

Strangers in Our Midst: an overview

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My book was conceived well before the European migration crisis erupted, and it aims to set out principles that democratic states should follow with respect to immigration generally, not only in the circumstances that we currently face. So it addresses economic migration, temporary migration, access to citizenship, and so forth as well as the responsibility to aid refugees. Indeed the migration crisis subjects these principles to a severe test, as I suggest in the Postscript. The aim of the book is to understand immigration as a central topic of political philosophy, raising questions about the state legitimacy, territory, self-determination, social justice, cultural identity and so forth, alongside issues of global justice and human rights.

In taking this approach, I set aside as partial and incomplete two ways in which the immigration issue is frequently discussed in current debate. One sees it as an economic issue; who gains and who loses financially from immigration, and where does the overall balance of advantage lie? I set this aside not only because the arguments on either side tend to be finely balanced, but also because it ignores the social and political consequences of large-scale migration for both receiving and sending societies, which are much more significant in the long run. The other approach I reject looks at immigration entirely through the lens of human rights – often interpreted in a somewhat expansive way. I fully accept that immigrants' human rights are an important consideration when immigration policy is being made, but they have to be taken alongside the collective values referred to in my first paragraph.

The approach I take presupposes that it is legitimate for the government of a political community to give greater weight to the interests of its own members than to those of outsiders, so in the second chapter I reject strong cosmopolitanism and introduce the idea of associative obligations to explain why such partiality is justified. But I also accept a weak cosmopolitan premise that requires us to recognize the equal moral worth of all human beings, and that can be cashed out practically in two ways: first as an obligation to respect human rights, and second as a requirement to provide relevant reasons if we withhold

benefits that are go beyond what human rights demand. This premise constrains the immigration policies that democratic communities can justifiably adopt.

The third chapter discusses what I take to be the three most important arguments offered in favour of fully open borders. The first (associated particular with Grotius and with Kant) appeals to the idea that the earth is owned by human beings in common, so no-one can rightfully be excluded from any part of it. I explore different interpretations of this claim to common ownership, and show that it does not deliver more than a right of necessity – a right of access to territory when this is needed for survival – and perhaps a right to occupy land that is lying waste. The second argument claims that open borders are necessary to secure equality of opportunity at global level. Against this I maintain, first, that cross-national comparisons of opportunity sets are problematic – there is no common metric for valuing different opportunities – and second, that even if such a metric could be developed, the equal opportunity principle does not apply internationally in the absence of a unitary global agent responsible for creating those opportunities. The final argument I consider claims that immigration itself qualifies as a human right – i.e. that the human right of free movement has to be understood so as to include a right to cross state borders. In reply I propose that the human right in question, in parallel with other human rights, must be understood as granting people sufficient movement to satisfy their basic needs, and to protect them from arbitrary interference by the state. Human rights do not guarantee that everyone's preferences will be met. Freedom of movement is already subject to very significant limitations within states, to protect private and communal ownership of land, to preserve public order, and so forth, and controls on migration are in principle no different from these widely-accepted restrictions.

The next step is to explain the positive reasons that states can offer for controlling their borders and pursuing a selective immigration policy. I suggest that a bare appeal to *sovereignty* is insufficient, but that the exercise of territorial jurisdiction does imply the ability to determine and set limits to the population over whom jurisdiction is going to be exercised. This applies in all states, but in democracies specifically a commitment to collective self-determination must include the right to decide on the future membership of the *demos*. Questions about its cultural composition inevitably arise here. Moreover public policy in fields such as education, housing, energy use, and the environment cannot be

made coherently without knowing how many people will need to be catered for, so immigration policy is intimately connected to these other policy areas.

I then respond to three challenges to these democratic arguments for border controls. The first holds that claims about the impact of immigration on the cultural composition of the demos mistakenly assume that without immigration the citizen body would be culturally homogeneous. The second holds that political self-determination is simply not an important enough value to outweigh immigrants' claims to be admitted. The third holds that excluding immigrants is a form of coercion, and no state can be justified in coercing outsiders without their agreement. Against this third challenge, I argue that immigration controls are better understood as preventative than as coercive, but also that, as a general matter, the use of coercive force does not always need to be justified democratically to those being coerced.

The second part of the book applies the principles laid out in the first to specific question of immigration policy, including the selection of immigrants and the rights that they can justifiably claim against the state. Immigrants can be classified along two dimensions: according to whether they are refugees or economic migrants, and according to whether they can make a 'particularity claim' (such as a claim for reparation) against the receiving society. Who should qualify for refugee status? The Geneva Convention definition is a helpful starting point, but somewhat too narrow for purposes of political philosophy. I define refugees more broadly as people whose human rights cannot be protected except by moving across a border, whether because of state persecution, state incapacity or prolonged natural disasters.

Lodging an asylum claim imposes a special obligation on the state to which the claim is addressed. However it does not follow that sanctuary must always be provided there: it is permissible for states to enter international burden-sharing schemes for refugees. I defend such arrangements against those who object to 'trading in refugees'. Assuming that only some of those who apply will be admitted to their first-choice state, I consider four possible selection criteria: 1) The refugee's need for permanent settlement; 2) The causal role played by the receiving state in creating the situation from which the refugee is escaping; 3) The likely economic contribution of the refugee to the receiving society; 4) The degree of

cultural affinity between refugee and host political community. I argue that criteria 3 and 4 may only be used where special provisos apply.

The admission of economic migrants is, by contrast, based on mutual advantage rather than vulnerability; however, questions of justice arise in relation both to who is admitted and to the terms of their admission. Migrants may be admitted permanently and unconditionally, conditionally, or on a temporary basis. I argue that temporary migration programmes can be defended against Michael Walzer's claim that such programmes are inherently tyrannical, so long as they are fixed term, and subject to proper legal regulation. In the case of migrants who are being selected for permanent admission, the question arises why, if admission is at the state's discretion, selection on the basis of any feature whatsoever – including race, for example – isn't allowed? Answers to this question that appeal to the human right against discrimination, or to the injustice done to existing citizens who belong to the disfavoured group, aren't good enough. Instead I invoke the weak cosmopolitan premise which requires that relevant reasons be given to those denied admission. I ask whether and in what circumstances political and cultural attributes can constitute such relevant reasons. I also argue against 'brain drain' admissions that damage the human rights of those in the sending countries.

I next examine two forms of 'particularity claim' for admission: reparative claims, where the right to immigrate is asserted as redress for harms that the state has inflicted on the claimant, and claims of desert, where the right to immigrate is asserted as reward for services that have been rendered (e.g. military service). However neither claim by itself provides sufficient grounds for admission: they must work in conjunction with other factors. I move on to consider the position of 'irregular migrants' who have not been granted the legal right to enter. I argue that the state of residence is always responsible for protecting their human rights, but need not extend to them the full set of citizenship rights; I am also somewhat sceptical of Joseph Carens' defence of creating a 'firewall' between officials responsible for enforcing immigration law and other public agencies. However I defend Carens' 'social membership' argument, which I think is the most persuasive justification for granting permanent residence and access to citizenship to everyone who has been physically present for a sufficient period of time. In the case of irregulars, this could involve granting a conditional form of amnesty.

'Failure to integrate' is often cited as an explanation of recent inter-communal violence involving immigrants in a number of liberal democracies. But integration itself is rarely given a clear definition. I distinguish between social integration – people interacting in a friendly and respectful way across a variety of social contexts – civic integration – people sharing a set of principles and norms that guide their social and political life – and cultural integration – people having cultural values and experiences in common, and/or identifying culturally with each other. Social integration matters both for reasons of social justice, and because it helps to foster communal trust; it is a legitimate aim of public policy to promote it. Civic integration can be justified on both liberal and democratic grounds; I defend the use of citizenship tests as a vehicle for promoting civic integration so long as the tests are not excessively demanding. On the other hand there should be no legal or moral obligation for immigrants to become citizens if they choose otherwise. Cultural integration is more controversial than the other two forms, but provided private and public culture are kept separate, encouraging immigrants to take on the national identity of the host society is justifiable. I ask whether the state is required to adopt a stance of strict neutrality, for example in its treatment of religions, and suggest in reply that granting symbolic precedence to the national religion may sometimes be permissible.

The final section of the book further explores the four main values that have been used to address the immigration issue: weak cosmopolitanism, national self-determination, fairness in distribution, and social cohesion. The broadly communitarian position taken in the book is sometimes challenged on the grounds that many immigrants would settle for a more laissez-faire approach which gave them fewer rights. I respond to this challenge, and then return to the issue of refugees, contemplating the possibility that more of them might have claims to enter than democratic states are willing to accept. This question has become particularly pressing in the light of the 2015 migration crisis in Europe, which I discuss in a Postscript, asking in particular whether it should prompt us to further revise our understanding of who counts as a refugee. I believe that the moral dilemmas posed when very large numbers of refugees apply to enter cannot be evaded. However the book ends by reiterating that the fair treatment of refugees must be the first priority of a defensible immigration regime.

