The Ethics of Migration

The number of migrants worldwide has grown rapidly in recent years. In 2015, around 244 million people in the world were living and working outside their country of origin – up from 173 million in 2000.[1] Of these, around 19.5 million were refugees, while the rest largely fell under the heading of "economic migrants".[2] While the US played host to the greatest number of migrants (47 million), the country with the highest proportion of migrants relative to its population was the United Arab Emirates, where 83.7 per cent of the population was foreign born.[3]

While the popular perception of migration often focuses on the image of the "tired, poor, huddled masses" leaving economically disadvantaged countries for a better life in a more advanced state, this is only a partial picture. Many of the countries boasting the highest proportion of migrants within their borders were affluent small states (Monaco, Sint Maarten, the Channel Islands etc.) attracting high net-worth individuals to take up residence in order to benefit from favourable tax regimes.[4] Equally, travel between poorer countries ("South-South migration"), made up 36 per cent of total migration, and is thus more prevalent than migration from poorer to richer countries ("South-North migration"), which accounted for 35 per cent of the total.[5]

Moreover, even among states with broadly similar profiles, differing attitudes and policies have frequently led to vastly different immigration profiles. The UK, for example, traded heavily upon its private education industry and English language schools, issuing roughly as many student visas as working visas.[6] The US had a relatively high proportion of illegal migrants (around 11 million, of a total migrant population of 47 million[7]) as a result of its unofficial policy of tolerating illegal

---

[1] *International Migration Report 2015*, United Nations, Department of Economic and Social Affairs, September 2016.

[2] Numbers can be hard to judge with precision, as countries tend to have their own categories and definitions.

[3] *Trends in International Migrant Stock: The 2015 Revision*. United Nations Department of Economic and Social Affairs, Population Division. 2015. This excludes the Vatican City, where 100 per cent of the population was born elsewhere.

[4] Ibid.

[5] *Population Facts*, United Nations Department of Economic and Social Affairs, Population Division, September 2013.

[6] *Immigration by Category: Workers, Students, Family Members, Asylum Applicants*, The Migration Observatory, Oxford University, 17 February 2015. Retrieved 17 December 2016: http://www.migrationobservatory.ox.ac.uk/resources/briefings/immigration-by-category-workers-students-family-members-asylum-applicants/

[7] Krogstad, Jens Manuel, and Jeffrey S. Passel, "5 facts about illegal immigration in the U.S.", Pew Research Center, 19 November 2015. Retrieved 17 December 2016: http://www.pewresearch.org/fact-tank/2015/11/19/5-facts-about-illegal-immigration-in-the-u-s/

---

migration as a source of cheap labour for low-skilled industries.[8] Turkey, by contrast, was the world's number one recipient of refugees, and was host to around 1.6 million individuals fleeing conflict elsewhere[9] (among a total immigrant population of around 4.8 million[10]). Within the European Union, migration trends were affected by EU rules obliging states to privilege EU citizens in making hiring decisions, and by the internal regulations and political agreements covering the distribution of refugees between member states.[11] Some states, such as Canada and Australia, used a points-based system to ensure that only migrants with in-demand skills were granted entrance.[12] Others, such as the US and many European countries, had a system by which short-term work permits could gradually be improved and upgraded over time to permanent residency or even full citizenship.[13] By contrast, other countries, such as Singapore, preferred to grant short-term work visas without any promise of longer-term or higher status, using migration quotas to help manage the economy as a whole.[14] Israel's "Law of Return" gave priority to Jewish immigrants,[15] while Japanese immigration policy used to favour the recruitment of foreign-born Japanese before changing to encourage their repatriation after unemployment began to rise.[16] At the other end of the scale, countries such as the Philippines made a deliberate policy decisions to encourage outward migration to benefit from remittances.[17]

The diversity in immigration policies globally is a reflection of the wide variety of opinions and collision of interests when it comes to deciding who we wish to allow access to our political, economic and social spaces. Indeed, political approaches to migration often seemed to consist of a muddle of sentimental ideals, moral principles and pragmatic political choices, rather than abstract rational choices. This frequently produced policy packages riddled with internal contradictions, and which – by virtue of trying to please everyone – satisfied no one.[18]

In an attempt to inject some clarity into the debate, this case study will run through the

---

[8] Ruhs, Martin, and Ha-Joon Chang. "The ethics of labor immigration policy." *International Organization* 58, no. 01 (2004): 69-102.

[9] *Trends in International Migrant Stock: The 2015 Revision*, 2015.

[10] *International Migration Report 2015*, 2016.

[11] "Explaining the rules", EU Immigration Portal. Retrieved 17 December 2016: http://ec.europa.eu/immigration/who-does-what/more-information/explaining-the-rules-why-are-there-eu-rules-and-national-rules_en#EUImmRules

[12] Donald, Adam, *Immigration points-based systems compared*, BBC News, 1 June 2016. Retrieved 17 December 2016: http://www.bbc.com/news/uk-politics-29594642

[13] See, for example: *Demande de carte de résident permanent*, Service-Public.fr, 8 November 2016. Retrieved 17 December 2015: https://www.service-public.fr/particuliers/vosdroits/F11201. *Legalized Aliens,* US Citizenship and Immigration Service. Retrieved 17 December 2016: https://www.uscis.gov/tools/glossary/legalized-aliens

[14] See, for example: *Work passes and permits*, Ministry of Manpower, 7 December 2016. Retrieved 17 December 2016: http://www.mom.gov.sg/passes-and-permits.

[15] See, for example: *Work passes and permits*, Ministry of Manpower, 7 December 2016. Retrieved 17 December 2016: http://www.mom.gov.sg/passes-and-permits.

[16] *Recommendations of Overseas Emigration Council Future Policy Regarding Cooperation with Overseas Communities of Nikkei*, Ministry of Foreign Affairs, 11 December 2000. Retreived 17 December 2016: http://www.mofa.go.jp/policy/emigration/nikkei.html#2_4

[17] Asis, Maruja, *The Philippines' Culture of Migration*, Migration Policy Institute, 1 January 2006. Retrieved 18 December 2016: http://www.migrationpolicy.org/article/philippines-culture-migration

[18] Gimpel, James G., and James R. Edwards. *The congressional politics of immigration reform*. Allyn & Bacon, 1999.

major ethical and practical arguments surrounding inter-state migration. Given that the rights of refugees are generally widely accepted in principle (even if countries tend to interpret them in divergent ways), this paper will focus mainly upon economic migration.

Migration Policy: Where Rights Collide

Human rights can be classified in various ways. Benjamin Constant, for example, spoke of *ancient* and *modern* freedoms. Where the classical Athenians saw direct political participation as both a right and a duty, Enlightenment thinkers saw rights as a means to limit government and prevent the political sphere from intruding upon individual privacy.[19] In a similar vein, Isaiah Berlin distinguished between *positive liberty* (notably the right to participate politically) and *negative liberty* (the right to refuse interference in one's own private affairs).[20] By contrast, Karel Vasak saw human rights as falling into three categories. *First generation rights* include the basic Enlightenment-era rights: political participation, free speech, freedom of religion, equality before the law, and due process. *Second generation rights* cover the economic rights that began to be recognised with the post-WWII shift towards the welfare state model—the right to food, housing, healthcare, education, social security, etc. Finally, *third generation rights* tend to be vaguer in content and include collective rights such as the right to self-determination, cultural heritage and natural resources.[21]

Problems arise, however, when these various rights enter into conflict with one another, or when we are faced with the problems of scarcity and lack of government capacity. *Second generation rights*, for example, tend to favour greater equality, while *first generation rights* focus on maximising freedom, implying a necessary trade-off between the two.[22] Similarly, collective rights can often come into conflict with individual rights. This is a particular problem when it comes to migration, a field in which the democratic rights of current citizens are frequently exercised to limit the rights of migrants and potential migrants, even when the latter's presence is necessary to assure the provision of specific economic rights (notably, to stabilise the demographic pyramid in ageing societies and thus assure intergenerational equity via the continued funding of the social security system).

Ethical debates about migration tend to focus on the means by which a decision may be made to trade these rights off against one another.

Migration Ethics in the Abstract

From a humanist point of view, the existence of privileges granted only to those having had the good fortune to be born in a particular state is very difficult to justify. As Joseph Carens put it:

> *Citizenship in Western liberal democracies is the modern equivalent of*

[19] Constant, Benjamin. "The Liberty of the Ancients Compared with that of the Moderns." *Political writings* 311 (1988).
[20] Berlin, Isaiah, *Four Essays on Liberty*, Oxford University Press, 1969.
[21] Karel Vasak, "Human Rights: A Thirty-Year Struggle: the Sustained Efforts to give Force of law to the Universal Declaration of Human Rights", *UNESCO Courier* 30:11, November 1977
[22] De Tocqueville, A. "Influence of democracy on the feelings of the Americans." *Democracy in America*. New York: Penguin Group, 1835.

> *feudal privilege – an inherited status that greatly enhances one's life chances.*[23]

However, this is far from being the only criticism of states' policing of their borders. Arguments in favour of free migration can be broken down into three principal streams, based around the competing ideas of freedom, equality and beneficial outcomes:[24]

The libertarian argument (freedom)

Based largely on Robert Nozick's theories,[25] the libertarian argument in favour of open borders assumes a minimal state. Such a state would exist only to protect citizens against theft and violence, and to enforce contracts. If migrants do not infringe upon the rights of current property owners, then the state would have no right to prevent them from taking up residence on its territory.

The cosmopolitan argument (equality)

This is strongly associated with socially liberal traditions. Indeed, as far back as the 18th century, Kant was arguing for the right to free movement on the basis that the earth belongs to humanity as a whole.[26] In *Philosophies of Exclusion*, Philip Cole pointed out that—given the centrality of freedom and equality in liberal thinking—states claiming adherence to liberal principles could not reasonably exclude foreigners without infringing upon these two principles.[27]

Alternatively, other thinkers have argued that if richer countries did not wish to accommodate migrants from poorer nations, they had an ethical obligation to provide aid until the point at which economic parity is reached.[28] The possibility of reducing migration by increasing foreign aid has acquired a certain following among policy-makers,[29] though it relies upon the presumption—far from confirmed—that all aid had positive impacts upon its recipients.[30]

The economic argument (beneficial outcomes)

Other scholars took a utility-maximising perspective in considering open borders. Dani Rodrik, for example, argued that freer migration would produce an outcome that was closer to Pareto optimality than the restrictive migration systems. As Rodrik put it:

> *The problems in international trade and finance arise from too much globalization, not properly managed. By contrast, one large segment of the world economy is not globalized nearly enough. Further economic openness in the world's labor markets could potentially provide huge benefits, especially to the world's poor. Even a minor liberalization of the*

[23] Carens, Joseph. *The ethics of immigration.* Oxford University Press, 2013.

[24] Seglow, Jonathan. "The ethics of immigration." *Political Studies Review* 3, no. 3 (2005): 317-334.

[25] Nozick, Robert. *Anarchy, state, and utopia.* Basic books, 1974.

[26] Kant, Immanuel, and Ted Humphrey. *To perpetual peace: a philosophical sketch.* Hackett Publishing, 2003.

[27] Cole, Philip. *Philosophies of Exclusion: Liberal Political Theory and Immigration*, Edinburgh University Press, 2002.

[28] Seglow, 2005.

[29] Azam, Jean-Paul, and Ruxanda Berlinschi. "The aid-migration trade-off" in *Annual World Bank Conference on Development Economics 2009, Global: People, Politics, and Globalization*. World Bank Publications, 2010.

[30] Moyo, Dambisa. *Dead aid: Why aid is not working and how there is a better way for Africa.* Macmillan, 2009.

advanced countries' restrictions on the use of foreign workers would produce a large impact on global incomes. In fact, the gains would outstrip comfortably any other proposal currently on the table.[31]

This argument had the additional benefit of being backed up by economic data: according to calculations carried out by George Borjas, immigration increased US GDP by 0.1 per cent, improved capital income by 2 per cent of GDP and lowered local workers' incomes by 1.9 per cent,[32] but provided substantial efficiency gains across the economy as a whole.[33]

However, the problem with all of these arguments was that, more often than not, their implementation would require radical change both in government priorities and international relations. Such were the difficulties involved that the authors who proposed them have tended to be obliged to build increasingly extravagant castles in the air to house them, from Kant's *perpetual peace*[34] to Jordan and Düvell's proposal of a Global Basic Income provided and enforced by a supranational entity.[35]

While the economic argument have tended to carry more weight with policymakers than either the more philosophical cosmopolitan or libertarian arguments,[36] it nevertheless had to contend with the perpetual unpopularity of increased immigration among local electorates. Indeed, while many policymakers have tended to quietly favour increased immigration in private, it remained a difficult proposition to sell to voters.[37]

The difficulty in unilaterally applying any of these approaches has led to criticism by utilitarian thinkers. As Veit Bader pointed out, even from a point of view rooted in pure moral reasoning, *ought implies can*.[38] In other words, no solution, no matter how perfectly calibrated, was a good solution unless it had a chance of being applied in the real world. As Joseph Carens put it:

> *Utilitarians care about consequences, including the consequences of morality. An ideal morality that has no impact on how people actually behave has no good consequences. Hence, from a utilitarian perspective, it is not a good morality.*[39]

Carens, for his part, distinguished between *realistic* and *idealistic* concepts of migration ethics. As he put it:

[31] Rodrik, Dani. *The globalization paradox: why global markets, states, and democracy can't coexist.* Oxford University Press, 2011.

[32] Borjas, George J. *The economic benefits from immigration.* No. w4955. National Bureau of Economic Research, 1994.

[33] Borjas, George J. *Does immigration grease the wheels of the labor market?*, Brookings papers on economic activity 2001, no. 1 (2001): 69-119.

[34] Kant, Immanuel, and Ted Humphrey. *To perpetual peace: a philosophical sketch.* Hackett Publishing, 2003.

[35] Düvell, F., and Bill Jordan. *Migration: the boundaries of equality and justice.* Polity, 2003.

[36] OECD, *Free Movement of Workers and Labour Market Adjustment: Recent Experiences from OECD Countries and the European Union*, OECD Publishing, 2012.

[37] Drezner, Daniel W. "The realist tradition in American public opinion." *Perspectives on Politics* 6, no. 01 (2008): 51-70.

[38] Bader, Veit. "The ethics of immigration." *Constellations* 12, no. 3 (2005): 331-361.

[39] Carens, Joseph H. "Realistic and idealistic approaches to the ethics of migration." *International Migration Review* (1996): 156-170.

> *If a morality is to be effective, it must be accepted… Moral constraints cannot call into question the fundamental freedom of a community to choose whom to admit and whom to exclude without challenging the bedrock of the conventional morality in this area. Such a challenge is bound to be unsuccessful in changing the views of most people, at least in the foreseeable future. If such arguments are addressed to policymakers or to the public, they will fall upon deaf ears. Accordingly, a realistic ethics of migration will accept this conventional view as a constraint.[40]*

Nevertheless, even this apparently pragmatic approach could be criticised: both Bader and Carens pointed out that in the 18th century applying a similar reasoning strategy would, in all likelihood, have produced a position that accepted slavery as a necessary evil.[41] As Carens concluded:

> *If any discussion of the ethics of migration should recognize reality, it should also consider whether we should embrace that reality as an ideal or regard it as a limitation to be transcended as soon as possible.[42]*

Or, as Bader put it:

> *all productive practical philosophy has to deal with the tension between the universalizing trend of moral principles and the particularizing trend of institutions, cultures, and practices.[43]*

This has led to various attempts to reconcile the principles of free movement and global equity with the rights of states to limit immigration on behalf of or at the behest of their citizens.

Practical Migration Ethics

Carens, while broadly favourable to open borders, argued that the right to self-determination (as expressed by a population voting against greater immigration) could trump the right to free movement of migrants[44]—something with which most modern polities tended to agree. He argued that while there was no good ethical reason for existence of the state as an institution, states were nevertheless the locus around which our rights were clustered and inside which daily life took place. States provided a wide variety of rights: self-determination, democracy, social security, protection, etc. Moreover, a complete, world-wide overhaul of the Westphalian international system was sufficiently unlikely that from a practical purpose it was better for ethicists to take the existence of states as a given and try to work within its constraints.[45]

The same perspective was shared by Rodrik, another supporter of open borders, who nevertheless argued that "democracies have the right to protect their social arrangements, and when this right clashes with the requirements of the global economy,

---

[40] Ibid.
[41] Carens, 1996 and Bader, 2005.
[42] Carens, 1996.
[43] Bader, 2005.
[44] Carens, 2013.
[45] Carens, 1996.

it is the latter that should give way."[46]

Similarly, as Ruhs and Chang pointed out, scarcity implied that additional rights granted to immigrants would often reduce the locals' rights. Giving immigrants the right to vote (as in many EU countries, where non-citizens can vote in local elections within their host country), for example, would reduce the impact of each individual citizen's vote, while migrant access to schools and healthcare could increase class sizes and waiting times for everyone else.[47]

Nevertheless, and despite the democratic obstacles present, various suggestions have been made for how states could build a better migration policy.

Lant Pritchett, for example, suggested taking advantage of the wave of anti-poverty sentiment that inspired the Millennium Development Goals to include increased migration as a target on the global development agenda.[48] While such a prospect seems unlikely in an increasingly regionalised, post-Trump, post-Brexit world, these suggestions remain on the table.

Jagdish Baghwati, for example, suggested a supply-side solution, involving a tax on emigrants levied by the sending states, intended to ensure that at least a part of the additional money they make abroad made its way home. For the moment, however, only three countries—North Korea[49], Eritrea[50] and the United States[51]—have adopted such a policy, with the many net emigration states (the Philippines[52], Somalia[53], India[54], etc.) preferring to encourage expatriation as a source of remittances.

A far more detailed framework for making and evaluating migration policy was provided by Ha-Joon Chang and Martin Ruhs, in their article, *The ethics of labor immigration policy*.[55] Ruhs and Chang formulated a series of mechanisms to evaluate the interests of the various stakeholders: the receiving country, the migrants and the sending countries (whose economies can suffer as a result of "brain drain" or gain

---

[46] Rodrik, 2011.

[47] Ruhs, Martin, and Ha-Joon Chang, 2004.

[48] Pritchett, Lant. *Let their people come: Breaking the gridlock on global labor mobility*. Washington, DC: Center for Global Development, 2006.

[49] O'Carroll, Chad, "N. Koreans compete fiercely for harsh overseas jobs", NK News, 29 October 2015. Retrieved 24 December 2016: https://www.nknews.org/2015/10/in-face-of-forced-labor-major-competition-for-overseas-n-korean-postings/

[50] Jones, Sam, "Diaspora tax for Eritreans living in UK investigated by Metropolitan police", *The Guardian*, 9 June 2015. Retrieved 24 December 2016: https://www.theguardian.com/global-development/2015/jun/09/eritrea-diaspora-tax-uk-investigated-metropolitan-police

[51] Newlove, Russell, "Why expat Americans are giving up their passports", BBC News, 9 February 2016. Retrieved 24 December 2016: http://www.bbc.com/news/35383435

[52] O'Neil, Kevin, "Labor Export as Government Policy: The Case of the Philippines", Migration Policy Institute, 1 January 2004. Retrieved 24 December 2016: http://www.migrationpolicy.org/article/labor-export-government-policy-case-philippines

[53] Sheikh, Abdi and Drazen Jorgic, "Somalia calls for help to keep remittances flowing from Britain", Reuters, 24 June 2013. Retrieved 24 December 2016: http://uk.reuters.com/article/uk-somalia-remittances-idUKBRE95N14220130624

[54] Naujoks, Daniel, "Emigration, Immigration, and Diaspora Relations in India", Migration Policy Institute, 15 October 2009. Retrieved 24 December 2016: http://www.migrationpolicy.org/article/emigration-immigration-and-diaspora-relations-india

[55] Ruhs and Chang, 2004.

through remissions[56]), and considered the degree to which these interests were understood and taken into account by a state's immigration policies.

The framework first analysed policies according to the degree of *consequentialism* favoured by a given government. In this context, *consequentialism* can be understood as a sort of reflection of a government's paternalist impulses. The Nozickian libertarian state described above would be an example of non-consequentialist (or *rights-based*) policies. In such a system, the government's job was merely to ensure the protection of citizens' basic rights; what citizens subsequently chose to do with these rights was of little or no importance[57]. A fully consequentialist state was one in which a utilitarian government aimed for Pareto optimality in the outcomes enjoyed by citizens (the Nordic-style welfare state model would be one example of governments trying to do this[58]).

The framework then looked at policies according to the level of *nationalism* or *cosmopolitanism* they display. Nationalist policies were considered to be those that prioritised the interests of local citizens, businesses or governments. Cosmopolitan policies took into account either humanist notions of individual rights or the interests of migrants and their home nations.

Combining the two continua produced four categories into which immigration policies may be sorted:

Consequentialist nationalist
Under such a system the number and types of immigrants admitted, and their rights upon arrival, were to be determined by the government based on local economic circumstances. A real-world example of this would be the Singaporean immigration policy, which the state made clear existed entirely to maximise economic gains for citizens.[59]

Rights-based nationalism
This could be broken down into two varieties, depending upon whether the rights being privileged were those of native workers or native employers. *Worker-rights-based nationalism* aimed to protect local workers' priority access to the jobs market. *Employer-rights-based nationalism*, by contrast, prioritised the right of employers to hire whom they wish, whether local or immigrant. The US position on illegal immigration can be said to exemplify both trends, insofar as illegal immigrants are generally tolerated as long as they did jobs that local workers refused to do, thus not greatly affecting the job prospects of US workers, while fulfilling a demand on the part of US employers.[60]

---

[56] Though it is worth noting that the existence and effects of "brain drain" remain subject to debate. See Stilwell, Barbara, Khassoum Diallo, Pascal Zurn, Mario R. Dal Poz, Orvill Adams, and James Buchan. "Developing evidence-based ethical policies on the migration of health workers: conceptual and practical challenges." *Human Resources for Health* 1, no. 1, 2003.
[57] Nozick, 1974.
[58] Kildal, Nanna, and Stein Kuhnle. "2 The Nordic welfare model and the idea of universalism." *Normative foundations of the welfare state: The Nordic experience* (2005): 13.
[59] Fong, Pang Eng, and Linda Lim. "Foreign labor and economic development in Singapore." *International Migration Review,* 1982.
[60] Hanson, Gordon H., and Antonio Spilimbergo. "Political economy, sectoral shocks, and border enforcement." *Canadian Journal of Economics/Revue canadienne d'économique* 34, no. 3, 2001.

<u>Consequentialist cosmopolitanism</u>
Such a system factored in the expected outcome for all stakeholders: migrants, locals (workers, employers, tax-payers, consumers, etc.), and even the migrants' home countries. Under such a system results were considered to be more important than rights, so paying lower wages or offering worse conditions to migrant labourers was seen as a valid choice, as long as the migrants themselves were fully aware of the provisions of their contracts, and if these were better than the terms that they would have received at home. It is worth noting that this is closest to the system preferred by many authors on the subject, notably Rodrik.[61] Moreover, while there are few true examples of such policies in the real world, it is not uncommon for states to aspire to such an ideal.[62]

<u>Rights-based cosmopolitanism</u>
A rights-based cosmopolitan system would work to preserve the rights of all stakeholders: citizens, migrants, and non-citizens. This was the point of view adopted by most NGOs, as well as international organisations such as the International Labour Organisation.[63] Such a philosophy implied that any difference in the rights accorded to citizens and migrants was unjustifiable, which placed it closest to the humanist ideal mentioned previously. However, this could also bring it into conflict with ideals of individual freedom: proponents of such a system would find it hard to reconcile with the fact that many migrants were prepared to accept fewer rights in return for permission to live and work in a foreign country.[64]

	Nationalist	Cosmopolitan
Consequentialist	Acceptability of migrants and the rights available to them determined by local economic needs.	Tries to achieve the best possible outcomes for all those involved (locals, migrants, home countries etc.)
Rights-based	Worker-rights-based nationalism: prioritises local workers' interests. Employer-rights-based nationalism: prioritises local employers' interests.	Equal rights accorded to migrants and citizens.

Finally, it is worth noting that Ruhs and Chang pointed out in their paper that the migration debate turned around three separate policy parameters: the number of migrants to be admitted, the type of migrants to be admitted, and the rights to accord to them once they arrive. While their framework model went a certain way to assisting policymakers in conceptualising these choices, a relatively high level of room for manoeuvre remained, particularly regarding the specific rights to be accorded to migrants once they were allowed to enter a country.

---

[61] Rodrik, Dani. "Labor Markets: The Unexploited Frontier of Globalization", *The Globalist,* 31 May 2011. Retrieved 26 December 2016: http://www.theglobalist.com/labor-markets-the-unexploited-frontier-of-globalization/
[62] See, for example: Home Office. *Secure borders, safe haven Integration with diversity in modern Britain*, The Stationery Office, 2001.
[63] Ruhs and Chang, 2004.
[64] Ibid.

Immigration Policy Proposals

For a while, the predominant current of thought in academia implied that the problem of migrants' rights would eventually solve itself, via the development of post-national citizenship.[65] According to this concept, civil, political, economic, and human rights were increasingly seen as being clustered around entities other than the state. Via a process of administrative decentralisation and globalisation, rights and affiliations were becoming a matter for entities other than the state: towns, regions, international organisations, NGOs, companies, etc. Under such a system, an individual may depend, for example, upon UN conventions for their human rights, on EU treaties for freedom of movement, and upon municipal governments for access to public services.[66]

Commentators such as Parag Khanna have suggested that with the growth of globalisation, an individual's nationality would become a less important component of their individual data.[67] While a person may possess American, Indian, or Somali citizenship, their primary loyalty may in fact lie with the country in which they reside, the corporation that employed them, or a transnational political or religious group. Having a European passport may have been sufficient to grant visa-free travel to many countries, but was no guarantee that an individual does not, for example, have criminal or terrorist inclinations. This has led to a growth in the use of additional data as a means to verify individual identity and background, notably via biometric information. Conversely, cash has become a means for holders of "weak" passports to work round developed nations' citizenship requirements (via, for example, business or investor visas[68]) or even to acquire new and more "powerful" citizenships.[69]

One proposed response to these changes involved the use of blockchain technology to create an "international passport". Inclusion of blockchain and biometric data in an identification document would essentially prove that an individual existed at a particular time and in a given place without the need for state-owned records.[70] While private companies have shown a certain amount of interest in the use of blockchain-based identity verification,[71] states (with the notable exception of Estonia, which allowed both locals and foreigners to obtain "e-residency"[72]) have remained disinclined to surrender their control over individual identity and cross-border travel to a non-state entity.

Moreover, following the resurgence of anti-immigration and anti-globalisation politics across Europe and in the US, this trend seems unlikely to be as influential in future years as it has been in the past. Rather, with immigration taking up such a preponderant place upon the modern political agenda, it will increasingly be necessary for

---

[65] Sassen, Saskia. "Towards post-national and denationalized citizenship." *Handbook of citizenship studies*, 2002.

[66] Purcell, Mark. "Citizenship and the right to the global city: reimagining the capitalist world order." *International journal of urban and regional research* 27, no. 3, 2003.

[67] Khanna, Parag. *Connectography: mapping the future of global civilization*. Random House, 2016.

[68] Sparke, Matthew B. "A neoliberal nexus: Economy, security and the biopolitics of citizenship on the border*." Political geography* 25, no. 2 (2006): 151-180.

[69] Gittleson, Kim. "Where is the cheapest place to buy citizenship?", BBC News, 4 June 2014.

[70] See, for example: Baars, D. S. *Towards self-sovereign identity using blockchain technology.* University of Twente, 2016.

[71] Swan, Melanie. *Blockchain: Blueprint for a new economy*. O'Reilly Media, Inc., 2015.

[72] Sullivan, Clare Linda and Burger, Eric, *E-Residency and Blockchain*,31 March 2016. Available at SSRN: https://ssrn.com/abstract=2757492

policymakers to formulate coherent and appealing positions on the issue.

Beyond the humanist and the utilitarian approaches to migrants' rights mentioned above, various authors have put forward differing policy proposals in an attempt to satisfy all parties.

Ruhs and Chang, for instance, argued for a moderately cosmopolitan, moderately consequentialist policy. Such a policy should be both internally coherent and consistent with the demands of the framework that inspired it (whether cosmopolitan, nationalist, consequentialist, or rights based). In policy terms, they suggested that this could be achieved by new forms of temporary worker programmes, in combination with the enforcement of key rights (notably regarding working conditions) for migrant workers. Migrant workers would not be tied to one particular employer (something which left them vulnerable to exploitation), but would be restricted to working in a particular sector. Employers or employment agents who tricked or coerced migrant workers into accepting conditions other than those under which they originally agreed to work would be sanctioned. Moreover, a restricted proportion of workers would have the possibility of converting their status to a higher one—whether a working visa offering more rights, permanent residency, or even full citizenship.[73]

Rodrik, for his part, proposed a similar solution: working visas lasting up to five years, with fixed quotas such that the incoming workers would not expand the workforce by more than 3 per cent in any given year. To deal with the problem of visa overstays, he proposed withholding a part of migrants' earnings, to be paid once they have returned to their own countries[74]—a system used in South Korea.[75] Rodrik argued that such a policy could be applied without developed states having to relinquish any part of their democratic self-determination, and with a gain of US$200 billion per year in income for workers from developing countries and US$360 billion for the world economy as a whole.[76]

Alternatively, Philip Martin proposed combining various related approaches: having migrants pay into social security systems, but refunding all or part of their contributions to encourage them to return home rather than staying on illegally once their contracts expired. Martin recommended combining this strategy with employer levies to discourage employers from hiring foreign labour if citizen workers were available or investment in capital produced greater gains for the economy as a whole.[77]

In fact, while the issue of immigrant contributions to social welfare systems may seem to be a fraught one, it also has the potential as a publicly acceptable solution to the immigration dilemma. While populations have tended to be less favourable to migration

---

[73] Ibid.

[74] Rodrik, 2011.

[75] "Be my Guest", *the Economist*, 6th October 2005. Retrieved 2 January 2017: http://www.economist.com/node/4488614

[76] Ibid.

[77] Martin, Philip. "Managing labor migration: Temporary worker programmes for the 21st century." In *International Symposium on International Migration and Development*, United Nations Secretariat, Department of Economic and Social Affairs, Population Division, 2006.

than politicians (and elite groups in general[78]), they were not categorically opposed to according welfare to migrants. The problem lay in the fact that most existing welfare systems granted rights to migrants based on criteria of need or status. A migrant might be able to access emergency care for a serious injury but not preventative care, for example, while a refugee might receive welfare payments based on their categorisation within the refugee bracket. By contrast, surveys of voters showed that while many would be happy to allow migrants access to welfare, they preferred to do so on a reciprocal basis. In other words, they believed that immigrants should have access to welfare as long as they also paid into the system, whether via taxes or social insurance. Moreover, they appeared willing to tolerate higher levels of immigration as long as the immigrants were perceived to be paying their way. While 35 per cent said that migrants should receive welfare only after achieving citizenship, 40 per cent believed that access to the welfare system should be based on whether or not a person has paid or was paying into the same system.[79] This would seem to imply that the tendency among many states to focus almost exclusively on integration measures[80] in an attempt to make migration more palatable for existing citizens could be misguided, and that a better way to encourage acceptance of immigration might be to ensure that migrants (or their employers) contributed fairly to existing welfare systems.

Discussion Points

1. If "ought implies can", where do you think the line between feasible and unfeasible immigration policy lies?

2. Should governments weigh all stakeholders' views equally when considering changes to immigration policy? If not, whose preferences should be prioritised?

3. Multiple kinds of rights are involved in migration policy (free movement, access to social security, popular self-determination, etc.). Is there an internally coherent way to rank these different rights?

4. In many countries immigration policy options are limited by popular opposition to increased migration. Under what circumstances would a government be justified in ignoring popular sentiment to push through an unpopular immigration policy?

5. Where does your own country's immigration policy fall on the nationalist/cosmopolitan and consequentialist/rights-based continua? How do you feel it could be improved? Where would you like it to be situated on the spectrum of possible policy options?

---

[78] Van der Waal, Jeroen, Peter Achterberg, Dick Houtman, Willem de Koster, and Katerina Manevska. "'Some are more equal than others': Economic egalitarianism and welfare chauvinism in the Netherlands." *Journal of European Social Policy* 20 (4), 2010.
[79] Reeskens, Tim, and Wim Van Oorschot. "Disentangling the 'New Liberal Dilemma': On the relation between general welfare redistribution preferences and welfare chauvinism." *International Journal of Comparative Sociology* (2012)
[80] Baubock, Rainer, and Christian Joppke. *How Liberal are Citizenship Tests?*, RSCAS Working Papers, 2010.

Bibliography

Asis, Maruja, *The Philippines' Culture of Migration*, Migration Policy Institute, 1 January 2006.

Berlin, Isaiah, *Four Essays on Liberty*, Oxford University Press, 1969.

Azam, Jean-Paul, and Ruxanda Berlinschi. "The aid-migration trade-off" in *Annual World Bank Conference on Development Economics 2009, Global: People, Politics, and Globalization*. World Bank Publications, 2010.

Baars, D. S. *Towards self-sovereign identity using blockchain technology.* University of Twente, 2016.

Bader, Veit. "The ethics of immigration." *Constellations* 12, no. 3 (2005): 331-361.

"Be my Guest", *the Economist*, 6th October 2005.

Borjas, George J. *Does immigration grease the wheels of the labor market?*, Brookings papers on economic activity 2001, no. 1 (2001): 69-119.

Borjas, George J. *The economic benefits from immigration*. No. w4955. National Bureau of Economic Research, 1994.

Carens, Joseph H. "Realistic and idealistic approaches to the ethics of migration." *International Migration Review* (1996): 156-170.

Carens, Joseph. *The ethics of immigration*. Oxford University Press, 2013.

Cole, Philip. *Philosophies of Exclusion: Liberal Political Theory and Immigration*, Edinburgh University Press, 2002.

Constant, Benjamin. "The Liberty of the Ancients Compared with that of the Moderns." *Political writings* 311 (1988).

De Tocqueville, A. "Influence of democracy on the feelings of the Americans." *Democracy in America*. New York: Penguin Group, 1835.

Drezner, Daniel W. "The realist tradition in American public opinion." *Perspectives on Politics* 6, no. 01 (2008): 51-70.

Düvell, F., and Bill Jordan. *Migration: the boundaries of equality and justice*. Polity, 2003.

Fong, Pang Eng, and Linda Lim. "Foreign labor and economic development in Singapore." *International Migration Review,* 1982.

Gimpel, James G., and James R. Edwards. *The congressional politics of immigration reform*. Allyn & Bacon, 1999.

Hanson, Gordon H., and Antonio Spilimbergo. "Political economy, sectoral shocks, and border enforcement." *Canadian Journal of Economics/Revue canadienne d'économique* 34, no. 3, 2001.

Home Office. *Secure borders, safe haven Integration with diversity in modern Britain*, The Stationery Office, 2001.

Immigration by Category: Workers, Students, Family Members, Asylum Applicants, The Migration Observatory, Oxford University, 17 February 2015.

International Migration Report 2015, United Nations, Department of Economic and Social Affairs, September 2016.

Kant, Immanuel, and Ted Humphrey. *To perpetual peace: a philosophical sketch*. Hackett Publishing, 2003.

Khanna, Parag. *Connectography: mapping the future of global civilization*. Random House, 2016.

Kildal, Nanna, and Stein Kuhnle. "2 The Nordic welfare model and the idea of universalism." *Normative foundations of the welfare state: The Nordic experience* (2005): 13.

Krogstad, Jens Manuel, and Jeffrey S. Passel, "5 facts about illegal immigration in the U.S.", Pew Research Center, 19 November 2015.

Martin, Philip. "Managing labor migration: Temporary worker programmes for the 21st century." In *International Symposium on International Migration and Development*, United Nations Secretariat, Department of Economic and Social Affairs, Population Division, 2006.

Moyo, Dambisa. *Dead aid: Why aid is not working and how there is a better way for Africa. Macmillan*, 2009.

Naujoks, Daniel, "Emigration, Immigration, and Diaspora Relations in India", Migration Policy Institute, 15 October 2009.

Nozick, Robert. *Anarchy, state, and utopia*. Basic books, 1974.

OECD, *Free Movement of Workers and Labour Market Adjustment: Recent Experiences from OECD Countries and the European Union*, OECD Publishing, 2012.

O'Neil, Kevin, "Labor Export as Government Policy: The Case of the Philippines", Migration Policy Institute, 1 January 2004.

Population Facts, United Nations Department of Economic and Social Affairs, Population Division, September 2013.

Pritchett, Lant. *Let their people come: Breaking the gridlock on global labor mobility*. Washington, DC: Center for Global Development, 2006.

Purcell, Mark. "Citizenship and the right to the global city: reimagining the capitalist world order." *International journal of urban and regional research* 27, no. 3, 2003.

Rodrik, Dani. *The globalization paradox: why global markets, states, and democracy can't coexist*. Oxford University Press, 2011.

Rodrik, Dani. "Labor Markets: The Unexploited Frontier of Globalization", *The Globalist,* 31 May 2011.

Ruhs, Martin, and Ha-Joon Chang. "The ethics of labor immigration policy." *International Organization* 58, no. 01, 2004.

Sassen, Saskia. "Towards post-national and denationalized citizenship." *Handbook of citizenship studies*, 2002.

Seglow, Jonathan. "The ethics of immigration." *Political Studies Review* 3, no. 3 (2005): 317-334.

Trends in International Migrant Stock: The 2015 Revision. United Nations Department of Economic and Social Affairs, Population Division. 2015.

Stilwell, Barbara, Khassoum Diallo, Pascal Zurn, Mario R. Dal Poz, Orvill Adams, and James Buchan. "Developing evidence-based ethical policies on the migration of health workers: conceptual and practical challenges." *Human Resources for Health* 1, no. 1, 2003.

Sullivan, Clare Linda and Burger, Eric, *E-Residency and Blockchain*, 31 March 2016. Available at SSRN: https://ssrn.com/abstract=2757492

Swan, Melanie. *Blockchain: Blueprint for a new economy*. O'Reilly Media, Inc., 2015.

Van der Waal, Jeroen, Peter Achterberg, Dick Houtman, Willem de Koster, and Katerina Manevska. "'Some are more equal than others': Economic egalitarianism and welfare chauvinism in the Netherlands." *Journal of European Social Policy* 20 (4), 2010.

Karel Vasak, "Human Rights: A Thirty-Year Struggle: the Sustained Efforts to give Force of law to the Universal Declaration of Human Rights", *UNESCO Courier* 30:11, November 1977

Annex 1: Selected examples of migration policies by country

This provides brief summaries of the key salient points of various existing migration policies around the world for the purposes of comparison.

Australia
- Immigrants as a percentage of total population: 27.7 per cent[81]
- Successive Australian administrations have made the decision to rely on migration as a way to achieve national policy objectives: from its beginnings as a settler society, to the post-war "populate or perish" movement, to the choice of a multiculturalist policy in the 1970s and 80s as governments began to re-contextualise the former British colony as an Asian country.
- Immigration is a hot-button issue due to successive governments' policy of detaining or turning back migrants arriving illegally by boat, and has been significant in several elections.
- Working visas are accorded to individuals sponsored by a business or to "skilled independents" –workers in in-demand industries who have passed the points-test system. Numbers are also limited by overall quotas.
- Australia also has an extensive working holiday visa scheme and a wide variety of family visas.

Canada
- Immigrants as a percentage of total population: 18.76 per cent (unlike most countries, Canada does not count the children of immigrants as immigrants; if they are included the figure rises substantially).
- As a colony and later as an independent state, Canada has relied upon immigration to populate its territory and drive economic growth.
- For foreign citizens who have already received a job offer, the immigration authorities require a "Labour Market Opinion" –proof that the employer was unable to find a Canadian citizen or permanent resident equally able to do the job.
- Unusually, both the Canadian government and a majority of citizens are agreed that more immigration is necessary. This has led to the creation of various programmes to encourage immigration, particularly in under-populated areas. Saskatchewan's Graduate Retention Programme, for example, pays recent graduates willing to move to the province tax credits of up to CAD20,000, while various municipalities have schemes to give free land to incomers.

European Union
- Roughly 10 per cent of people resident in the EU are migrants, with around 3.6per cent being intra-EU migrants.
- The 1985 Schengen agreement allowed for free movement within much of the EU. Intra-European migration has been promoted as a means to further economic integration, though internal migration numbers have remained lower than many analysts predicted.
- Citizens of one EU country may work in any other EU country, and employers

---

[81] All migration statistics taken from *Trends in International Migrant Stock: The 2015 Revision*. United Nations Department of Economic and Social Affairs, Population Division. 2015.

have to favour applications from EU citizens over those from non-EU citizens.

- Until relatively recently, illegal immigrants and refugees had to be dealt with by the country on whose soil they first set foot. In other words, if an illegal immigrant arrived in Italy before being identified by the authorities in Germany, he would be returned to Italy for processing. This arrangement broke down following the 2016 influx of refugees.
- Countries are free to determine their own migration policies when it comes to non-EU citizens. The UK, for example, uses a points system, while other countries (France, Germany) use or have used seasonal work programs to fill short-term labour shortages.
- While EU citizens are entitled to receive social security benefits in their country of residence, countries are allowed to set their own social security restrictions when it comes to non-EU citizens. In the UK, for example, most non-EU citizens are not entitled to any welfare payments, though asylum-seekers and refugees receive limited help, and long-term residents are entitled to the same benefits as UK and EU citizens.

Japan

- Immigrants as a percentage of total population: 1.9 per cent
- While Japan is often perceived as an ethnically homogeneous state, it has a substantial population of second, third and fourth generation Chinese, Taiwanese and Koreans as a result of its wartime migration policies. In the second half of the twentieth century, by contrast, the Japanese government decided to adopt policies that favoured industrial automation by limiting immigration.
- A relatively high proportion of migration is accounted for by international marriages. Though this has fallen in recent years, it once contributed around a quarter of all permanent migration.
- Japanese citizenship is relatively difficult to acquire (only 9469 requests were granted in 2015), meaning that many permanent resents are in fact second or third generation migrants.
- Similarly, the conditions for obtaining permanent residency are relatively strict, meaning that many long term residents hold limited duration employment visas subject to multiple renewals.
- Migrants' have access to the Japanese Employees' Health Insurance scheme, which also covers retirement savings. Municipalities are free to decide whether or not to pay other benefits to permanent residents. Non-permanent residents have no right to welfare payments.
- The Japanese government is currently looking to reform immigration policy in order to reduce the problems caused by the country's ageing population, with proposals for short-term visas permitting foreigners to work in sectors suffering a lack of labour.

Philippines

- Immigrants as a percentage of total population: 0.3 per cent
- The Philippines has relatively little immigration, but has made emigrant labour a pillar of its economy. Around 2.4 million Filipinos were working abroad in 2015, and sent back nearly $30 billion in remittances.
- In response to various human rights scandals involving low-skilled Filipino workers abroad, the government brought in a raft of regulations to protect them. All workers leaving the country must have an Overseas Employment Certificate,

and employers are required to sign a standard contract that stipulates minimum pay and conditions. Saudi Arabia refused to recognise the new contract and banned Filipino immigration.
- The Filipino government also temporarily banned domestic workers from travelling to the United Arab Emirates in light of the country's poor labour laws or human rights records.

Turkey
- Immigrants as a percentage of total population: 5.81 per cent
- Traditionally a major international crossroads, Turkey is both a source and a recipient of mass migration, with successive governments being broadly welcoming to refugees from across the Muslim world, while also favouring emigration by Turkish citizens looking to earn a better living in Europe or elsewhere. Currently over 5 per cent of Turks live abroad.
- A large proportion of Turkey's inward migration is made up of people with family ties to Turkey whose parents or grandparents previously emigrated – notably from Bulgaria, Greece and Germany.
- Turkey's attractiveness as a destination was compounded by the fact that it used to be possible to apply for residency once inside the country, however the rules have been changed and now most foreign nationals wishing to apply must do so at a Turkish Embassy abroad. Work permits and residence permits remain separate, however, and migrants to not necessarily need to be employed to receive permission to reside in the country.
- Despite this, Turkey also has a high level of illegal immigration.
- Since the 1980s Turkey has also become one of the largest recipients of refugees and asylum seekers worldwide.
- Turkish social security functions on the insurance model, and foreigners working in Turkey and not covered by their own country's social security are expected to pay into the system.

Saudi Arabia
- Immigrants as a percentage of total population: 31.4 per cent
- Since the 1930s Saudi Arabia has relied upon foreign workers to exploit its oil reserves, as well as to do jobs that are too dirty or dangerous to appeal to Saudi citizens.
- Around 15 per cent of migrants are skilled workers, with the rest working mainly in agriculture, cleaning and domestic service.
- All foreign workers in Saudi Arabia must be sponsored by a local individual or business. Often employers confiscate workers' passports, preventing them from leaving the country.
- Foreign workers have few rights, and these are often disregarded in practice.
- Foreign citizens have no access to welfare or social security.
- In 2015, in response to criticism, the Saudi government increased fines for companies found to be breaking worker protection laws, but these rules do not apply to workers in the domestic service sector.

Singapore
- Immigrants as a percentage of total population: 42.9 per cent
- The Singaporean government has adopted policies to encourage immigration as part of its economic growth strategy.

- Three categories of economic migrants exist: unskilled, semi-skilled and skilled workers.
- Unskilled workers have fewer rights and extensive restrictions upon their activity. No possibility to convert their short-term visa to permanent residency or citizenship. Ban on marrying local citizens or having children.
- Migrant numbers are controlled using employer levies and per-company quotas.
- High level of dependence upon foreign labour, particularly in low-skilled jobs and domestic service.
- Immigrants are excluded from the social security system unless they have obtained permanent residence status. However, employers are obliged to take out health insurance policies for unskilled and semi-skilled employees.

Switzerland
- Immigrants as a percentage of total population: 28.9 per cent
- As a highly decentralised state, Swiss migration policy is largely a product of decisions made at the local government level.
- Switzerland has a bilateral free movement agreement with the EU, but in a 2014 referendum voters chose to implement caps on numbers of EU migrants. The precise mechanics have not yet been worked out, however.
- In order to live in Switzerland migrants must receive permission from the authorities of the *canton* (town or village) in which they wish to reside. Different *cantons* have different rules regarding incomers.
- Employers must show that foreign employees are qualified and have been hired to fill a role that no local can do, before applying to their *canton* authorities for a work permit.
- Foreign workers are required to pay into the Swiss social insurance scheme. Immigrants who lose their jobs have six months' leave to remain to find a new one (subject to cantonal approval), during which time they can receive unemployment benefits.
- For many years Switzerland relied upon a guest worker programme to fill low-skilled jobs on a short-term basis. In the 1970s guest workers were allowed to convert their visas into permanent residency permits and bring their families with them. They received lower wages than other workers, and supplied labour-intensive industries. However, this policy led to high levels of structural unemployment following the recession of the early 90s. The guest worker programme was discontinued in 2002.

United States
- Immigrants as a percentage of total population: 14.3 per cent (unlike most countries, the US does not count the children of immigrants as immigrants; if they are included the figure rises to 26 per cent of the total population).
- While the idea of the US as a land of immigrants occupies a powerful place in the national imagination, hostility towards further waves of migration has grown over the years, leading successive governments to tacitly tolerate high levels of illegal migration to fill paying jobs without appearing to weaken the rules covering immigration.
- The Green Card system allows entry to skilled migrants with per-country quotas.
- Migrants who do not qualify under the skills requirement can also apply to the Green Card diversity lottery, which favours "under-represented" countries.
- Illegal immigrants have various means to legalise their status (notably by

showing that they have resided in the country for a set length of time, or via "anchor babies").

- Green Card holders are eligible to receive social security benefits after ten years' spent working in the US, and can receive Medicare upon retirement.