, see Lauren Gambino, "'No human being is illegal': linguists argue against mislabeling of immigrants," *The Guardian*, December 6, 2015, https://www.theguardian.com/us-news/2015/dec/06/illegal-immigrant-label-offensive-wrong-activists-say.

[3] In doing so, I will assume the U.S. perspective in my analysis, which means a legitimate U.S. policy considers the interests of American citizens first and foremost, without imposing unreasonable costs on others. For the subsequent chapters, however, I take a more universal standpoint.

The modern form of border enforcement in the United States began as a reaction to the rise in illegal immigration in the mid-20th century. In 1964, the U.S. put an end to the Bracero program, an agricultural guest worker program that admitted nearly five million Mexican farm workers between 1942 and 1964. Although they were no longer granted the work visas that they had been granted under the program, Mexican workers continued to enter the country seeking employment opportunity. The Mexican economy at the time was not robust enough to create enough jobs for their citizens at home. In other words, the lack of economic opportunity and the ensuing poverty back home pushed many Mexican workers to make the northbound journey, legal or not. Primarily as a result of the change in the legal status of Mexican workers seeking work in the U.S., the number of immigrants crossing the border without authorization skyrocketed (see Figure 1). The number of apprehension at the U.S.-Mexico border increased tenfold in only ten years following the end of the Bracero program, from nearly 87,000 in 1965 to about 876,000 in 1976.[4]

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[4] Stuart Anderson, *The Impact of Agricultural Guest Worker Programs on Illegal Immigration*, The National Foundation for American Policy, December 2003, http://www.nfap.com/researchactivities/studies/Nov_study1.pdf.

APPREHENSIONS

160,000 ►
140,000 ►
120,000 ►
100,000 ►
80,000 ►
60,000 ►
40,000 ►
20,000 ►
0 ►

◄ 500,000
◄ 450,000
◄ 400,000
◄ 350,000
◄ 300,000
◄ 250,000
◄ 200,000
◄ 150,000
◄ 100,000
◄ 50,000
◄ 0

BRACERO ADMISSIONS

1959   1960   1961   1962   1963   1964   1965   1966

YEARS

---■--- APPREHENSIONS

—●— BRACERO ADMISSIONS
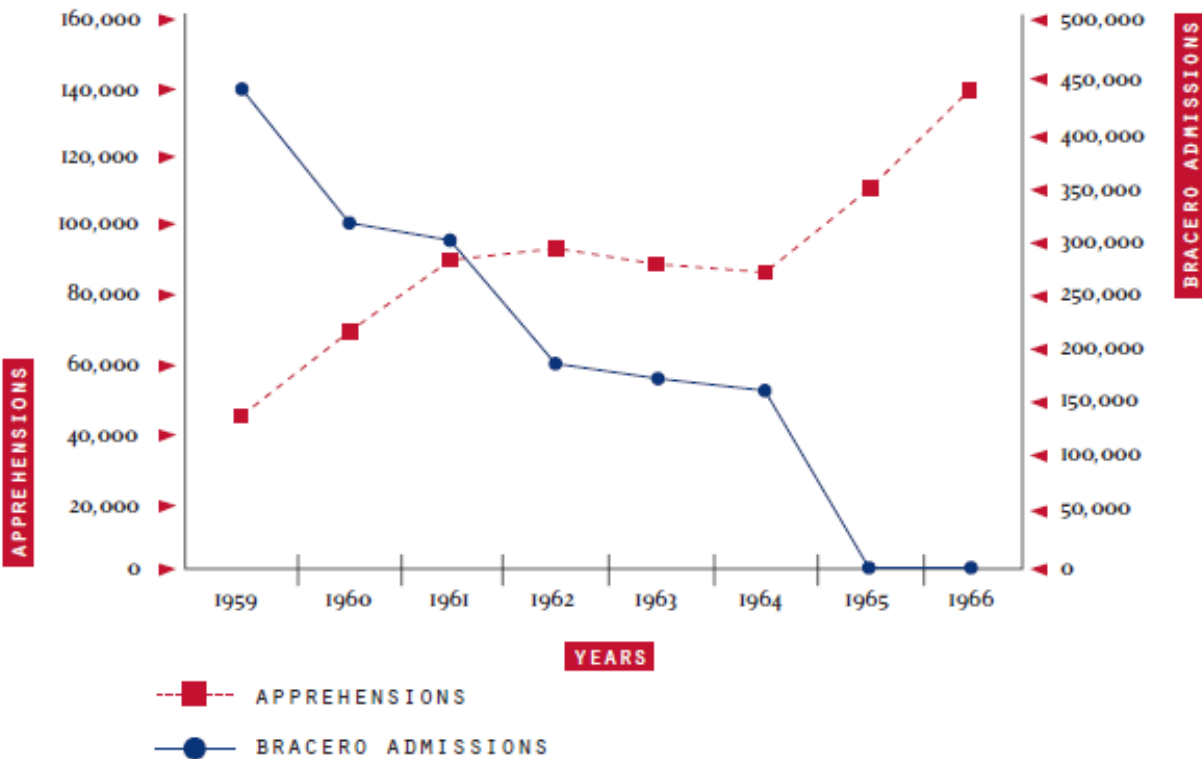
Figure 1. The Apprehensions Rate of the Undocumented Immigrants. Reprinted from S. Anderson, "The Impact of Agricultural Guest Worker Programs," The National Foundation for American Policy, December 2003, http://www.nfap.com/researchactivities/studies/Nov_study1.pdf.

The use of illegal drugs such as marijuana and heroin proliferated in the 1960s and 1970s, along with the public fear of drug addiction. In response, politicians from left and right promised to crack down on illegal drugs. They vowed to secure the southern border, through which most illegal drug inflow took place, passing Drug Abuse Control Act of 1965 and the Comprehensive Drug Abuse Prevention and Control Act of 1970.[5] In this context, unauthorized immigration was often conflated with illegal drug inflow and posed as a public health issue. Furthermore, the

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[5] King County Bar Association Drug Policy Project, *Drugs and the Drug Laws: Historical and Cultural Contexts,* King County Bar Association, January 19, 2005, https://www.kcba.org/druglaw/pdf/report_hc.pdf.

The situation has not changed since then. In 2015, virtually all of illegal drugs in the U.S. came from Mexico through the southern border. Paul Bedard, "Report: Nearly all, 99.8%, of illegal drugs shipped to U.S. from Mexico," *Washington Examiner,* November 22, 2016, https://www.washingtonexaminer.com/report-nearly-all-998-of-illegal-drugs-shipped-to-us-from-mexico.

presence of undocumented immigrants was presented by hardliners as evidence of weak governance, even a threat to the legitimacy of the country. Ronald Reagan put it, "A nation that cannot control its borders is not a nation."[6]

In response to the growing fears and desire to 'protect' our nationhood, subsequent bills were passed that increased border security. The Immigration Reform and Control Act (IRCA) of 1986 authorized a 50% increase for Border Patrol funding and personnel, and the Illegal Immigration Reform and Immigrant Responsibility Act (RIRA) of 1996 continued to increase funding for border enforcement. The narrative around border security took a turning point after the 9/11 terrorist attack, which gave rise to USA PATRIOT Act in 2001. The law created the Department of Homeland Security and increased the Border Patrol budget by another $300 million. Undocumented immigrants were now associated not only with illegal drugs but also with terrorist attacks. In addition, border security became a top national security priority— increasing the political momentum to support and fund border enforcement under both Republican and Democratic presidencies. Today, we are still living the world of a fear-based approach to the border, with proposals to spend more taxpaying dollars to secure the border. While decision-makers from left and right are complicit in the continued effort to seal the border, the question remains: Has the decades-old border policy in the United States that focuses on the border enforcement resulted in a positive net outcome?

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[6] Quoted in Raymond Michalowski, "Border Militarization and Migrant Suffering: A Case of Transnational Social Injury," *Social Justice* 34, no. 2 (2007): 70.
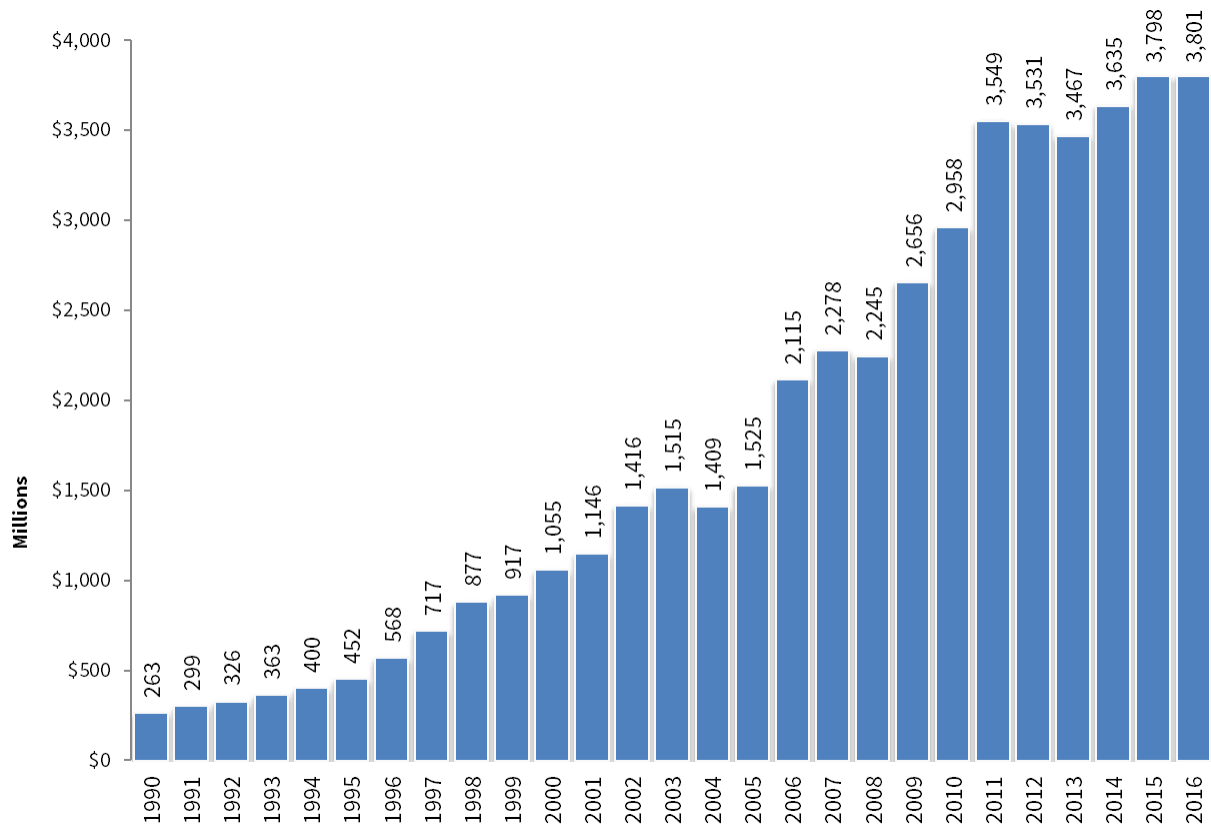
Figure 2. Border Patrol Budget, FY 1990-2016. Reprinted from "U.S. Border Patrol Fiscal Year Budget Statistics (FY 1990-FY 2017)," U.S. Customs and Border Protection, last modified December 12, 2017, https://www.cbp.gov/document/stats/us-border-patrol-fiscal-year-budget-statistics-fy-1990-fy-2017.

Economic Costs

U.S. spending on border security has rapidly increased over the past two decades.

Between 2000 and 2010, U.S. taxpayers spent $90 billion on securing the U.S.-Mexico border,

and it is estimated that since the last major overhaul of the U.S. immigration system in 1986, the

federal government has spent an estimated $263 billion on immigration enforcement.[7] In 2012,

U.S. spending on immigration enforcement exceeded by 24 percent the total spending on all

other federal criminal law enforcement agencies combined, including FBI, Drug Enforcement

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[7] "The Cost of Immigration Enforcement and Border Security," American Immigration Council, last modified January 2017, https://www.americanimmigrationcouncil.org/sites/default/files/research/the_cost_of_immigration_enforcement_and_border_security.pdf.

Administration, Secret Service, US Marshals Service, and Bureau of Alcohol, Tobacco,

Firearms, and Explosives.[8] As a result, the number of U.S. Border Patrol agents doubled since

2003, and the number of ICE agents devoted to its office of Enforcement and Removal

Operations (ERO) tripled during the same period.[9]

**Figure 3. Southwest Border Apprehension and Border Patrol Staffing Levels,
FY 1975-2017. Reprinted from Transactional Records Access Clearinghouse, "Border
Patrol Expands But Growth Rate After 9/11 Much Less Than Before, Division Between
North/South Border Little Changed," updated April 4,
2006, http://trac.syr.edu/immigration/reports/143/; U.S. Border Patrol, "Border Patrol
Agent Nationwide Staffing by Fiscal Year," accessed June 4,
2018, www.cbp.gov/sites/default/files/assets/documents/2017-
Dec/BP%20Staffing%20FY1992-FY2017.pdf.**

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[8] Doris Meissner, Donald M. Kerwin, Muzarffar Chishti, and Claire Bergeron, *Immigration Enforcement in the United States: The Rise of a Formidable Machinery*, Migration Policy Institute, January 2013.
http://www.migrationpolicy.org/research/immigration-enforcement-united-states-rise-formidable-machinery

[9] "The Cost of Immigration Enforcement."

The Fiscal Year (FY) 2018 spending bill that was just passed and signed into law in March granted even further 10 to 15 percent budget increase to Department of Home Security (DHS) from $49 billion in FY 2017 to $56 billion, Customs and Border Protection (CBP) from $14 billion to $16 billion, and Immigration and Customs Enforcement (ICE) from $6.8 billion to $7.5 billion. The FY 2018 budget for the Border Patrol agency remained about the same as last year at $4.3 billion.[10]

One would assume that such massive outpouring of resources going into border security will result in some concrete positive outcome. However, the benefits have been ambiguous at best. The United States has spent more than $10-15 billion on border enforcement annually and yet still allowed an average of 500,000 new unauthorized immigrants per year between 1999 and 2009.[11] Data also shows that the stronger enforcement may have backfired by incentivizing overstay and limiting return options for undocumented immigrants thus *increasing* the number of undocumented immigrants in the U.S.[12]

Nonetheless, proponents of a stronger border often cite the decline in illegal immigration through the southern border as evidence for the effectiveness of border enforcement effort. Indeed the number of apprehensions in May 2017 was the lowest in at least 17 years (see Figure 3).[13] However, economists suggest that the decline in the number of undocumented immigrants

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[10] For more information on the breakdown of the FY 2018 Omnibus spending bill, see Christian Penichet-Paul, "Omnibus Appropriations for Fiscal Year (FY) 2018: Department of Homeland Security (DHS)," National Immigration Forum, March 29, 2018, https://immigrationforum.org/article/omnibus-appropriations-fiscal-year-fy-2018-department-homeland-security-dhs/.

[11] Gordon H. Hanson, *The Economics and Policy of Illegal Immigration in the United States*, Migration Policy Institute, December 2009, https://www.migrationpolicy.org/research/economics-and-policy-illegal-immigration-united-states.

[12] Douglas S. Massey, Jorge Durand, and Karen A. Pren, "Why Border Enforcement Backfired," *American Journal of Sociology* 121, no. 5 (March 2016): 1578.

entering the U.S. has more to do with the changes in the global economy than with the increased enforcement.[14] One study shows that the difference in economic prospects in Mexico and U.S. in a given year, e.g., the wage gap between the two countries, is a better predictor of the number of Mexican undocumented immigrants entering the U.S. in the ensuing year.[15] In other words, the gradual improvement of the Mexican economy in conjunction with the reduced economic prospect in the U.S., especially after the Great Recession in 2008, are likely responsible for the decline in the illegal immigration from Mexico, thereby lowering the overall number of undocumented immigrants coming to the U.S.[16]

With respect to the impact on the national economy, border enforcement does not fare better. Many Americans oppose more open immigration policy believing that undocumented immigrants often 'take away' their jobs. In contrast, studies suggest that most undocumented immigrants fill the jobs the native-born Americans don't want to do themselves due to the harsh nature of those jobs.[17] Furthermore, one study at the Cato Institute has documented the negative

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[13] U.S. Customs and Border Protection, "Southwest Border Migration," last modified September 11, 2017. https://www.cbp.gov/newsroom/stats/sw-border-migration. As the exact number of undocumented immigrants coming into the United States every year cannot be known for obvious reasons, most experts rely on the number of apprehensions of undocumented immigrants at the border as the proxy, although such use is not without controversy.

The illegal immigration, however, surged back this year. The level of apprehension number from March to May was triple the level for the same period in 2017. Kulish, "What It Costs."

[14] See, for example, Manuela Angelucci, "U.S. Border Enforcement and the Net Flow of Mexican Illegal Migration," *Economic Development and Cultural Change* 60, no. 2 (Janurary 2012), 311-357.

[15] Gordan H. Hanson and Antonio Spilimbergo, "illegal Immigration, Border Enforcement, and Relative Wages: Evidence from Apprehensions at the U.S-Mexico Border," *The American Economic Review* 89, no. 5 (December 1999), 1337-1357.

[16] Until 2014, the majority of the undocumented immigrants coming to the U.S. were of Mexican origin. The significant decrease in the number of Mexican undocumented immigrants, therefore, had translated into a major reduction in the overall undocumented immigrants coming to the U.S.

[17] See Vanda Felbab-Brown, "The Wall," Brookings, August 2017, https://www.brookings.edu/essay/the-wall-the-real-costs-of-a-barrier-between-the-united-states-and-mexico/, for example.

impact of border enforcement on the income of U.S. households and found that a policy that

reduces the number of low-skilled immigrant workers by 28.6 percent, compared to projected

levels, would reduce U.S. household income by about 0.5 percent, or $80 billion.[18] Many studies

have also found that the net impact of illegal immigration on the US economy is minimal making

it hard to justify the massive spending on border security from an economic standpoint.

Border enforcement has also cost local businesses millions of dollars without any

compensation. For example, the construction of the border fence along the Rio Grande Valley,

according to the local city and economic development groups in Brownsville, broke some

business deals for the area, killing multi-million dollar residential and commercial developments

that would have been substantial for the city's economy.[19] Others have complained that their

farming and ranching activities have been "disrupted by the deployment of USBP resources to

the border and commercial activities that suffer from reduced regional economic activity."[20]

If all this money poured into border enforcement did not necessarily help Americans keep

their jobs or fare better economically, it surely must have made America a much safer and

healthier place for them, from illegal drugs and foreign terrorists. Right? Unfortunately, we do

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In addition, a recent report by National Academies of Sciences, Engineering and Medicine on the economic impact of immigrants found that there is "little to no negative effects on overall wages and employment of native-born workers in the longer term." National Academies of Sciences, Engineering, and Medicine, *The Economic and Fiscal Consequences of Immigration*, The National Academies Press, 2017, https://doi.org/10.17226/23550.

[18] Peter B. Nixon and Maureen T. Rimmer, *Restriction or Legalization? Measuring the Economic Benefits of Immigration Reform*, Cato Institute, August 13, 2009, http://clca.org/immigration/moreinfoDocs/tpa-040.pdf.

[19] Rafael Carranza, "Leaders Blame Lost Business Deals on Border Fence," *KGBT Channel 4 News*, November 2, 2009, http://borderwallinthenews.blogspot.com/2009/11/leaders-blame-lost-business-deals-on.html?m=0.

[20] Carla N. Argueta, *Border Security: Immigration Enforcement Between Ports of Entry*, Congressional Research Service, April 19, 2016, https://fas.org/sgp/crs/homesec/R42138.pdf.

On the other hand, the increased border enforcement may have had some positive economic impact on the local economy, e.g., more border-related jobs and more economic activity throughout, I could not find an empirical data on the topic. Whatever the benefits of the border enforcement on the local economy, however, I doubt it would outweigh its costs.

not yet have any empirical data to support that has been the case. First, the public fear of foreign terrorism seems to be overblown. According to the study by Alex Nowrasteh, from 1875 through 2015, the average chance of dying in an foreign terrorist attack was 1 in 3,609,709 a year.[21] In comparison, the chance of being killed in a car accident during a comparable period was 1 in 10,347 a year.[22] In short, an American is nearly 350 times more likely to die in a car accident, and five times more likely to be struck by a lightning in a given year, than to die in a terrorist attack by a foreign-born immigrant.[23] "The United States government should continue to devote resources to screening immigrants and foreigners for terrorism or other threats," Nowrasteh recommends, "but large policy changes like an immigration or tourist moratorium would impose far greater costs than benefits."[24]

Furthermore, it is not clear whether increased border enforcement has proved to be a greater barrier for drug cartels. According to the 2007 survey by the Department of Health and Human Services, almost 20 million Americans (8% of the population aged 12 or older) took illegal drugs in the month prior to the survey.[25] In 2009, about 1.4 million pounds of marihuana

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[21] Alex Nowrasteh, "Terrorism and Immigration: A Risk Analysis," Cato Institute, September 13, 2016. https://www.cato.org/publications/policy-analysis/terrorism-immigration-risk-analysis.

[22] Calculation is mine, based on the Wikipedia data on the number of vehicle fatalities in the U.S. from 1899 to 2013 (a total of 3,613,732) and the U.S. Census Bureau's data on the current U.S. population of 327,984,962. "Motor Vehicle Fatality Rate in U.S. by Year," Wikipedia. Retrieved June 25, 2018. https://en.wikipedia.org/wiki/Motor_vehicle_fatality_rate_in_U.S._by_year. "U.S. and World Population Clock," The United States Census Bureau, accessed June 25, 2018, https://www.census.gov/popclock/.

[23] "Flash Facts About Lightening," National Geographic News, last modified June 24, 2005, accessed June 25, 2018, https://news.nationalgeographic.com/news/2004/06/0623_040623_lightningfacts.html.

[24] Nowrasteh, "Terrorism and Immigration." According to his more recent study, undocumented immigrants were 25 percent, 11.5 percent, and 79 percent less likely to be convicted of homicide, sexual assault, and larceny, respectively, than native-born Americans. Alex Nowresteh, "Criminal Immigrants in Texas: Illegal Immigrant Conviction and Arrest Rates for Homicide, Secual Assault, Larceny, and Other Crimes," Cato Institute, February 26, 2018, https://www.cato.org/publications/immigration-research-policy-brief/criminal-immigrants-texas-illegal-immigrant.

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was seized in the Arizona border.[26] It was one of the most successful apprehensions in recent years, and yet it is estimated to be only 20 percent of all the marijuana flowing into the U.S.

Critics claim that despite its advertised goal of curtailing the drug inflow, most border enforcement programs are directed at apprehending people rather than substances such as drugs.[27] Furthermore, critics argue that we should shift our spending from cracking down on illegal drug inflow to the prevention of overdoses of prescription drugs, such as opioids and depressants, which they claim are more responsible for deaths than the illegal drugs.[28] It could also be argued that the genuine, and more effective, solution lies in addressing the demand for the illegal drugs by the native-born Americans than in trying to control its supply. The market economy dictates that as long as there is a considerable demand for something, there will also be a corresponding supply, regardless of the government control (according to a conservative argument against gun control).

Until now we have surveyed the economic and security benefits and costs, both concrete and potential, of the U.S. border enforcement policy on both individual and national level. In the rest of this section, I will discuss the most direct impact of the U.S. border control on those who are controlled, the undocumented immigrants.

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[25] Substance Abuse and Mental Health Services Administration, United States Department of Health and Human Services, "Results from the 2007 National Survey on Drug Use and Health: National Findings," 2007, http://www.dpft.org/resources/NSDUHresults2007.pdf.

[26] Mark Potter, "Illegal Drugs Flow Over and Under U.S. Border," *NBC News*, October 22, 2009, http://www.nbcnews.com/id/33433955/ns/us_news-crime_and_courts/t/illegal-drugs-flow-over-under-us-border/#.WzF8edVKgdV.

[27] See Joanna Lydgate, *Assembly-Line Justice: A Review of Operations Streamline*, University of California, Berkeley Law School, January 2010, https://www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf, and Brendan Fischer "America's Inefficient and Ineffective Approach to Border Security," *PR Watch*, December 23, 2010, https://www.prwatch.org/news/2010/12/9832/americas-inefficient-and-ineffective-approach-border-security.

[28] Unity Behavioral Health, "Prescription Drugs Responsible for More Deaths than illicit Drugs," 2017, https://www.unityrehab.com/blog/prescription-drugs-more-deaths-than-illicit-drugs/.

Human Costs

        The most significant impact of border enforcement is manifested in the injuries—

physical, mental, and economic—it brings on human beings. The increase in border enforcement

has been criticized as having increased the number of migrant deaths. Since the introduction of

"Operation Gatekeeper" in San Diego in 1994, one of the first steps toward militarizing the

border, there was a 600% increase in the official death count during the first four years.[29] DHS

data suggests that the number of known migrant deaths was on average 369 per year in 2010-

2011, a sharp increase from 250 in 1999. In FY 2012 the number of migrant deaths reached

463.[30] Considering the steady decline in illegal immigration in recent years, the increase in

migrant deaths en route to the U.S. suggests that enhanced border enforcement has made border

crossing a much more hazardous undertaking.

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[29] United States Government Accountability Office, *Border-Crossing Deaths Have Doubled Since 1995; Border Patrol's Efforts to Prevent Deaths Have Not Been Fully Evaluated*, August 2006. http://www.gao.gov/new.items/d06770.pdf.

[30] Argueta, *Border Security*.

Figure 4. Known Migrants Deaths, Southwest Border, 1998-2017. Reprinted from Bob Ortega, "Border Patrol failed to count hundreds of migrants deaths on US soil – CNN.com," *CNN*, May 15, 2018, https://penandthepad.com/cite-article-cnn-8457271.html. For the source of the graph the article just cites, "US Border Patrol; local authorities and news reports."

If the intent of the government was to discourage illegal immigration by rendering border crossing more difficult and dangerous, it might have pushed the immigrants to take more risk instead than give up. The only winner therefore seems to be the smugglers. Under border militarization, undocumented migrants are now ever more pressured to hire and rely on smugglers,[31] who are often associated with drug cartels, exposing themselves to extortion, rape, kidnapping, and other abuses.[32] Facing rampant violence and abject poverty at home on the one

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[31] According to a Border Patrol survey of apprehended migrants, the number of undocumented immigrants who used smugglers rose to 80 to 90 percent in recent years from less than half in the early 1970s. Kulish, "What It Costs."

hand, as we will see in more detail in the next section, and the increased risk of the migration

journey on the other, migrants are often left with no choice but trust their fate in the hands of the

criminals on their journey through Mexico.[33]

Border enforcement has also led to dehumanization of undocumented migrants. The

increase of military technology and tactics have shifted the image of undocumented immigrants

in the mind of the public, from human beings fleeing poverty, hunger, and lack of opportunities

into criminals or the 'enemy other' whose basic rights no longer need to be protected. Today's

political rhetoric has also contributed and intensified dehumanization by conflating

undocumented immigrants with foreign terrorists and criminals. Most recently, President Trump

has compared undocumented immigrants with MS-13, a criminal organization in Central

America, characterizing them as vermin that will "pour into and infest our country."[34]

It is not surprising that dehumanization of undocumented immigrants in rhetoric, coupled

with the militarization of borders, would materialize into more concrete forms of human rights

violations. According to a study by No More Deaths, apprehended migrants are often deprived of

access to necessities such as food, water, and medical care.[35] From 2004 to 2010, another study

shows, over 160,000 undocumented immigrants were deported without having an opportunity to

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[32] Michalowski, "Border Militarization," 67-69.

The Trump Administration's "zero tolerance" policy has exacerbated the matter. Rather than curbing illegal immigration, says Guadalupe Correa-Caberera, a professor at George Mason University, the zero tolerance policy will "increase the demand for smugglers and will further strengthen the connection between human smugglers and other criminal actors, such as drug cartels and corrupt local law enforcement." Kulish, "What It Costs."

[33] In Mexico, on average of 70,000 people become victims of human trafficking every year. Jeremy Kryt, "The Border Crackdown is Forcing Migrants to Become Mexican Cartel Slaves," *The Daily Beast*, Aug 6, 2017.

[34] Jack Holmes, "This Was Another Sign of How Deep the Poison of Trumpism Has Sunk In," *Esquire*, Jun 21, 2018, https://www.esquire.com/news-politics/a21748302/trump-rally-minnesota-immigrants-violent-criminals/.

[35] *A Culture of Cruelty: Abuse and Impunity in Short-Term U.S. Border Patrol Custody*, Tucson: No More Deaths, 2011, http://forms.nomoredeaths.org/wp-content/uploads/2014/10/CultureOfCruelty-full.compressed.pdf.

defend themselves in court.[36] Trump's most recent call to deprive the undocumented immigrants'

right to a trial only reflects the public ignorance of the rampant violations of their right to a due

process already taking place.[37]

Despite the numerous reports that have been made public by humanitarian organizations,

the human costs perpetrated by Border Patrol agents continue to persist due to the internal

structural problems within the organizations responsible for the oversight. The Homeland

Security Advisory Council wrote in a 2016 report that "there is no one who the Secretary of

Homeland Security can clearly hold accountable for seeing to it that corruption does not take

root within CBP" and the agency had a "broken disciplinary process."[38] A former head of

Internal Affairs at CBP had also repeatedly warned about corruption at the agency.[39]

Furthermore, ICE did not follow its own prosecutorial discretion guidelines 51% of the time,[40]

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[36] Jennifer Lee Koh, Jayashri Srikantiah, and Karen C. Tumlin, *Deportation Without Due Process*, Los Angeles: National Immigration Law Center, September 2011, https://www.nilc.org/wp-content/uploads/2016/02/Deportation-Without-Due-Process-2011-09.pdf.

[37] Katie Rogers and Sheryl Gay Stolberg, "Trump Calls for Depriving Immigrants Who Illegally Cross Border of Due Process Rights," *New York Times*, June 24, 2018, https://www.nytimes.com/2018/06/24/us/politics/trump-immigration-judges-due-process.html.

[38] Homeland Security Advisory Council, "Final Report of the CBP Integrity Advisory Panel," March 15, 2016, https://www.dhs.gov/sites/default/files/publications/HSAC%20CBP%20IAP_Final%20Report_FINAL%20(accessible)0.pdf.

[39] Bryan Schatz, "New Report Details Dozens of Corrupt Border Patrol Agents—Just As Trump Want to Hire More," *Mother Jones*, April 24, 2018, https://www.motherjones.com/politics/2018/04/new-report-details-dozens-of-corrupt-border-patrol-agents-just-as-trump-wants-to-hire-more/. Also see Melissa del Bosque and Patrick Michels, "Homeland Insecurity," *The Observer*, https://www.texasobserver.org/homeland-security-corruption-border-patrol/; Vicki B. Gaubeca, "Newly confirmed CBP Chief Must Tackle Agency's Culture of Violence, Corruption," *The Hill*, March 26, 2018, http://thehill.com/blogs/congress-blog/homeland-security/380376-newly-confirmed-cbp-chief-must-tackle-agencys-culture; and John Burnett, "Combating Corruption: U.S. Customs and Border Protection Seeks Deep Reform," *NPR*, October 29, 2016. https://www.npr.org/2016/10/29/499739689/combating-corruption-u-s-customs-and-border-protection-seeks-deep-reform.

[40] According to ICE, there have been 1310 claims of sexual abuse against detainees between 2013 and 2017. Human rights organizations estimate the number to be significantly higher. Emily Kassie, "Sexual Assault Inside ICE Detention: 2 Survivors Tell Their Stories," *New York Times*, July 17, 2018. https://www.nytimes.com/2018/07/17/us/sexual-assault-ice-detention-survivor-stories.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=second-column-region&region=top-news&WT.nav=top-news.

while the DHS Office of Inspector General, an office tasked with Border Patrol oversight, has

repeatedly delegated the responsibility to investigate to the local Border Patrol stations from

which the very abuse complaints originated.[41]

In sum, the cost-benefit analysis of the U.S. border policy that focuses on border closure

the last few decades seems to demonstrate its ineffectiveness against the massive spending that

goes into it. Despite the billions of taxpayers' money gone to border enforcement, the return on

investment, when looked at empirically, has been more than disappointing. The superficial goal

of border enforcement—cutting down the illegal immigration and drug inflow and fighting

terrorism—has been amorphous if not impossible to achieve, whereas its costs, both to

Americans and migrants, have been all too tangible and often outrageous. Can there be a more

cost-effective and humane alternative to border enforcement as a way to address illegal

immigration?

2.2   Alternative to Border Enforcement: Addressing Push Factors

The economic and human costs described above indicate that the current policy that puts

emphasis on enforcement of immigration laws above everything else is fundamentally flawed. It

addresses only the last and the most visible part of a long chain of events, and thus can only have

short-term results. Most crucially it neglects the very root causes of illegal immigration, which if

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[41] Transactional Records Action Clearinghouse, "Reforms of ICE Detainer Program Largely Ignored by Field Officers," last modified August 9, 2016, accessed July 2, 2018, http://trac.syr.edu/immigration/reports/432/.

To address the lack of accountability in border agencies, in 2016 Congressmen Pearce (R-NM-02) and O'Rourke (D-TX-16) introduced the "Border Enforcement Accountability, Oversight, and Community Engagement Act" (H.R. 3576). This bipartisan legislation would ensure community engagement by establishing an independent border oversight commission and creating an ombudsman for border and immigration related concerns. It would also increase training and resources for CBP personnel, provide reporting and oversight for border enforcement by requiring the HDS to report on management practices, and instruct the Government Accountability Office to report on the CBP and DHS's use force policy.

left unaddressed will continue to fuel illegal immigration in our southern border, regardless of the resources and manpower we devote into its enforcement. Thus any border policy that will result in long-term outcome in reducing illegal immigration with minimal economic and human costs must involve strategies regarding push factors. What then are these 'push factors' of illegal immigration, and what may be the best way to address them?

Undocumented immigration in the United States had long been dominated by Mexican immigrants. However, the number of Mexican immigrants has steadily declined in the last few decades. In the meantime, the number of undocumented immigrants from Central America, especially from El Salvador, Honduras, and Guatemala (together known as the Northern Triangle) has surged in the last few years, surpassing their Mexican counterparts in 2014.[42] Furthermore, a significant portion of the new immigrant cohort attempting a dangerous northbound trip were unaccompanied child migrants from these Northern Triangle countries. The apprehension of unaccompanied alien children (UAC) doubled three years in a row, between 2012 and 2014 (see Figure 5).[43] In total, 179,000 unaccompanied children from the Northern Triangle were apprehended while entering the United States between 2011 and 2016 and made up about 75 percent of all UACs who were apprehended at the southern border in 2014.[44]

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[42] Silva Mathema, "They Are Refugees: An Increasing Number of People Are Fleeing Violence in the Northern Triangle," Center for American Press, February 24, 2016, https://www.americanprogress.org/issues/immigration/news/2016/02/24/131645/they-are-refugees-an-increasing-number-of-people-are-fleeing-violence-in-the-northern-triangle/.

[43] Nathaniel Parish Flannery, "Will Trump Solve Central America's Refugee Crisis?" *Forbes*, September 12, 2017, https://www.forbes.com/sites/nathanielparishflannery/2017/09/12/will-trump-end-central-americas-refugee-crisis/#1ae674274a47.

[44] Michael Clemens, *Foreign Policy Is Migration Policy: Lessons from the Drivers of Central American Child Migration*," Center for Global Development, September 2017, https://www.cgdev.org/sites/default/files/foreign-policy-is-migration-policy.pdf.
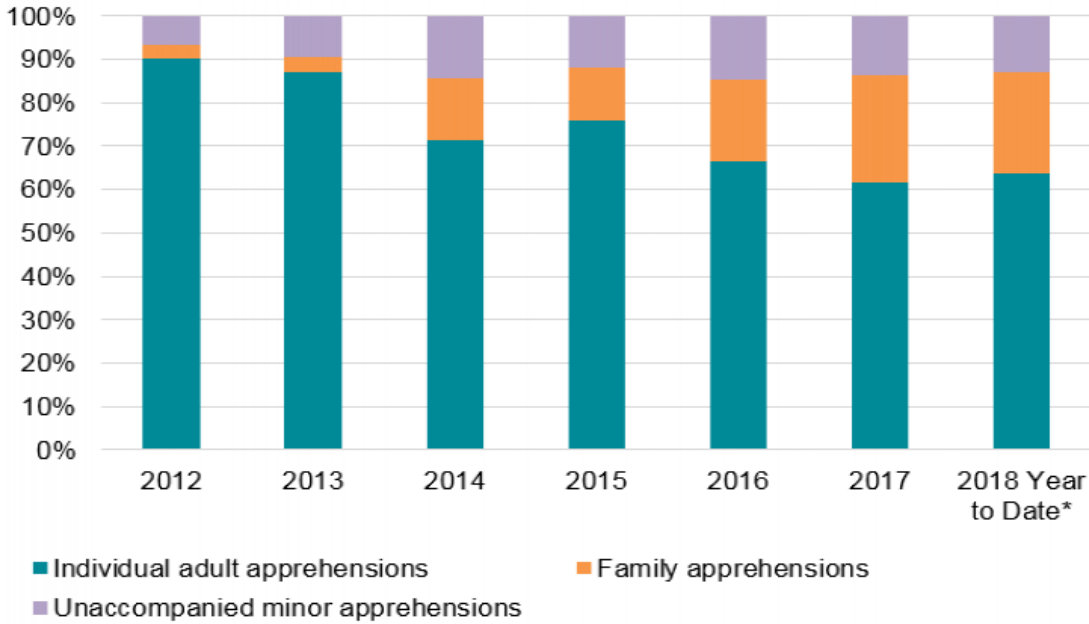
Figure 5. Family and Unaccompanied Minor Apprehensions as Share of Total Apprehensions, FY 2012-18. Reprinted from Customs and Border Protection, "United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016," updated October 18, 2016, www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016; Customs and Border Protection, "Southwest Border Migration FY2017;" Customs and Border Protection, "Southwest Border Migration FY2018."

Food Insecurity & Poverty

One major push factor of illegal immigration from the Northern Triangle countries is food insecurity caused by poverty and lack of economic opportunity. The Northern Triangle countries are among the poorest countries in the world. According to the World Bank, over 60 percent of those living in rural areas in the Northern Triangle are living in poverty.[45] As a result, in Guatemala about half of the entire population suffers from chronic under-nutrition.[46] The World Food Program (WFP) released a report that presents evidence of the specific link between

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[45] The World Bank, "Rural poverty headcount ratio at national poverty lines (% of rural population)," accessed October 23, 2017, https://data.worldbank.org/indicator/SI.POV.RUHC?view=chart.

[46] World Food Program, et al., *Hunger Without Borders: The Hidden links between Food Insecurity, Violence and Migration in the Northern Triangle of Central America*, 2014, http://documents.wfp.org/stellent/groups/public/documents/liaison_offices/wfp277544.pdf.

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emigration from the Northern Triangle countries and the inability of families to put food on the table. WFP found that more than half of the households interviewed for its report spend more than two-thirds of their monthly income on food. And the top reason listed for emigration was "no food."[47] Overall, food insecurity was a more important factor for emigration than violence in Guatemala and Honduras.[48] Another study also found that the lack of employment and education opportunity has been a key driver of the youth migration in the Northern Triangle, where more than one million people are neither in school nor employed.[49]

Understanding the importance of economic stability in the Northern Triangle, United States Agency for International Development (USAID) has been working with the local governments and farmers in agricultural programming and trade and business development. As a result, the effort led to a 51 percent increase in rural farmers' sales in the Western Highlands and 20,000 additional jobs in the agricultural sector in Guatemala, as well as lifting 21,817 Honduran families out of poverty.[50] The assistance to 11,000 small and medium enterprises has also generated over $153 million in sales and exports, as well as creating 22,000 new jobs in El Salvador over the last five years.[51] The FY 2017 amount of the aid packet for Central America,

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[47] World Food Program, et al., *Food Security and Emigration: Why people flee and the impact on family members left behind in El Salvador, Guatemala and Honduras*, August 2017, https://docs.wfp.org/api/documents/WFP-0000019629/download/?_ga=2.2647792.1163577826.1531161964-636933037.1530774105.

[48] World Food Program, "Hunger Without Borders."

[49] Marc Hanson, "A Future at Home: Investing in Youth Opportunity in Central America," WOLA, February 10, 2016, https://www.wola.org/analysis/a-future-at-home-investing-in-youth-opportunity-in-central-america/.

[50] The United States Agency for International Development, *Addressing the Drivers of Irregular Migration*. The article was not published but was acquired directly from USAID.

[51] USAID, *Addressing the Drivers*.

most of which goes into the Northern Triangle countries, stands at $655 million, amounting to

17% of the Border Patrol budget and 5% of the CBP budget.[52]

Violence

Another major push factor of unauthorized immigration from the Northern Triangle is the

increase in violence in those countries. El Salvador, Honduras, and Guatemala are among the

most dangerous countries in the world, where a total of 17,422 people were killed in 2015

alone.[53] In El Salvador one is 24 times more likely to be murdered than one would be in the

U.S.[54] A combination of gang activity, widespread firearms, and weak criminal justice systems

have been driving violence in these countries. Consequently, people of the Northern Triangle are

fleeing the extreme violence in their home countries seeking refuge in neighboring countries,

many of them heading to the United States.[55]

In a recent study, Michael Clemens found that "every 10 additional homicides across the

years 2011-2016 caused six additional children to be apprehended as UACs" in the average

municipality of the Northern Triangle.[56] In light of this causal relationship, Clemens argues that

the current prioritization of border security over violence prevention in the Northern Triangle (in

FY14, for example, the U.S. spent 10 times on managing UAC arrivals as on violence prevention

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[52] Andriana Beltran, "What's in the Fiscal Year 2017 Spending Package for Central America?" WOLA, May 15, 2017, https://www.wola.org/analysis/whats-fiscal-year-2017-spending-package-central-america/.

[53] Christina Perkins and Erin Nealer, *Achieving Growth and Security in the Northern Triangle of Central America*, Center for Strategic and International Studies, December 2016, https://www.csis.org/analysis/achieving-growth-and-security-northern-triangle-central-america.

[54] Clemens, *Foreign Policy*.

[55] Since only a very limited number of migrants from these countries can get asylum in the United States, most immigrants come to the country illegally. Shoshanna Malett, "Can I Apply for Asylum If I'm From El Salvador?" Nolo, https://www.nolo.com/legal-encyclopedia/can-i-apply-asylum-if-im-from-el-salvador.html.

[56] Clemens, *Foreign Policy*.

in the Northern Triangle) makes no economic sense.[57] As each UAC apprehension required a U.S. federal expenditure of about $50,000, it would be more cost-effective to focus on preventing one homicide per year with $200,000 or less than on child apprehension.[58]

In other words, it is in our economic interest to divert part of the border enforcement budget into violence prevention effort, such as the Central American Regional Security Initiative (CARSI), which in a joint effort with USAID, has reduced 61 percent in homicides in several El Salvadoran municipalities between 2015 and 2016, and 62 percent in homicides in the most violent Honduran neighborhood between 2013 and 2015.[59]

2.3   Conclusion

Has the decades-long border policy that prioritized border enforcement resulted in a positive net outcome for the United States? Based on the current research, the answer is a resounding 'No'. The enormous spending on border enforcement over the last decade in the U.S. has had, at best, minimal and dubious benefits and, at worst, treacherous economic and human costs. The border policy that emphasizes securing the southwestern border has had detrimental effects on both immigrants and border communities. Instead of focusing on border closure, we should look to an alternative approach that makes more fiscal and moral sense: one that addresses push-factors as *the* key component in reducing illegal immigration. While early in its

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[57] Clemens, *Foreign Policy*.

[58] Clemens, *Foreign Policy*.

[59] USAID, *Addressing the Drivers*. Despite the evidence for its effectiveness, however, the U.S. assistance in security has been criticized for militarizing the borders in the Northern Triangle which "could lead to children taking more dangerous routes to get away from deepening poverty and state-sanctioned violence." Esther Yu His Lee, "Experts Say U.S. Aid Package To Central America Is Backfiring Big Time," *Think Progress*, February 4, 2016, https://thinkprogress.org/experts-say-u-s-aid-package-to-central-america-is-backfiring-big-time-c0928534f91c/.

assessment, the data already shows the effectiveness of such current programs in addressing the push factors in the Northern Triangle.

Throughout this chapter, I have focused on the U.S. policy of border enforcement and taken for granted that the U.S. has a right to enforce its borders in the first place. In the next chapter, however, I will question this very assumption that the state is morally entitled to control its borders.

CHAPTER III

THE STATE'S RIGHT TO CONTROL IMMIGRATION

Border control, as we saw in the foregoing chapter, has been the hallmark of the U.S.

immigration policy for at least the last several decades, endorsed by the politicians from left and

right. As Reagan's earlier remark, "A nation that cannot control its borders is not a nation,"

exemplifies, 'take back the control of our borders' makes a strong intuitive sense as well as a

memorable political slogan. In part due to our revolutionary history and culture of individualism,

Americans, it appears to me, are particularly vulnerable to the fear of losing any degree of

independence of any kind, and this fear often turns into an obsession to having full control.[60]

Consequently, it is all too natural that we can't stand not being in full control of even our own

borders—especially in the age of globalization, in which the control of any sort, from economy

to terrorism, seems to slip through our fingers.

With this cultural and historical backdrop, it is unthinkable to question our deepest

conviction in our right to control our borders. The difficulty only multiplies by our liberal belief

that we can do whatever we want with what is ours.[61] Nonetheless, I want to bring this deeply

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[60] In a way Americans' obsession to being in charge has to do with its culture of heroism, which praises leadership above all else, as can be seen everywhere from college admissions to Marvel movies. It seems to me that Americans equate leadership with being in charge. "What people usually mean by a leader now," Mark Edmundson remarks, "is someone who, in a very energetic, upbeat ways, shares all the values of the people who are in charge." Likewise, William Deresiewicz writes that what American elite universities and colleges mean by leadership "is nothing more than getting to the top. Making partner at a major law firm, or running a department at a leading hospital, or becoming a senator or chief executive or college president. Being in charge, in other words. . . . Leadership, in this conception, is essentially devoid of content." William Deresiewicz, *Excellent Sheep* (New York: Free Press, 2014), 132, 135. On the other hand, Americans' obsession to leadership and being in charge is understandable, being the only superpower in the world especially after 20th century, also known as the American century, during which it had come to dominate the whole world, from economy and education to culture and innovation.

[61] I deliberately used "our" five times in just two sentences in order to convey the sense of our ego-centrism. The word "our" is, I believe, *the* dangerous word of tribalism when used to emphasize one's collective property or value at the exclusion of others'. For a healthy balance, we should often mediate on the fact that this Earth was around

held, almost personal, assumption onto the table for a philosophical biopsy. In this chapter, I will explore two of the most prominent arguments on this issue: Michael Walzer's argument that the state indeed has a right to enforce its borders and Joseph Carens' argument that the state does not have such right and that borders should be generally open. At the end of the discussion, I will present my own reasons why I believe Carens is right as well as my critique of his argument.

3.1   Walzer and the Communities of Character

In the chapter on political membership in *Spheres of Justice* (1983), Michael Walzer argues for the state's right to control immigration in three steps: first, by describing the current practice and understanding of political membership in our society using rough comparisons of private clubs and family; second, by appealing to commonly accepted values in liberal democracy such as open neighborhoods; and last, by arguing on the basis of the state's right to self-determination. In this section I will focus exclusively on Walzer's argument for the state's right to control admissions before we turn to the arguments for open borders in the next.[62]

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before the humans even existed, and thus it is, in essence, a property of no one. Another cure would be, as I will argue in the next chapter, a healthy dose of cosmopolitan conception of humanity—that all human beings form a single cosmopolitan community that is nobler and of higher value than national and local ones.

[62] Ever since Walzer's seminal argument, other theorists have also argued for the state's right to control immigration in various ways. See David Miller, "Immigrants, Nations, and Citizenship," *The Journal of Political Philosophy* 16 (2008), 371–390; "Why Immigration Controls are not Coercive: A Reply to Arash Abizadeh," *Political Theory* 38, no. 1 (2010), 111–120; "Immigration: The Case for Limits," in *Contemporary Debates in Applied Ethics*, Second Ed., A. Cohen and C. Wellman (eds.), (Malden, MA: John Wiley & Sons, 2014), 363–375; and Samuel Huntington, *Who Are We?* (New York: Simon & Schuster, 2004), for the arguments on the basis of preserving culture. For the argument on the basis of sustaining the economy, see Stephen Macedo, "The Moral Dilemma of U.S. Immigration Policy: Open Borders Versus Social Justice?" in *Debating Immigration*, C. Swain (ed.) (New York: Cambridge UP, 2007), 63–81. See Chandran Kukathas, "The Case for Open Immigration," in *Contemporary Debates in Applied Ethics*, second edition, A. Cohen and C. Wellman (eds.), (Malden, MA: John Wiley & Sons, 2014), 376–388, for the argument on the basis of establishing security. See Christopher Wellman, "Immigration and Freedom of Association," *Ethics* 119 (2008), 109–141, for the arguments on the basis of self-determination. For the argument on the basis of democracy, see Frederick Whelan, "Citizenship and Freedom of Movement: An Open Admissions Policy?" in *Open Borders? Closed Societies? The Ethical and Political Issues*, M. Gibney (ed.), (London: Greenwood Press, 1988), 3–39. Finally, see Thomas Christiano, "Immigration, Political Community and Cosmopolitanism," San Diego Law Review 45 (2008), 933–961, for the argument on the basis of indirect cosmopolitanism.

Our Notion of Political Membership (the club and family analogy)

Wazler begins his argument by comparing our understanding of political membership to that of the memberships to smaller communities—clubs and families—to help understand the complicated and vague concept of political membership as understood and practiced in our society today. First, both the immigration policies of today's nation-states and admissions criteria of private clubs assume that nonmembers have no inherent right to the membership but have to go through certain application process and meet particular requirements of membership. Both states and clubs are generally considered free to decide their own admissions process and membership requirements.

Nation-states, Walzer argues, also resemble families, in that both states and families often practice a kind of nepotism by giving priority to their own kindred. Walzer notes that "citizens often believe themselves morally bound to open the doors of their country . . . to a particular group of outsiders, recognized as national or ethnic 'relatives'."[63] For example, most people would say there's nothing wrong in rescuing one's own child over the stranger's when both are drowning and only one child can be saved. In fact, it can be argued that one has special responsibilities for the welfare of one's own family members, especially one's own children and parents. In a similar way, nation-states also engage in various acts of favoritism. For example, states generally give priority in immigration to their citizens' immediate family members. A more specific example of such family-based discrimination would be the Israel's massive airlift that rescued nearly twenty-one thousand Ethiopian Jews from the famine and civil war in

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[63] Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983), 41.

Ethiopia in the early 1980s.[64] In this sense, nation-states may feel some special responsibility to prioritize their own people over others in their immigration policy.

Appeal to Common Values (distinct cultures, democracy, and open neighborhood)

Second, Walzer advocates his argument for the state's right to exclude by appealing to the commonly accepted values in Western democracy: distinctive cultures, democratic politics, and open neighborhoods, all of which, he argues, can exist only under closed borders. Claiming the "distinctiveness of cultures and groups depends upon closure,"[65] Walzer argues that "if such distinctiveness is a value" that needs to be protected, then "closure must be permitted somewhere."[66] However, Walzer does not give any argument for his premise that distinctiveness of cultures is an important value in itself other than that is how "most people … seem to believe."[67]

Similar to distinctive cultures, Walzer argues that democratic politics depend on "the kind of boundedness that states provide."[68] One of the Walzer's central claims throughout his argument is that Western democracy cannot exist without the cohesion and the shared sense of identity of a community, which in turn requires some level of state closure. "[C]ommunities must have boundaries," he writes, "and however these are determined with regard to territory and resources, they depend with regard to population on a sense of mutual relatedness and mutuality.[69] Without these boundaries, Walzer asserts, there can be no "communities of

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[64] While heroic, the mission was controversial in part because, unlike the earlier example of saving one's drowning child, it was hard to know whether Israel couldn't have rescued the refugees of other ethnicity than the Ethiopian Jews. Even if we supposed that Israel had to choose either Ethiopian Jews or other refugees but not both, it could still be criticized that its handpicking of their own people to rescue, as opposed to rescuing as many general Ethiopian refugees as possible, was an act of unfair discrimination.
[65] Walzer, *Spheres of Justice*, 39.
[66] Ibid.
[67] Ibid.
[68] Ibid.
[69] Ibid., 50.

character," which he defines as "historically stable, ongoing associations of men and women with some special commitment to one another."[70]

Likewise, Walzer claims open neighborhoods and open borders are incompatible to each other. "Neighborhoods," he writes, "can be open only if countries are at least potentially closed."[71]

> Only if the state makes a selection among would-be members and guarantees the loyalty, security, and welfare of the individuals it selects, can local communities take shape as "indifferent" associations, determined solely by personal preference and market capacity.[72]

Walzer believes that membership to neighborhoods should be generally open to everyone within the state. He warns that if the state opens its borders, however, the neighborhoods will close themselves off and become "little states … [organizing] to defend the local politics and culture against strangers."[73]

The Right to Self-Determination

At the center of Walzer's argument for the state's right to control immigration is the thesis that a community cannot exist without some boundary that draws a line, both physical and figurative, distinguishing its members from non-members. For Walzer, it is difficult to exaggerate the importance of such distinction, since he believes the whole theory of distributive justice in a community begins with "an account of membership rights" that distinguish members from nonmembers.[74] Not only are political states and clubs generally considered free to form their own admissions criteria but they *should*, for "at stake here is the shape of the community."[75]

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[70] Walzer, *Spheres of Justice*, 62.
[71] Ibid., 38.
[72] Ibid., 39.
[73] Ibid., 38.
[74] Ibid., 63.
[75] Ibid., 61.

Communities should be entitled to shape their communities however they want, Walzer argues, because the right to self-determination is one of the fundamental rights of both individuals and collective groups. It is this right to self-determination Walzer believes to be the primary source of the right to restrict admissions. In an often-cited passage he writes:

> 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*.[76]

This feature of the "character" of communities—the common culture, language, and history— gives political communities "a right to protect their members' shared sense of what they are about" through immigration control.[77]

Possible Constraints

Nonetheless, Walzer concedes that states are not absolute in setting their immigration policy but are subject to both internal and external constraints. Internally, Walzer claims states are constrained in two ways: first, the immigration policy must be decided by "*all* the members (including those who hold membership simply by right of place)."[78] Second, the immigration policy must reflect "the shared understandings of those who are already members."[79] This way an immigration policy, Walzer argues, can be "judged morally and politically as well as factually."[80]

In addition to the internal constraints, Walzer believes states may also be subject to external constraints such as the principle of mutual aid. According to the principle, one ought to help strangers "if (1) [the assistance] is needed or urgently needed by one of the parties; and (2)

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[76] Walzer, *Spheres of Justice*, 62.
[77] Ibid., 50.
[78] Ibid., 62. Walzer believes that every person within the state, including temporary workers and refugees, are entitled to full political membership: "every new immigrant, every refugee taken in, every resident and worker must be offered the opportunities of citizenship." Walzer, *Spheres of Justice*, 62.
[79] Ibid., 40.
[80] Ibid.

if the risks and costs of giving it are relatively low for the other party."[81] Walzer believes that the

principle can be applied to both individuals and collective groups such as political states:

"Groups of people ought to help necessitous strangers whom they somehow discover in their

midst or on their path."[82] For example, a political state may have a moral obligation to accept

small number of political refugees, regardless of their immigration policy.

Nonetheless, Walzer argues the mutual aid principle is limited by the state's right to self-

determination at the same time. "The force of the principle is uncertain," he writes, "in part

because of its own vagueness, in part because it sometimes comes up against the internal force of

social meanings. And these meanings can be specified and are specified, through the decision-

making processes of the political community."[83] Therefore, Walzer argues, there might be limits

to the number of refugees a state is morally required to take in, though he "[doesn't] know how

to specify them."[84] Refugees may appeal to humanity and the principle of mutual aid for their

asylum claim, and one "wishes them success," Walzer writes, but "in particular cases, with

reference to a particular state, they may well have no right to be successful."[85] He sums up this

complex relationship between the moral constraint and the right to self-determination this way:

> [T]o take in large numbers of refugees is often morally necessary; but the right to restrain the
>
> flow remains a fact of communal self-determination. The principle of mutual aid can only modify
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> and not transform admissions policies rooted in a particular community's understanding of
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> itself.[86]

In sum, Walzer's argument for the state's right to control immigration begins by

exploring our understanding and practice of political membership, which assumes some state

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[81] Walzer, *Spheres of Justice*, 33.
[82] Ibid.
[83] Ibid., 34.
[84] Ibid., 51.
[85] Ibid., 50.
[86] Ibid., 51.

closure, then proceeds to the needs for protecting important values that we hold by closing borders, and ends with an argument based on the state's right to communal self-determination. Walzer's argument has proved to be one of the most influential and cogent arguments that have ever been made in support of the state's right to border closure. Nevertheless, Walzer's argument fails to address some of the important questions.

First, while the term 'membership' is *the* major concept playing central role in his argument, it is nevertheless far from clear what Walzer means by it. The term 'membership' can denote two different meanings: it could mean a legal right to enter the political state and enjoy basic civil rights protected by that state (such as the rights a tourist would have), which I call "residential membership". It could also mean a fuller notion of membership, such as permanent residency or citizenship, which I will refer to as "political membership." Between these two meanings—a right to enter a state on the one hand and a right to participate in political governance on the other—a significant and obvious distinction exists in terms of the rights each bestows on their bearers.

However, Walzer uses the term 'membership' almost interchangeably without acknowledging this important distinction. At times, he seems to argue the state has a right to block immigrants from entering its territory on the ground it concerns the membership issue. At others, membership is used only to refer to political membership. This ambiguity in the use of his central term can be a source of much confusion and unproductive debate, for most open borders supporters are not advocating the abolition of borders per se but only border *control*, as Joseph Carens writes, "having borders that are open is not the same as having no borders."[87] In other words, when Carens makes a case for open borders, as we will see in more detail below, he is

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[87] Joseph Carens, *The Ethics of Immigration* (New York: Oxford UP), 231.

arguing that everyone has a right to the residential membership in a society of one's choice, a right to live wherever one chooses to, not that everyone has a right to the political membership in any democratic state.

Second, Walzer seems to appeal to either moral intuitionism or consequentialist arguments when he argues on the ground of preserving commonly held values such as open neighborhoods and distinctive cultures. The implicit logic seems to be as follows: if we value A, and A requires B, then B is morally acceptable. If we as society value open neighborhoods, and these require closed borders, then border closure is morally acceptable. However, such argument can be criticized as an *argumentum ad populum*, a fallacious argument that concludes a proposition must be true because many or most people believe so, as Walzer's argument seems to imply that whatever that would strengthen or give rise to those that most of us value must be morally acceptable. Moreover, his argument is subject to a moral objection that we have no guarantee that what we as society hold dear is not somehow morally problematic or it can only be secured at too high a cost to other values or people.

Last, it is not clear whether Walzer's application of the principle of mutual aid at the state level does not commit a categorical error. The original mutual aid principle applies to a relationship between individuals. If we want to extend the scope of the principle and apply it to collective groups, as Walzer does, then it can be argued that the principle should be applied to a relationship between two political states, not between a political state and individuals. In other words, properly applied at the state level, a state may be obliged to assist *another state* in desperate need when it can do so without a major cost to itself.

However, I doubt Walzer would be willing to attribute such broad a moral obligation to political states, since doing so vastly increases their moral responsibility. For example, the

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United States can spend substantially more money in foreign aid to El Salvador without any

significant cost to itself, but many will disagree to conclude that therefore the U.S. is morally

required to do so. Although this objection may not seem that important or relevant for his overall

argument for the state's right to border closure, his argument, in fact, depends on his mutual aid

principle, without which his overall thesis can be vulnerable to inconsistency between his belief

in the state's right to control its borders and his embrace of the intuitive moral sense of

obligation to accept desperate refugees fleeing violence and persecution at their home states.

In addition to these objections, many liberal philosophers and political theorists who

support more lenient immigration policy have made counterarguments and rebuttals to Walzer.[88]

None, however, has proved more influential and eloquent than Joseph Carens' defense of open

borders.

3.2   Carens and the Freedom of Movement

In 1987 philosopher Joseph Carens, it could be said, single-handedly started the open

borders debate with his seminal article titled, "Aliens and Citizens: The Case for Open Borders."

In the article Carens argues that three of the most influential philosophies—Robert Nozick's

libertarianism, John Rawls' liberalism, and utilitarianism—when applied to the issue of

immigration, all lead to the conclusion for open borders and freedom of movement across

political states. His radical claim on immigration and human rights took direct aim at the

conventional understanding of the modern state-system. The article was an immense success in

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[88] See Arash Abizadeh, "Democratic Theory and Border Coercion." *Political Theory* 36, no.1 (February 2008), 37-65; Carens*, Ethics of Immigration*, 260-262; "Aliens and Citizens: The Case for Open Borders," *The Review of Politics* 49, no. 2 (Spring 1987), 264-270; Phillip Cole, *Philosophies of Exclusion: Liberal Political Theory and Immigration* (Edinburgh: Edinburgh UP, 2000), 60-85; Sarah Fine, "The Ethics of Immigration: Self-Determination and the Right to Exclude," *Philosophy Compass* (2013), 258-265; Bas van der Vossen, "Immigration and Self-determination," *Politics, Philosophy, & Economics* 14, no. 3 (2015), 270-290, just to name a few.

bringing the issue of immigration, a hitherto neglected topic in philosophy, to the attention of moral philosophers and political theorists. In *The Ethics of Immigration* (2014), his first book-length argument for open borders, Carens discusses an array of immigration issues regarding some of the most contentious topics today, from birthright citizenship and naturalization to refugees and undocumented immigrants. In this section I will explore Carens' expansive argument for open-borders expounded in *The Ethics of Immigration*.[89]

In the chapter titled "The Case for Open Borders," Carens directly challenges the very notion of the right of a state to control immigration that has been taken for granted in the modern period. By looking at "the implications of democratic principles for immigration when we treat the idea that states are entitled to control admissions as an open question rather than a presupposition," he argues that "in principle, borders should generally be open and people should normally be free to leave their country of origin and settle in another."[90] Through a set of arguments based on the democratic principles, Carens attempts to show that "the idea of open borders fits better with our most basic values—liberty and equality—and with our most deeply rooted intuitions about justice" than the idea of states' right to control their borders.[91]

Three Assumptions

Carens' open borders argument has two major components: equality and freedom, which he believes to be the two most important democratic values and to which he appeals throughout his argument. Carens tells the readers upfront that his argument presupposes three basic

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[89] For more arguments for open borders, see Arash Abizadeh, "Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders," *Political Theory* 36 (2008), 37–65; Kieran Oberman, "Immigraiton, Citizenship, and Consent: What is Wrong with Permanent Alienage?" *The Journal of Political Philosophy* 25, no.1 (2017), 91-107; and Alex Sager, "Immigration Enforcement and Domination: An Indirect Argument for Much More Open Borders," *Political Research Quarterly* 70, no. 1 (2017), 42-54.
[90] Carens, *The Ethics*, 225, 230.
[91] Ibid., 232.

assumptions, which he believes also "undergird the claim to moral legitimacy of every contemporary democratic regime."[92] The first assumption is that there is no natural social order.[93] Government with the power to control its borders, as we currently have, is not a natural arrangement for humans but our own invention. "The institutions and practices that govern human beings," Carens writes, "are ones that human beings have created and can change."[94]

The second is the egalitarian principle that all human beings are of equal moral worth. No one deserves more than another simply by virtue of the random chance that determines one's place of birth in the world. Someone born in the poorest country deserves as much protection of his human dignity and basic rights and worth as much as another born in the richest country. Lastly, Carens assumes that any restriction on human freedom must provide a moral justification. Human freedom is one of the most cherished and important values such that any restriction on it must have a good reason to do so; otherwise, it would be a human rights violation.[95]

Egalitarian Argument

As mentioned earlier, Carens' argument for open borders can be divided into two main components, and the first concerns the issue of equality. Carens argues that the immigration control by states is unjust because it perpetuates the vast and unfair inequality found across different countries, which is based on random chance like one's place of birth. He compares the

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[92] Carens, *The Ethics*, 226.
[93] Note this assumption addresses only social order or human affairs, the way we arrange our society, *not* human beings themselves or human nature. While there can be nothing natural about human affairs, there can still be natural qualities of human beings, e.g., natural rights. The distinction is that one concerns human actions *a posteriori*, while the other, human beings themselves *a priori*.
[94] Ibid., 226.
[95] This fundamental right to freedom is also the principle of the writ of *habeas corpus*, according to which no one shall be deprived of his freedom by unlawful detention or imprisonment without tangible justification. In some Spanish-speaking countries, *habeas corpus* is called the *amparo de libertad*, or "protection of freedom."

opportunities someone born in a rich country would have to the feudal privileges in the Middle

Ages—"an inherited status that greatly enhances one's life chances."[96]

> To be born a citizen of a rich state in Europe or North America is like being born into the nobility (even though many of us belong to the lesser nobility). To be born a citizen of a poor country in Asia or Africa is like being born into the peasantry in the Middle Ages (even if there are a few rich peasants and some peasants manage to gain entry to the nobility).[97]

Today's state-system that allows sovereign states to control their borders and exclude foreigners at their will, Carens argues, is a moral equivalent to feudal system, as the current arrangements "not only grant great advantages on the basis of birth but also entrench these advantages by legally restricting mobility, making it extremely difficult for those born into a socially disadvantaged position to overcome that disadvantage, no matter how talented they are or how hard they work."[98] Like the medieval system, immigration control of modern states, Carens claims, "tie[s] people to the land of their birth almost as effectively" and so serves "a crucial mechanism for protecting a birthright privilege" in rich countries[99] If feudalism came to be deemed unfair and cruel to the unfortunate, Carens challenges, why should the modern counterpart be any different?

Carens also argues that open borders would contribute to a reduction in global inequality and enhance the equality of opportunity. Equality of opportunity is one of the defining principles of our democratic society that rejected aristocracy in favor of meritocracy. One should be valued based on one's merits, not lineage, and the equality of opportunity, though remaining an ideal, is the undergirding principle in our society that we believe in and strive to achieve. However,

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[96] Carens, *The Ethics*, 226.
[97] Ibid.
[98] Ibid.
[99] Ibid.

without being able to move to where opportunities lie, Carens argues, one cannot take advantage of the principle of equality of opportunity, thus rendering the freedom of movement "an essential prerequisite for equality of opportunity."[100] Therefore, open borders would remain an important moral goal even if open borders did nothing to reduce global inequality.

Freedom of Movement

The second component of Carens' argument appeals to human freedom, and in particular freedom of movement. He argues that states' border control infringes a basic human right to freedom of movement. Carens concedes that unlike the well-established right to freedom of movement within states,[101] the right to freedom of movement across states is a much contested notion that has yet to make into a major international human rights document. Thus he sets out to make "the case for seeing the freedom to move and reside wherever one wants as a vital human interest" that deserves protection as a human right.[102]

First, Carens argues that freedom of movement across borders should be considered a basic human right because it is "a logical extension" of a well-established human right, the freedom of movement within states. Every reason that made the right to internal movement a basic right, Carens claims, can also be said of the right to international movement.[103]

> The radical disjuncture that treats freedom of movement within the state as a human right while
> granting states discretionary control over freedom of movement across state borders makes no

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[100] Carens, *The Ethics*, 227.
[101] The freedom of movement within states has been established as a basic human right by the major international human rights documents, such as the Article 13 of the 1948 Universal Declaration of Human Rights, which reads, "Everyone has the right to freedom of movement and residence within the borders of each state," and the Article 12 of the 1966 International Covenant on Civil and Political Rights that says, "Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence."
[102] Carens, *The Ethics*, 237.
[103] Ibid.

moral sense . . . . [T]he reasons why people want to move from one place to another will apply in both cases.[104]

Furthermore, Carens argues that freedom of movement is also a "prerequisite to many other freedoms."[105] People need to be able to move freely, first and foremost, in order to live their lives as they choose. Whether it's getting a job, living in an area, or marry an individual of one's choice, one needs the freedom of movement, and it would be a serious infringement of one's freedom, Carens asserts, if one had to ask for state permission for relocation every time one makes such personal decisions. Thus, freedom of movement not only enhances equality of opportunities but "contributes to individual autonomy both directly and indirectly" by making other freedoms possible.[106]

Therefore, Carens argues, any infringement on the freedom of movement, including that of international movement, must provide a moral justification, and the justification must account for *everyone* whose freedom of movement is affected. Thus it is not enough to defend border control in the name of the rights of those within the borders alone, e.g., by arguing it is their rightful exercise of their right to self-determination. Rather, the justification must also account for those outside the borders for it is they *too* whose rights are directly affected by the border control. It must provide argument, Carens claims, "as to why the restriction on freedom is in the interest of, and fair to, all those who are subject to it."[107]

In sum, Carens argues for open borders in two ways: First, he argues that the morality of immigration control is tantamount to that of feudal system since both perpetuate unfair inequality. Thus open borders is both an important moral goal and a way to reduce global

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[104] Carens, *The Ethics*, p. 239.
[105] Ibid., p. 227.
[106] Ibid.
[107] Ibid.

inequality by allowing many of those in poor countries to have an array of opportunities that would have been denied otherwise. Second, Carens argues that border control, both in principle and practice, infringes individual freedom of movement across states, which he argues should be considered a basic human right because it is both a logical extension of a well-established human right and allows all the other freedoms to be realized.

3.3   Conclusion

However, Carens' second argument that appeals to an individual right to freedom of movement is vulnerable to a challenge from an argument for competing individual rights. Take, for instance, property rights. While the right to move wherever one wants is appealing, it is not clear, however, whether it also entails the right to take advantage of the goods of someone else. Let me explain in more detail.

What are the things that generally attract immigrants to immigrate into rich countries in the first place? Is it a job opportunity in these countries? A desire to be reunited with a beloved? Whatever it might be, one might argue that it is not the desirable object itself—whether a job or person—that the immigrants are seeking, but the entire environment that makes these goods possible in the first place. What is at stake in immigration, in other words, is *not* the mere physical space or some tangible goods in rich countries. It is precisely the *system*, both political and social, that allows and protects individual rights and gives basic opportunities for decent life. One moves from a politically oppressive state, like a dictatorship, to a free state such as a democratic republic that protects human rights. One moves from a state-controlled economy to a moderately-controlled free market that allows more job opportunities.

On the other hand, the political, social systems in rich countries were created or at least started by those who were in these countries in the past and have been maintained and constantly

reformed by their current citizens.[108] Then it can be argued that these political, social, economic systems in rich countries are in fact the property of those people in these countries who created them in the past.[109] It could also be argued that the property 'ownership' of these systems can be inherited to the descendants, both biological and cultural, in these countries. If so, these political and social systems could then be considered as property of the current citizens in rich countries, who may not have invented the current systems and yet have maintained and constantly reformed them by passing new laws. If we grant the above, then there may be a stronger case for the state's right to control immigration as an exercise of one's shared property ownership.[110]

In sum, it is not clear how Carens would address this challenge from the perspective of the ownership of the political and social system in rich countries. Even if individuals are entitled to move wherever they want, Carens would still need to address the issue of whether individuals have a right to participate in or reap the benefits from those systems created, developed, and maintained by others. Perhaps he won't be able to address challenges like this, for his thesis is largely grounded on traditional liberalism, which emphasizes one's individual rights and liberty.

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[108] No doubt it is a sweeping statement that leaves out numerous 'exceptional' cases, such as the 'white settler states,' e.g., the United States, Canada, Australia, and New Zealand—in which the settlers founded new political societies on the region hitherto inhabited by others, often by taking by force from them—and contemporary democracies like Japan, where the postwar constitution was drawn up during the Allied occupation in 1947. Similarly, even a seemingly 'normal' case like Britain, the matter is complicated by the fact that the English had dominated the Scots, Welsh, Cornish, and Irish, often by brutal means. These examples raise a complex question whether the political or cultural system in, say, Japan or Scotland can be properly said to belong to the Japanese or Scots.

[109] This line of thinking follows the traditional liberal notion of property that began with John Lock's account in *Second Treatise of Government* and continued to our time with Robert Nozick's in *Anarchy, State, and Utopia*.

[110] What if these rich countries open their borders and allow any immigrants to come to their countries *but* do not allow them, at least initially, to take advantage of the existing economic, social system? This way, do we not solve the issue since we would then respect both the individual right to freedom of movement and the shared property rights of the residents in rich countries?

However, states are generally expected to provide protection for human rights of individuals in their territory regardless of their legal status. Given this external constraint on every legitimate state, it is understandable that rich states want to restrict the admission of immigrants before they enter the territory, since once immigrants are in, they can claim their right to participate in the social and political system of that country (even only at the very basic level). In short, the proposition above will not work.

Inevitably, disputes are bound to occur whenever two or more competing individual rights—e.g., my right to security vs. your right to privacy—come into conflict. Here we seem to have a conflict between a right to freedom of movement and a right to private property.

However, Carens' egalitarian argument, which appeals to the inherent equality of human beings, rather than individual rights, seems to evade the competing rights challenge. Nonetheless, it is still in large part embedded within the traditional liberal view of sovereign nation-state. In other words, Carens does not dispute, at least explicitly, the nation-state system itself, but only one of its aspects, namely, its practice of border control. I would like to take one further step and challenge this very undergirding nation-state system, which I will argue may be *the* obstacle for open borders. In the next chapter, I will discuss the relationship between open borders and the nation-state and argue for a more expansive political and moral framework: cosmopolitanism.

CHAPTER IV

NATION-STATES AND THE COSMOPOLITAN COMMUNITY

"Homo sum: humani nihil a me alienum puto".[111]

- Terence

In the previous chapter, I have discussed and evaluated both sides of the open borders debate: Walzer's argument for the state's right to border closure and Caren's case for an individual right to international movement. While both arguments are powerful, I find Carens' case for open borders more convincing than Walzer's argument, and I explained some of the reasons. At the same time, we saw that Carens' individual rights approach is open to the competing individual rights challenge. On the other hand, his egalitarian argument based on the universal human equality may be immune to this challenge. Even then, however, I believe Caren's egalitarian argument, and his open borders thesis as a whole, is at odds with the undergirding nation-state system, and thus should be framed within a more inclusive and expansive framework.

In this chapter, I will advance a cosmopolitan case for open borders, beginning with Carens' analogy of feudalism, which helps us understand the key challenge of the current nation-state system on the road to open borders. I will argue that cosmopolitanism will point the way forward, namely toward a conception of community, and possibly even of governance, that moves past that of the current nation-state to that of a cosmopolitan community. My presentation of cosmopolitanism is based on the tradition that began with the ancient Stoics and continued through Kant and Habermas.

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[111] "I am a human being: nothing human is alien to me." (Translation mine)

4.1 The Nation-State

I believe Carens is onto something when he compares today's nation-state system to the feudalism in the Middle Ages. Under both systems, as he argues, life chances are largely determined by where and to whom one is born. However, the analogy cuts even deeper. Like the medieval caste system, I argue, the modern state system—especially its practice of border closure—is rooted in a rather ancient, and often unconscious, belief that those from other communities are fundamentally different than us.

The Rise of Nation-States

In the early history of Western civilization, the concept of community was largely limited to those of family members and relatives on the one end and small tribal states on the other.[112] The emergence of the city-state as a form of governance and community came about as early as the second half of the second millennium BC following the fall of the Minoan Empire.[113] The city-state enjoyed its first golden age in the ancient Mediterranean and its second flourishing in early modern Italy.[114] However, there are two forms of governance that were more prominent than the city-state for most of Western history. The first is the multinational empire, which examples abound in history—from the ancient empires such as the Persian Empire and the Roman Empire to the modern ones such as the Holy Roman Empire and the Austrian Empire.

The second—and more important for our discussion—is the monarchy, and in particular absolute monarchy, which was often based on ethnic or religious identifications. The doctrine of divine right of kings permeated throughout medieval and early modern Europe and exerted

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[112] Geoffrey Parker, *Sovereign City: The City-State through History* (London: Reaktion Books, 2004), 17.

[113] "The origins of the city-state," Geoffrey Parker writes, "are to be found around the shores of the eastern Mediterranean in ancient times and from there it spread westwards across the Mediterranean and eastwards into the Black Sea and adjacent parts of the Middle East." Parker, *Sovereign City*, 15.

[114] Parker, *Sovereign City*, 15. The city-state as a form of polity, however, had all but disappeared by the 20th century, with only a handful of surviving city-states today such as Kuwait, Qatar, Bahrain, and Singapore.

powerful influence on the minds of the people and the rulers. It was God himself, they believed, that the kings' authority came from, and thus questioning their legitimacy was tantamount to challenging God's will—the ticket not only to a scaffold but also to eternal damnation.

However, as the theological justification for the legitimacy of the prince came under growing attack by the intellectuals in early modern Europe, the rulers felt the need for a secular defense of their power.[115] Thomas Hobbes's *Leviathan* (1651) was intended to provide exactly that—a defense of the sovereignty of the state over its subjects in secular terms, without resorting to Christian theology. His eloquent account of the origin of the sovereign state as the outcome of the necessary contract between the people and the ruler to avoid the worst-possible scenario put the tone and the structure for the later political theorists such as Locke and Rousseau. In many ways, Hobbes gave the modernity the foundation for the secular state that we are still familiar with. Although Hobbes's defense of the state's sovereignty was intended to safeguard absolute monarchy, it ironically became the foundation for the later nation-state.

The rise of the nation-state as a dominant form of political governance is a complicated history, but many historians point to the Treaty of Westphalia in 1648 that ended the Thirty Years' War (1618-48) [116] as the turning point in the direction of the sovereign nation-state

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[115] Diderot's *Encyclopédie* (1765) has a chapter on absolute monarchy, which the author distinguishes from the arbitrary dictatorship in that the former's absolute power "resided originally in the citizens as a body" and was limited by the already established laws. By the Enlightenment period, we see that the king's power was growingly seen as the authority conferred upon by the citizenry rather than as the divine right bestowed by God. Louis de Jaucourt, "Absolute monarchy," *The Encyclopedia of Diderot & d'Alembert Collaborative Translation Project,* trans. Victor Genecin. Ann Arbor: Michigan Publishing, University of Michigan Library, 2011. http://hdl.handle.net/2027/spo.did2222.0001.690.

[116] The Thirty Years' War was one of the bloodiest and catastrophic wars in history Parker writes that "the loss of people was proportionally greater than in World War II; the displacement of people and the devastation caused were almost as great; the cultural and economic dislocation persisted for substantially longer." Geoffrey Parker, ed., *The Thirty Years' War*, 2nd Edition (London: Routledge, 1997), 192. The intellectual product of the Thirty Years' War was Hugo Grotius' *The Law of War and Peace* (1625), which was written in the midst of the war and had a major influence on the formation of the treaty. L.Ali Khan, *The Extinction of Nation-States* (Hague: Kluwer Law International, 1996), 2.

system.[117] The treaty declared the sovereignty of the state over its religion and territory. Political

developments following the Treaty of Westphalia further accelerated the evolution of the state

from the absolute monarchy to the democratic nation-state. For example, Glorious Revolution of

1688 and the reign of William and Mary "marked the death of divine right monarchy in

England."[118] More crucially, the American and French Revolutions at the end of the 18th century

instigated popular movements across Europe and the fervor of nationalism in the 19th century. In

particular, the French Revolution, Hough writes, "became an archetype of the modern nation-

state because states more and more began to validate themselves as the political expression of

defined people," as opposed to that of the king or aristocrats.[119] These democratic movements

helped instill national identity in popular consciousness and resulted in the modern nation-state,

which by mid 20th century became largely the only legitimate form of governance in the

world.[120]

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[117] For example, Richard Hough writes that the treaty was "a landmark in the early development of the nation-state." Richard Lee Hough, *The Nation-States: Concert or Chaos* (Lanham: University Press of America, 2003), 4.

[118] Hough, *The Nation-States*, 13.

[119] Ibid., 14. Philip White confirms this view: "the Revolution of 1789 clearly made popular support vastly more important than it had been before in determining what constituted a nation. . . . [Prior] to the Revolution people had tended to think of the nation as consisting of the king and the aristocracy, or the king and a somewhat larger portion of the elite." With the Revolution, he writes, "the upper portion of the Third Estate, the bourgeoisie, broadened the term 'nation' to include themselves. With 'nation' suggesting greater popular (as opposed to elite) control of the government, people applied the term with enthusiasm to all that had been royal. The king's army became the national army; crimes against the king became crimes against the nation. . . . Accordingly, the nation became the people, at least the bourgeoisie, and its government became *their* government. Philip L. White, "Globalization and the Mythology of the "Nation State," in *Global History,* ed. by A.G. Hopkins (New York: Palgrave Macmillan, 2006), 268-9.

[120] Geoffrey Parker calls this "a normative type." Parker, *Sovereign City*, 8.
> [A]t any particular time, there is usually what one may term a normative type among the states in existence. This normative type also tends to constitute an ideal to which most of the states aspire. For a variety of reasons, political, economic and cultural, this is considered to be the most desirable type of state and there is a strong tendency for most of them to attempt to emulate it. Being of the normative type also gives a state a certain legitimacy that may otherwise be denied to it. This is to be seen in the fact that today most states are happy to be called 'nations' rather than just 'states', but this often signifies an aspiration rather than a reality.

Its current dominance notwithstanding, the definition of "nation-state" is itself a complicated and controversial topic. It has meant different things ever since the word was first coined in the 19th century. Whereas we use the term as a synonym for 'sovereign government', to those who invented the term in the 19th century, according to Philip White, 'nation' meant "an ethnic group which controlled its own sovereign government and, by implication, used that control to serve the interest of the dominant ethnic group."[121]

Thus, White claims, the term "nation-state" still appears to have two distinct meanings today: the sovereign government and the ethnic nation, "a group in which members share kinship (often fictive), language, perhaps a religion, and usually many customs." [122] According to White, the advocates of the second view of the term insist "each ethnically homogenous group . . . is morally entitled to control its own sovereign government and to use control of the government to protect its purported ancestral purity, language, religion, and customs. This view became popular in the nineteenth century, lost much of its popularity after World War II, but has experienced a powerful revival since the end of the Cold War. It has antecedents going back to the Latin word for 'birth' and to Judeo-Christian scriptures."[123] Although the term is infused with historical racism and bigotry, the nation-state nonetheless continues to wield a singular influence in our political and moral universes as well as our own identity.

The Unit of Community

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[121] White, "Globalization," 278.
[122] Ibid.
[123] Ibid., 257. It is noteworthy that the second view of "nation-state" echoes Walzer's argument for the state's right to self-determination that the 'character' of a community gives itself a right to preserve its culture. To some extent, it also parallels the property rights argument that we saw earlier. Both claim their governments as their own (as protector of their culture in the former and as their property in the latter), though for different reasons (on the basis of one's common culture, people, or language and on the Lockean performance of work, respectively).

The unit of polity often determines the extent to which we conceive and form our communities. While for someone living in the medieval period one's conception of community might have seldom extended beyond one's family members and rarely one's township, we often conceive our own identity first and foremost by our nation-states. In large part, we consider ourselves as Americans, Koreans, or Mexicans before we are Texans, New Yorkers, or Aggies. And the way we conceive our community often dictates the scope of our sense of obligation. We are willing to share our resources with those whom we can relate to and empathize with. We feel more obligated to help fellow Americans in distress than those in remote countries.

On the other hand, or perhaps because of this, we tend to shut our doors to, and feel less obligated to come to help, those people we regard, either consciously or unconsciously, essentially different from us. It is here the analogy of the feudalism cuts deep: As the aristocrat considered the commoners to be a fundamentally different kind of people than his, the people in rich countries also regard—often unconsciously, I hope—the people in developing countries or countries with vastly different traditions to be a fundamentally different people than themselves.

In *Democracy in America*, Alexis de Tocqueville observed this psychological and moral chasm between those considered to belong to different community. In the chapter on the difference in customs between Europe and America, Tocqueville writes that in aristocratic nations those within the same country considered themselves inherently different along the line of their classes. "When all the men of an aristocratic society take their irrevocable station according to profession, property, and birth," Tocqueville writes, "the members of each social class experience a constant and active mutual sympathy from thinking of themselves as all

children of the same family."[124] However, "the same feeling for one another does not exist between the different classes," he notes.

> In an aristocratic nation each caste has its own separate opinions, feelings, rights, customs, and style of living. Thus, its members are not like the members of all the other castes; they do not share the same modes of thought or feeling; they scarcely believe that they belong to the same human race.[125]

Although political connection binds different classes together, Tocqueville writes, there is no true sense of connection or sense of moral obligation between the members of different class. "Feudal institutions aroused a sensitivity to the sufferings of particular men," he writes, "[but] not to the miseries of the whole human race . . . for real sympathy exists only between those who are alike."[126] The same could be said between nations, Tocqueville believed. Writing how Cicero objected to the brutal practice done to some of his fellow Romans while remaining silent towards even more inhumane deeds done to foreigners, he remarks that from a Roman perspective, "a foreigner clearly belongs to a different human species from a Roman."[127]

Since the Roman period and the Middle Ages, and for that matter, 18th century aristocracy, we have made enormous strides towards universal equality across human beings. However, the trace of the ancient apathy towards, if not discrimination against, foreigners—the expanded form of tribalism and the root of xenophobia—can still be found throughout Western countries today. Those who object to lenient immigration policies may argue in the name of one's freedom of association and the right to self-determination. When we inquire further, however, I argue that we would find that their not wanting to associate with foreigners and be

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[124] Alexis de Tocqueville, *Democracy in America* (London: Penguin Books, 2003), 650.
[125] Ibid.
[126] Ibid.
[127] Ibid., 654.

political associates with them may stem from this indifference towards those outside their unit of community, that is, their nation-states (akin to the indifference of the aristocrats towards the commoners). Their apathy in turn may spring from their unconscious belief that those in developing countries belong to a fundamentally different caste.

Therefore, the predominance of the nation-state as largely the only legitimate form of polity today translates into a severe constraint on our conception of community. Consequently, it becomes very difficult for us to conceive a form of community beyond our nation-states and to morally and psychologically connect with those people outside, as Ali Khan puts it, the national "geopsychological box."[128] Hence, unless we dismantle the psychological borders in our mind, we won't be able to tear down the physical borders that keep the 'others' away. As Tocqueville said, people "display a reciprocal compassion for their sufferings and the laws of nations become gentler" as they become in their minds "more like one another."[129] But how could we be made "more like one another"? In other words, is there any philosophy that might help us to broaden our notion of community and perceive each other, regardless of one's national origin, as coequals? It is this question I will try to address in the next section.

4.2   The Cosmopolitan Argument for Open Borders

I ended the last section with the question: what would it take for us to form a notion of community that goes beyond the national boundaries? In this section I will address this question in the course of my cosmopolitan argument for open borders, i.e., cosmopolitan world order. In

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[128] Khan, *The Extinction of Nation-States*, 4. This is especially so in the age of terrorism and globalization, which have pushed some rich countries, like America, to turn ever more insular and isolationist.
[129] Tocqueville, *Democracy*, 654.

the course of my argument, I will rely on some of the strongest accounts of cosmopolitanism in Western philosophy: those from the ancient Stoics, Immanuel Kant, and Jürgen Habermas.

The Stoics and Cosmopolitan Community

The cosmopolitan philosophy of the ancient Stoics provides a moral foundation for a more universal world order.[130] The Stoics believed that each and every one of us collectively formed one human community, linked to one another simply by virtue of being a human being. Lisa Hill writes that for the Stoics distinctions "based on ethnicity, gender and class are irrelevant. . . . Community is derived from the fact of our common humanity."[131] More precisely, it is human reason, according to the Stoics, that provides the foundation for the global community and make us fellow citizens. Human reason is "a portion of the divine in each of us," and through participating in it we are able to discover the laws of nature that ruled the cosmopolitan community.[132] Marcus Aurelius expresses this in an elaborate syllogistic argument:

> If the intellectual is common to all men, so is reason, in respect of which we are rational beings: if this is so, common also is the reason that commands us what to do, and what not to do; if this is so, there is a common law also; if this is so, we are fellow-citizens; if this is so, we are members of some political community; if this is so, the world is in a manner a state. . . . And from this

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[130] The earliest hint of cosmopolitanism can be found in Socrates's defense in *Apology*, in which he avows to obey the command from the god over the decrees of the state. However, it was the Diogenes the Cynic who may be said to be the first cosmopolitan and had a major influence on the subsequent Stoic cosmopolitanism. When asked where he came from, Diogenes replied, "I am a citizen of the world." Nonetheless, it was with the Stoics we see cosmopolitanism as a developed philosophy for the first time. The story is from Diogenes Laertius, *Lives of the Philosophers*, Book VI.63. The translation is Nussbaum's in Martha C. Nussbaum, "Kant and Stoic Cosmopolitanism," *The Journal of Political Philosophy* 5, no. 1 (1997), 5.

[131] Lisa Hill, "The Two *Republicae* of the Roman Stoics: Can a Cosmopolite be a Patriot?" *Citizenship Studies* 4, no. 1, (2000), 67.

[132] Nussbaum, "Kant and Stoic Cosmopolitanism," 7. Kant was very much influenced by the Stoic philosophy during his early studies. Not surprisingly his moral argument closely follows that of the Stoics. See Nussbaum, "Kant and Stoic Cosmopolitanism," 5, 12-15.

common political community comes also our very intellectual faculty and reasoning faculty and our capacity for law.[133]

According to the Stoics, every one of us lives in two distinct communities, the local community and the cosmopolitan community, and it was to the latter that one was most obligated. Seneca writes in *De Otio*: "Let us take hold of the fact there are two communities— the one, which is truly great and truly common, embracing gods and men, in which we look neither to this corner nor to that, but measure the boundaries of our state by the sun; the other, the one to which we have been assigned by birth."[134] Zeno agrees with Seneca in the choice between the two communities: "We should not organize our daily lives around the city or the deme [an administrative unit], divided from one another by local schemes of justice, but we should regard all human begins as our fellow demesmen and fellow citizens."[135]

The Stoics nonetheless did not dismiss the local community and particular loyalties as irrelevant or unethical. Instead, they recognized such local affiliations and feelings as all too natural. The Stoics, Hill writes, considered virtues to "consist in acceptance and performance of duties confluent with assigned station," and they "sought to reconcile cosmopolitanism with the practical constraints of life by advising *cosmopolitai* not to wander the earth, dislocated and free from worldly care, but to accept and embrace the contingent identity which Zeus has thought fit to bestow on them."[136] For example, Epictetus exhorted his fellow Greeks to "do the duties of a

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[133] Marcus Aurelius, *Meditations,* trans. and revised by George Long (London: Dover Publications, 1997), 20.
[134] Seneca, *Moral and Political Essays*, ed. John M. Cooper and J.F. Procope (Cambridge: Cambridge UP, 1995), 175.
[135] Quoted in Nussbaum, "Kant and Stoic Cosmopolitanism," p. 6. It is Nussbaum's translation of Plutarch, *On the Fortunes of Alexander*, 239A-B.
[136] Hill, "The Two *Republicae*," 69.

citizen yourself, to marry, bring up children, hold the customary offices . . . to live and go about

your business in the place where you were born and were enrolled as a citizen."[137]

Nevertheless, the Stoics consistently remind us that the duties to one's surroundings

should not be placed above the obligations to the cosmopolitan human community. While it is

acceptable to give "what is near to us a special degree of attention and concern," Nussbaum

writes, the true Stoic "should always remember that these features of placement are incidental

and that our most fundamental allegiance is to what is human."[138] Epictetus emphasized that "the

greatest and most authoritative and most comprehensive of all governments is this one which is

composed of men and God."[139]

Whether the Stoics envisioned a kind of world-state that would materialize their

cosmopolitan aspirations is not clear. While Zeno did envision such cosmopolitan state in the

Republic, the work has been lost and we know very little of it.[140] We had to wait until the late

Enlightenment for a more concrete vision of cosmopolitanism.

Kant and the Cosmopolitan Alliance

Stoic cosmopolitanism left a deep mark on the great Enlightenment philosopher

Immanuel Kant. While more known for his theoretical work, Kant was a champion of the

international laws regulating individual nation-states. Of the several political works he wrote

during his lifetime, the essay titled, "On Perpetual Peace," proved most influential and enduring.

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[137] Epictetus, *The Discourses as Reported by Arrian, the Manual and Fragments*, trans by W.A. Oldfather Hill (London: Harvard UP, 1989). Quoted in Hill, "The Two *Republicae*," 69.
[138] Nussbaum, "Kant and Stoic Cosmopolitanism," 9.
[139] Epictetus, *The Discourses*. Quoted in Hill, "The Two *Republicae*," 70.
[140] We learn about Zeno's *Republic* primarily from Plutarch:
> The much admired *Republic* of Zeno is aimed at this one main point, that we should not organize our daily lives around the city or the deme, divided from one another by local schemes of justice, but we should regard all human beings as our fellow demesmen and fellow citizens, and there should be one way of life and one order, just as a herd that feeds together shares a common nurturance and a common law. Zeno wrote this as a dream or image of a well-ordered and philosophical community. (Plutarch, *On the Fortunes of Alexander*, 329 A-B. Nussbaum's translation in Nussbaum, "Kant and Stoic Cosmopolitanism," 6)

A political treatise on international order, the essay aims to end all future wars by proposing a federation of all nation-states in the form of a military and economic alliance which primary goal was to prevent the outbreak of war. A "deeply optimistic document," as Brian Orend calls it, the essay purports to provide nothing short of a "recipe for peace."[141]

As the title indicates, Kant sets himself for an ambitious project of coming up with a blueprint for perpetual peace in the world. He believed such a global peace was indeed possible, though it would not come naturally. Kant held a Hobbesian understanding of human nature, according to which the natural state for humans was constant conflict and mistrust of one another. "The condition of peace among human beings who live beside each other is not a natural situation," Kant writes, "for the natural state is rather a condition of war. In other words, although there is not always an outbreak of hostilities, nevertheless there is a constant threat that this will occur."[142] Given such hostile human nature, Kant argues, the state of peace "must therefore be *established*."[143]

Kant's grand solution for establishing global peace was to form a cosmopolitan alliance consisting of all nation-states. He begins with an argument that the condition of peace was an "immediate obligation" dictated by reason. [144] Then he argues that such a peace would not be possible "without a compact of nations among themselves . . . a special form of *alliance*, which one could call an *alliance for peace*," which purpose was "to put an end to *all* wars forever."[145]

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[141] Immanuel Kant, *On Perpetual Peace: A Philosophical Sketch* (Tonawanda: Broadview Press, 2015), 17.
[142] Kant, *On Perpetual Peace*, 60.
[143] Ibid.
[144] Ibid., 68.
[145] Ibid.

Such an alliance, Kant argues, would "maintain and guarantee the *freedom* of a state for itself and at the same time the freedom of other states in the alliance."[146]

However, would nation-states voluntarily come together to form a cosmopolitan alliance? Kant argues that as the world becomes increasingly globalized, nation-states would be compelled for such an arrangement. "The greater or lesser social interactions among the nations of the earth, which have been constantly increasing everywhere, have now spread so far that a violation of rights in one part of the earth is felt everywhere," Kant writes.

> Hence, the idea of a cosmopolitan right is not a fantastic, hysterical way of imagining rights, but a necessary completion of the unwritten code of both national and international law for the public rights of human beings generally and so for perpetual peace.[147]

In addition, Kant believed that the egoistic human nature will further necessitate a cosmopolitan alliance. Nature, he writes, "uses mutual self-interest to link together states," as well as "the *spirit of commerce*, which cannot co-exist with war and which sooner or later seizes every nation." [148] Kant concludes that "through the mechanisms in human inclinations, nature guarantees perpetual peace."[149]

Kant's ideas were taken seriously and eventually sowed a seed for the later formation of the United Nations, the primary purpose of which was to establish global peace, as the philosopher envisioned. Consequently, it is to Kant we owe the unprecedented longevity of the

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[146] Ibid. Kant, however, was not a proponent of a world state. He describes such a prospect unnatural and therefore unlikely. "[S]ince nation states," he writes, "according to their ideas of national rights, have no desire for [world state], they reject *in hypothesi* [in practice] what is correct *in thesi* [in theory]," and later that "[nature] uses two means to prevent nations from intermingling and to keep them separate: the differences in the *languages* and *in the religions*, which bring with them a tendency to mutual hatred and pretexts for war." Kant, *On Perpetual Peace,* 69, 81. Brian Orend writes that Kant was a "firm believer in what we now call 'the national sovereignty and territorial integrity of a nation-state,'" and "Kant's ideal picture of international relations is a series of jus and rights-respecting political communities each respecting each other's right to 'do their own thing,' and not using any force or violence to try to coerce or control each other." Kant, *On Perpetual Peace*, 32.
[147] Kant, *On Perpetual Peace*, 73.
[148] Ibid., 82.
[149] Ibid.

postwar peace. Nonetheless, while there may not have been an outright war between major powers since the formation of the UN, there have been and still are numerous small-scale conflicts wreaking havoc in many parts of the world, producing millions of refugees around the world.[150] The problem is exacerbated by the growing right-wing nationalism in many rich countries including the United States and Germany. In short, Kant's plan for perpetual peace might have achieved, for the time being, its seeming goal, but it has failed to address the current, no less significant, transnational challenges around immigration. One of his contemporary disciples, Jürgen Habermas takes up this challenge.

Habermas and Cosmopolitan Solidarity

One of the leading intellectuals alive,[151] Habermas has also been one of the strongest and most eloquent contemporary proponents of cosmopolitanism. In *The Postnational Constellation*, a collection of his political essays, Habermas advances his cosmopolitan vision of the world order after the current nation-state system. He argues that the nation-state system had served us well but is no longer sustainable in the era of 21st century globalization,[152] which requires an alternative political system that would better meet the contemporary challenges. Globalization, Habermas argues, "introduce[s] us to *another* perspective, from which we see the growing

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[150] According to the United Stated High Commissioner for Refugees, the current number of refugees worldwide (those who are forcibly displaced) is estimated to be 68.5 million. United Nations High Commissioner for Refugee, "Figures at a Glance," last modified June 19, 2018, http://www.unhcr.org/figures-at-a-glance.html.

[151] Habermas has written on diverse topics, from epistemology and social theory to democracy and theory of law. Embedded throughout his work is a constant theme of universalism. Max Pensky writes that Habermas' central goal throughout his work was to demonstrate that "the range of universalistic intuitions in morality, politics, and law—the heritage of the eighteenth-century Enlightenment—is no mere project of power or local preference," but rather "embedded in the most basic capacities that we possess." Jürgen Habermas, *The Postnational Constellation: Political Essays*, trans. and edited by Max Pensky (Cornwall: MIT Press, 2001), ix.

[152] For Habermas, globalization is one of the most important features of our world and hence plays a central role in his argument. Habermas argues, Pensky writes, "the dynamic of globalization heralds the end of the global dominance of the nation-state as a model for political organization . . . [and] fundamentally challenges the relevance of the nation-state as a continued political model." Habermas, *The Postnational,* xiii.

interdependence of social arenas, communities of risks, and the networks of shared fate ever more clearly."[153]

Habermas believes globalization calls for a more cosmopolitan world-order. While he does not give a detailed blueprint for such global system, he suggests a few guidelines as to how it would come about. First, he argues that the movement for the cosmopolitan reform should originate from the bottom up—from "social movements and non-governmental organizations [and] the active members of a civil society that stretches beyond national borders," rather than the governments and the elites.[154] The reason has to do with how democracy works:

> Only the transformed consciousness of citizens can pressure global actors to change their own self-understanding sufficiently to begin to see themselves as members of an international community who are compelled to cooperate with one another, and hence to take one another's interest into account.[155]

For such grassroots movement to take shape and gain political traction, Habermas argues, we need to first foster a collective consciousness that would transcend the national boundaries, and Habermas calls it the "cosmopolitan solidarity," a collective moral awakening to the fact that we all belong to one global community regardless of one's national origin.[156]

Nonetheless, Habermas admits that it is no small task to forge such solidarity. It is indeed a very difficult process, he writes, "to change one's own sense of identity and community."[157] Furthermore, the cosmopolitan solidarity, Habermas writes, "would certainly be weaker and less binding than the civil solidarity that developed within nation-states." [158] And yet he reminds the

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[153] Habermas, *The Postnational,* 55.
[154] Ibid., 57.
[155] Ibid., 56.
[156] Ibid., 55.
[157] Ibid., 56.
[158] Ibid.

readers that humans have undergone such transformation of community throughout history and thus the one from the current nation-state system to a more cosmopolitan system is also possible:

> The human population has long since coalesced into an unwilling community of shared risk. Under this pressure, it is thus quite plausible that the great, historically momentous dynamic of abstraction from local, to dynastic, to national to democratic consciousness would take one more step forward.[159]

In sum, Habermas argues that globalization and its challenges have rendered the nation-state system an outdated platform upon which to arrange our international order, and calls for a new political model that would broaden our consciousness and the notion of community. Such political reform, Habermas contends, should start at the level of transnational NGOs and grassroots movements, which in turn would require cosmopolitan solidarity.[160] While Habermas does not, perhaps cannot, provide a more concrete blueprint for a cosmopolitan political system, his diagnosis of our contemporary world and his general guidance nonetheless gives us a good starting point to imagine and believe in a more cosmopolitan world-order beyond the current nation-state system.

4.3   Conclusion

In this chapter I have argued that (1) opening borders will require broadening our conception of community; (2) accordingly, the nation-state system poses a serious challenge in the path to open borders by limiting one's notion of community within national boundaries; and,

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[159] Habermas, *The Postnational,* 56. Nonetheless, like Kant, Habermas does not endorse the idea of a single world-state. "The institutionalization of procedures for global coordination and generalization of interest, and for the imaginative construction of common interest," Habermas cautions, "will not work in the organizational form of a world state, a form that is itself not even desirable." Rather, he writes that the "autonomy, particularity, and uniqueness of formerly sovereign states will have to be taken into account." Habermas, *The Postnational,* 56.

[160] How we can achieve this cosmopolitan solidarity is another question. I believe one way is by emphasizing the cosmopolitan citizenship and virtues. On this topic, see Bryan Turner, "Cosmopolitan Virtue, Globalization and Patriotism," *Theory, Culture & Society* 19 (2002), 45-63.

(3) therefore, in order to form a much larger sense of community we must move past the current nation-state system toward a more cosmopolitan world order. Then I presented three important accounts of cosmopolitan community.

First, the ancient Stoics give a moral case for the global community based on our shared humanity. According to this account, our obligations to this cosmopolitan community, in which all human beings are fellow citizens, outweigh our obligations to our local community, formed through birth, religion, ethnicity, region, etc. Kant's account provides a more concrete political vision of cosmopolitan world order connected through a cosmopolitan alliance of all nation-states. Then I discussed Habermas' argument against the current nation-state system, which he argues does not work in this era of globalization, as well as his argument for a grassroots-based cosmopolitan world order, achieved through cultivation of cosmopolitan solidarity.[161]

I agree with Habermas that the 19th century nation-state system does not fit the current world we live in. As he argues, globalization has led us to face the extremely complicated and connected world, whether we like it or not, in which the previous ignorance of the remote sufferings of those on the other side of the globe cannot get us off the ethical hook anymore or resist on the basis of individual rights. The tide is manifest: technology such as Google and Facebook that connects the world will continue to develop at a neck-break speed; unless human

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[161] The question remains whether the universal cultivation of cosmopolitan solidarity would automatically lead to open borders. Say, vast majority of the people in rich countries suddenly cultivate an attitude of cosmopolitan community and believe we are a community of human beings with moral obligation to one another that transcends incidental contingencies such as one's nation, race, and religion. Would this scenario immediately lead to abolition of border control? While the answer is bound to be speculative, I firmly believe it will lead to something very close to open borders. People in rich countries will be convinced they have obligation to come to help, or at least not to protest against, their fellow global citizens in desperate need—just like the people in Texas felt toward the residents in Louisiana coming to Texas en masse for refuge when Hurricane Katrina devastated their home in 2005. When people consider each other as co-members of the same community they deeply care about, they will see each other as coequal rather than different, as teammates rather than rivals, as fellow compatriots rather than enemy other, and they will be more generous to one another, especially, but not exclusively, in times of need. William Deresiewicz writes, "The only way to treat somebody as an equal is to realize that that's exactly what they are." Unlike the nation-state system, the cosmopolitan view of community will allow this realization to occur. Deresiewicz, *Excellent Sheep*, 222.

nature suddenly changes for the better, local conflicts and dictatorships around the world will continue to exist creating refugees and forced migrants at the speed on par with technology, which fuels the exaggerated hope and mirage of overflowing opportunities in rich countries in the mind of those oppressed in developing countries, all the while making international migration increasingly easier and cheaper. It is not only unwise but also dangerous to fight against this global tide. Doing so amounts to, as a Korean saying goes, throwing an egg against a rock. While it will not solve even an inch of the problem around transnational migration, it will only create unnecessary sufferings and human rights violations on the part of the weak and oppressed.

Rather than holding onto the outdated mode of organizing ourselves around the national boundaries, we should embrace the global tide and strive to reform the status quo in both our national and local politics. We should learn from the civil rights movement in the 60's and 70's and launch a cosmopolitan movement calling for a national and transnational moral awakening. We should go back to the ancient Stoics for guidance. We should start by realizing that every one of us in this world belongs, first and foremost, to the community called humanity that exceeds our national and local ties. That we are all equal human beings.

CHAPTER V

CONCLUSION

Throughout the thesis, I have discussed various issues from the U.S. border policy and the state's right to control immigration to the nation-state system and cosmopolitanism. In Chapter Two, I discussed the cost-benefit analysis of the U.S. immigration and border policy and its impact of the migrants themselves. In Chapter Three, I discussed the open borders debate, and in particular Walzer's argument for the state's right to control immigration and Carens' argument for open borders. In Chapter Four, I discussed the relationship between open borders and the nation-state system and advocated for a more cosmopolitan world order. What holds these issues together is the theme of human community. Each side of the debate—whether on the current immigration policy, ethics of open borders, or legitimacy of the nation-state system—grounds their argument on the appeal to the legitimacy and the needs of their own community, however small or large. The difference of positions can boil down to different priorities: the interest of the national community vs. that of the cosmopolitan community. It is the old Stoic dilemma.

While my study merely scratches the surface of the debates we have discussed, it is my hope that it will inspire further interest in each of them: whether the U.S. border policy is cost-effective and humane; whether the state has a right to enforce its borders; whether the nation-state system can still be part of the solution of the current international challenges; or whether it is part of the problem itself. My own conclusion is that the cosmopolitan conception of community can be the starting point toward world-wide political reform.

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