

Illegal Immigration and U.S. Obligation

To make its research easily available to a broad audience, the Center for Philosophy and Public Policy publishes a quarterly newsletter: *QQ—Report from the Center for Philosophy and Public Policy*. Named after the abbreviation for “questions,” *QQ* summarizes and supplements Center books and working papers and features other selected philosophical work on public policy questions. Articles in *QQ* are intended to advance philosophically informed debate on current policy choices; the views presented are not necessarily those of the Center or its sponsors.

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Every minute, an illegal alien crosses the U.S. border and enters this country to live and work. An estimated 600,000 undocumented workers now annually join the American work force; the accumulated stock of illegal aliens in the United States has been estimated at 3–6 million. Recent public opinion polls reflect widespread anger against illegal immigration of such proportions.

There are three options for dealing with illegal migration and immigration. The first is to do nothing and allow the present flow to continue unchecked. The second is to enforce the law and bring the flow to a halt. The third is to regulate the flow by legalizing illegal immigration in various ways.

All three options involve making some sort of decision, if only by default, about the number of migrants to admit and the conditions under which to admit them. To do nothing is essentially to decide that the current number of aliens should continue to be admitted, with no special regulations governing their employment. To completely halt the flow of illegal immigration, without providing alternative legal access, is not a viable option, given the limits of our ability to police 6000 miles of border and the current dependence of U.S. employers on foreign labor.

We must, then, confront these questions: how many migrants should be admitted and what should be the terms of their admission? Nor should we answer these questions without considering the wider questions: what rights do national governments have to limit their populations? what rights of all persons, both citizens and aliens, must any national government observe? The Center for Philosophy and Public

Policy is concluding a two-year international examination into these central problems.

One migration policy proposal has been put forward by labor expert Edwin P. Reubens, in "Immigration Problems, Limited-Visa Programs, and Other Options," a working paper prepared for the Center for Philosophy and Public Policy. Reubens suggests replacing haphazard illegal migration with a large-scale guestworker program, an enlarged and modified version of our current H-2 program, which admits small numbers of foreign workers for temporary employment in specified occupations.

On the Reubens plan (see box below), both the number of migrants admitted and the terms of admission are determined by the same standard: appeal to American economic interests. According to Reubens, foreign workers, legal and illegal, currently bring considerable benefits to our economy, providing "a supply of efficient labor for low-level and low-paying jobs . . . preserving threatened U.S. firms and the jobs of American workers in such firms and industries (and) . . . holding down costs, thereby restraining inflation and imports." Reubens's foreign-worker program is designed to yield these same benefits more securely and efficiently.

Reubens defends his proposal as providing for the fulfillment of American labor needs without jeopardizing the interests of American workers. The flexibility in the number of workers admitted and the specification of the type of employment tailors labor supply to demand for labor. Furthermore, by specifying that foreign workers are to be recruited only for those jobs refused by American workers and by dictating com-

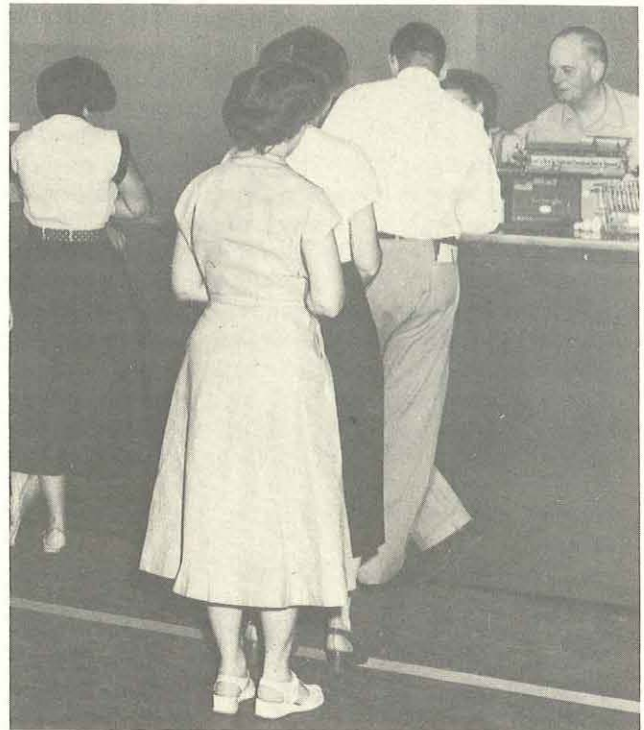
paratively high wage and work condition standards, competition between American and foreign workers is minimized. The three-year residence period is long enough to encourage foreign workers to develop an ongoing commitment to their work, thus making conditions for unionization more favorable. This benefits both foreign and domestic workers. On the other hand, the three-year visa also excludes foreign workers from permanent residence and eventual citizenship. The exclusion of dependents prevents foreign workers and their families from becoming a drain on our welfare system. Even with these restrictive conditions, Reubens believes the program would be sufficiently attractive to foreign workers to discourage alternative illegal immigration.

Of course, the lives of Reubens's foreign workers—separated from their families and loved ones, politically and culturally alienated, toiling away at only those tasks that American citizens disdain—can hardly be particularly pleasant. But their present lives and future prospects, one assumes, would be better and brighter under the program than they would have been in their home country. Foreign workers, it can be argued, enter this country, and remain in it, voluntarily. If they are not willing to accept our treatment of them, they are free to leave, and this freedom legitimizes whatever restrictions we place on their staying. They have only one choice, but it is the crucial choice: they can like it or lump it.

Against this view the objection can be raised: the Reubens plan does not adequately fulfill the rights that we are bound in justice to accord to foreign nationals living and working in our country.

The Reubens Guestworker Program

1. number admitted—several hundred thousand workers annually, on a sliding scale to accommodate variable labor demand (this figure is below the present volume of all illegal entries, but large enough to replace most of the illegal workers)
2. length of stay—one-year terms, renewable for up to three years
3. choice of employment—unrestricted choice of employer within broadly specified occupations and regions, with the specified occupations limited to low-skilled, low-paid work currently often filled by undocumented aliens
4. wages and working conditions—set by the U.S. Department of Labor to be at comparative minimums to those of domestic workers
5. tax collection—income taxes uniformly collected; Social Security taxes not withheld, but employer required to pay at the usual rate into SS and UI funds.
6. citizenship—no voting rights; residence does not lead to eventual naturalization; workers entitled to participate in social welfare programs
7. admission of dependents—not authorized; visa permits unlimited home visits by the worker and arrangements might be made to facilitate these visits



U.S. unemployment is among the highest of the Western industrialized nations; over six million Americans are waiting in unemployment lines. At the same time, there are over six million alien workers currently in the U.S. Many argue persuasively that U.S. citizens should not be forced to compete against foreign workers. Others argue that the interests of American citizens do not always outweigh the interests of foreign nationals. Photo left, courtesy USDA Photo; photo right, courtesy AFL-CIO.

THE RIGHTS OF ALIENS

James W. Nickel, Visiting Professor at the Law School of the University of California at Berkeley, argues that all human rights of foreign aliens, whether legally or illegally present in a given country, must be respected and upheld by the host government of the country in which they are residing and working. In "Human Rights and the Rights of Aliens," a CPPP working paper, he writes: "It is presence in a territory, rather than citizenship, that determines whether the government of that territory has the primary responsibility for upholding a person's rights at a particular time. Human rights flow from one's humanity, not from one's citizenship status, and thus aliens have as much claim to provision for protection of their rights as do natives."

For Nickel these rights include not only rights to personal security and to due process, such as freedom from torture and protection from crime, but rights to political participation and social and economic rights, including rights to a decent standard of living, education, and medical care. Furthermore, Nickel is claiming that governments have the very same obligations to respect and uphold these rights of foreign aliens in their territories as they have to respect and uphold the rights of their own citizens.

Nickel's argument is a brief and simple one. He

claims that obligations to provide for the protection and fulfillment of human rights fall upon those best able to assume them. In most cases, national governments are best able to protect and fulfill the human rights of those residing in their territories: it is usually the case that the U.S. government is better able to protect the rights of a visiting Frenchman (say, providing him with police protection and medical care in case

"Human rights flow from one's humanity, not from one's citizenship status, and thus aliens have as much claim to provision for protection of their rights as do natives."

of illness and accident) than the French government, thousands of miles away. Of course, this may not always be true. A powerful government like the United States may be better able to protect its citizens' rights abroad than a weak, corrupt, or unstable regime governing the country they are visiting. But insofar as the usual expectation is a reliable one, Nickel ascribes responsibility for the rights of residents to the governments of the territories in which they reside.

On Nickel's view, then, foreign workers are entitled to a broader range of rights than stipulated in most foreign worker programs. Specifically, these include participation in social welfare programs providing for fulfillment of basic subsistence rights, and political participation. Does this mean that foreign citizens should be able to vote in American elections and influence the course of American politics? It does, so long as the voter has resided in this country long enough to have acquired the relevant (fairly minimal) knowledge needed to vote responsibly and effectively. Our laws govern his behavior; it is one of his human rights to have some say in their making.

Nickel's view does not require that foreign workers be treated in all respects on a par with American workers, but only that their human rights be equally respected and upheld. Distinguished political philosopher Michael Walzer carries this concern even further.

In "The Distribution of Membership," prepared for *Boundaries: National Autonomy and Its Limits*, a forthcoming publication of the Center for Philosophy and Public Policy, he insists that residence should entail all the rights and responsibilities of citizenship: once aliens are accepted as residents in the national community, they must be accepted as full community members as well. "The members must be prepared to accept the men and women they admit as their own equals in a world of shared obligations; the immigrants must be prepared to share the obligations."

"The processes of self-determination through which a territorial state shapes its internal life must be open, and equally open, to all those men and women who live in the territory, work in the local economy, and are subject to local law."

For Walzer, foreign worker programs like Reubens's establish a two-tier society composed of privileged "family members" and underprivileged "live-in servants." "Live-in servant" workers are neither citizens nor potential citizens; their political rights are either non-existent or ineffectively exercised due to the constant threat of dismissal and deportation. Homeless and rootless, they live under a self-imposed "prison term," deprived of normal social, sexual, and cultural activities. They participate in the host country's economy, but are excluded from participation in its political system, subject to the external rule of the "family member" citizens. Walzer describes this as the rule of tyrants, however mild-mannered and benevolent their tyranny.

Walzer objects to this picture in the name of political justice and the meaning of political community. He defines his principle of political justice: "the processes of self-determination through which a territo-

rial state shapes its internal life must be open, and equally open, to all those men and women who live in the territory, work in the local economy, and are subject to local law." The alternative? Political community collapses into "a world of members and strangers, with no political boundaries between the two groups, where the strangers are the subjects of the members." The dominant characteristic of this political community is precisely its denial of what community means.

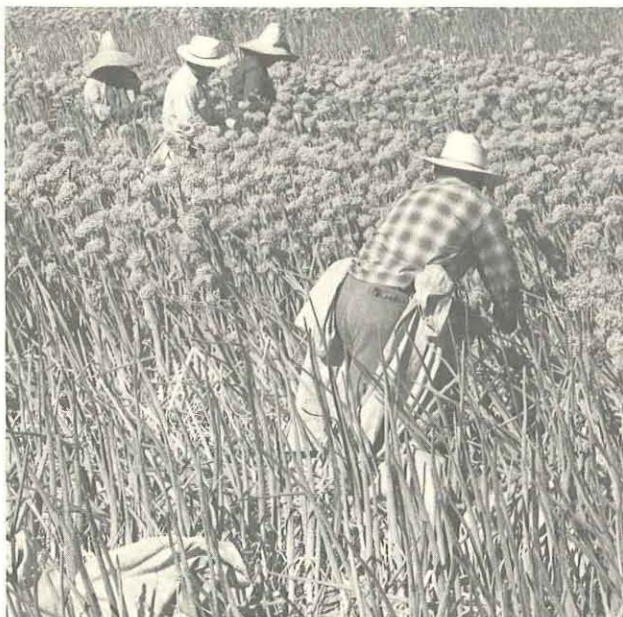
THE RIGHTS OF COMMUNITIES

Both Nickel and Walzer, then, object to the sort of restrictive conditions that are the central feature of Reubens's proposed foreign worker program. Reubens's proposal was initiated, however, to control illegal immigration by admitting legal workers in sufficient numbers to replace the current large population of illegal workers. What would be the result of extending Nickel's and Walzer's far more generous conditions to hundreds of thousands of foreign workers?

One result could be a radical alteration of the character of communities in which large numbers of new immigrants would settle. If foreign workers have full freedom of movement, to settle wherever they choose, they may well concentrate themselves in certain regions of the country. If, furthermore, they have full freedom to participate in their communities' institutions, their influence may dramatically change the nature of those institutions. Since the great majority of current illegal immigrants are drawn from Spanish-speaking countries, primarily Mexico, their impact on the language and culture of their new communities could be significant. The original citizens of those communities may feel that their ability to make effective decisions about their communal way of life is weakened by the active presence of large numbers of newcomers. Their community is becoming unrecognizably different, and its autonomy as *their* community is threatened. This threat would surely not be diminished by admitting foreign workers to all the rights and privileges of full citizenship.

Nickel and Walzer are not afraid, however, that their convictions will result in a threat to the autonomy of American communities, for both argue strongly for the right of a community initially to restrict immigration. Their defense of high standards for our treatment of foreign workers is not a defense of unlimited admission of foreign workers in the first place.

Nickel maintains that "states have the right to limit immigration to manageable numbers. The grounds for this right are . . . that establishment and maintenance of an effectively self-determining political community can be hindered by a large influx of people of a different culture and outlook—especially if these people come at a pace that makes economic and cultural integration impossible; and . . . that a state's ability to uphold rights within its own territory requires that it preserve its stability and resources." He



Between 1942 and 1964, the U.S. government brought hundreds of thousands of Mexican workers to the U.S. for agricultural employment under the bracero program. Both paralleling the bracero years and following the program's termination, there has been an accelerated growth in the number of illegal Mexican immigrants. The United States government itself, then, bears considerable responsibility for its problems of illegal immigration, and this responsibility bears upon the legitimacy of efforts to terminate the migrant flow. Photo courtesy USDA Photo.

concludes that "a state does not violate a person's rights by refusing him or her entry."

Walzer is still more emphatic. The right of a nation to choose an admissions policy is a fundamental one: "It is not merely a matter of acting in the world, exercising sovereignty, and pursuing national interests. What is at stake here is the shape of the community that acts in the world, exercises sovereignty, and so on. Admission and exclusion are at the core of communal independence. They suggest the deepest meaning of self-determination. Without them, there could not be communities of character, historically stable, ongoing associations of men and women with some special commitment to one another and some special sense of their common life."

CONCLUSIONS

The two questions, then, of the number of immigrants to admit and the treatment of immigrants admitted are not distinct and separately answerable. Our decision about how many foreign workers to welcome may depend on how warm a welcome we are expected to give them. Reubens is willing to admit large numbers of foreigners, but only temporarily, with clear restrictions placed on their freedom of choice and right to political participation. Nickel and Walzer would grant all foreigners admitted full, or

close to full, citizenship status, but would accordingly curtail the number admitted. One objects to the Reubens view that it violates the rights of the resident foreign workers. But one could object to Nickel and Walzer that we should perhaps accept more of the world's huddled masses than their elevated standards would permit—that admission with less than full citizenship may be a more humane response to desperation than outright exclusion.

Our choices here will depend as well on how much fundamental importance we grant to national boundaries and to each national government's pursuit of its own national interest. Reubens, Nickel, and Walzer all in one way or another view national boundaries and national self-determination as extremely important. Reubens takes our national economic interest as the sufficient basis for determining how many immigrants should be admitted and the terms of their admission. Nickel and Walzer insist on national self-determination as defining limits on immigration. If we were to rethink this commitment to national sovereignty and the related view that a national government owes far more to its own citizens than to those camped outside its borders, we might come to a quite different conclusion.

For further discussion of these issues, see the Book Review, p. 14, and "The Significance of National Boundaries," forthcoming in the Spring issue.

How much less than full citizenship is full enough? So long as deep and striking differences remain between the economies of developed and developing countries, illegal immigrants are going to keep on coming, unless the Immigration and Naturalization Service takes drastic and extensive action against them, and unless we adopt Nickel's and Walzer's constraints wholesale, they are going to come in numbers sufficiently great to change the character of many American communities. But neither do we want to endorse Walzer's grim vision of a two-tier society with its inescapable tyranny. It remains for those who make public policy to devise an immigration policy that recognizes both the rights of communities and the essential personhood of all those who work within them.

The papers by Reubens and Nickel are available from the Center for Philosophy and Public Policy. See order form, p. 15. Other working papers available from the Center's research Working Group on Mexican Migrants and U.S. Responsibility are: "Foreign Labor Programs as an Alternative to Illegal Immigration into the United States: A Dissenting View," by Vernon M. Briggs, Jr., Professor of Industrial and Labor Relations at Cornell University; "Moral Boundaries and National Boundaries: A Cosmopolitan View," by Judith Lichtenberg, Assistant Professor of Philosophy at the University of North Carolina at Chapel Hill; and "Guest Worker Employment, with Special Reference to the Federal Republic of Germany, France, and Switzerland—Lessons for the United States?" by W. R. Böhring, a research director at the International Labor Office in Geneva. Boundaries: National Autonomy and Its Limits, edited by Peter G. Brown and Henry Shue, is forthcoming from Rowman and Littlefield.

“What Has Posterity Ever Done for Me?”

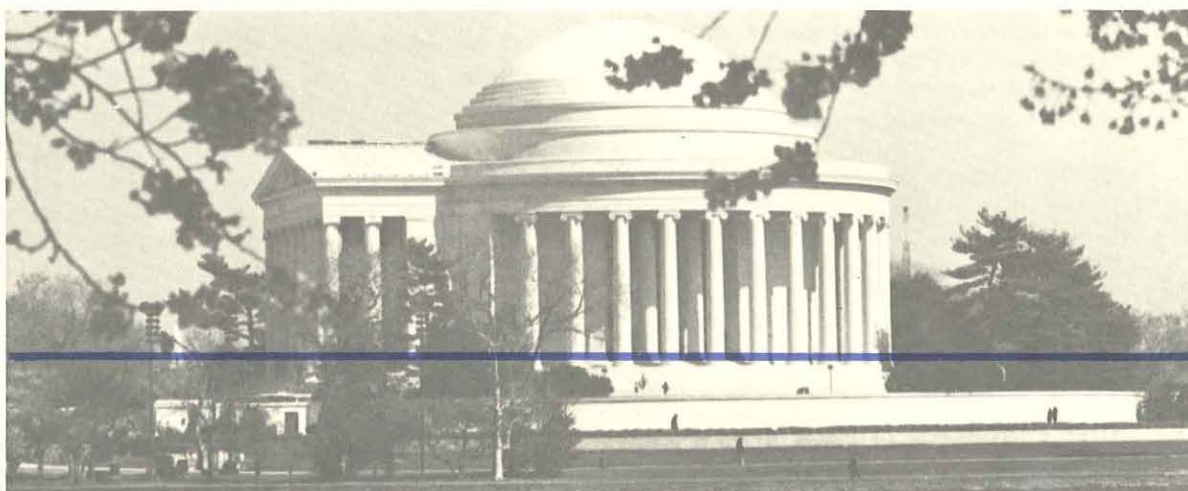
Energy Policy and Future Generations

Scientists are now warning that our continued and increasing reliance on fossil fuels as a source of energy is causing a critical build-up of carbon dioxide in the atmosphere. This carbon dioxide build-up could bring about a significant warming of the earth's atmosphere, melting some of the polar ice caps and raising the sea level accordingly.

But the tidings aren't all bad: Washington may not be completely flooded.

cost to eliminate the CO₂ at the innumerable sources.”

There is consensus among scientists that a sustained increase in atmospheric carbon dioxide will raise the atmospheric temperature at the earth's surface, but divergent opinion on where, how much, and how soon. However, leading scientists agree that the polar sea ice could quickly disappear with relatively small temperature changes. Landsberg's conclusion is



The line indicates possible level of flooding. Photo courtesy National Capital Park Service.

According to University of Maryland climatologist H. E. Landsberg, there has been a steady rise in atmospheric carbon dioxide since the first reliable observation in the 1860s. This observed increase in carbon dioxide parallels the gradual increase in the use of fossil fuels during the past century. In “Energy Use and the Atmosphere,” prepared for the CPPP, Landsberg reports that increased use of fossil fuels is estimated to result in the doubling of atmospheric carbon dioxide between 2025 and 2050. Furthermore, once the carbon dioxide is allowed to accumulate, it is there to stay for centuries: “For all practical purposes, the process is irreversible. . . . No practical technology exists or can be envisaged at an economically tolerable

a sobering one: “Should all the sea ice melt, the sea level would rise 5 to 8 meters with major ensuing flooding of low areas.” These “low areas” include Washington, Los Angeles, and New York.

On the scientists' best guess, you and I won't be around to bail out our cities, and, probably, neither will our children. It doesn't look good, though, for our grandchildren, and for their grandchildren it looks bleaker still. We could increase our reliance on nuclear power, of course: toxic nuclear wastes, unlike our diminishing oil reserves, last a nice long while—at least several dozen centuries. Solar, wind, and hydroelectric power seem less hazardous, but perhaps more expensive, possibilities, with conservation a safer bet

still. But the choice of these latter alternatives would mean that we, the present generation, would be making sacrifices on behalf of generations to come.

Why should we make such sacrifices? Many would answer that we have no obligation to make any sacrifices at all. In 1909, Senator Henry Teller, former Secretary of the Interior, wrote: "I do not believe there is either a moral or any other claim upon me to postpone the use of what nature has given me, so that the next generation or generations may have an opportunity to get what I myself ought to get." After all, one might argue, we didn't ask to be born now any more than they asked to be born later. While it's true enough that we arrived on the scene while air was breathable, water was drinkable, fuel was plentiful, and the nation's major cultural centers remained above sea level, that was just the luck of the draw. If they find themselves being born at a less auspicious moment, well, they took their chances in the generational lottery and lost fair and square: tough luck, guys. Our descendants may have reason to mourn their misfortune, but not to complain of any injustice.

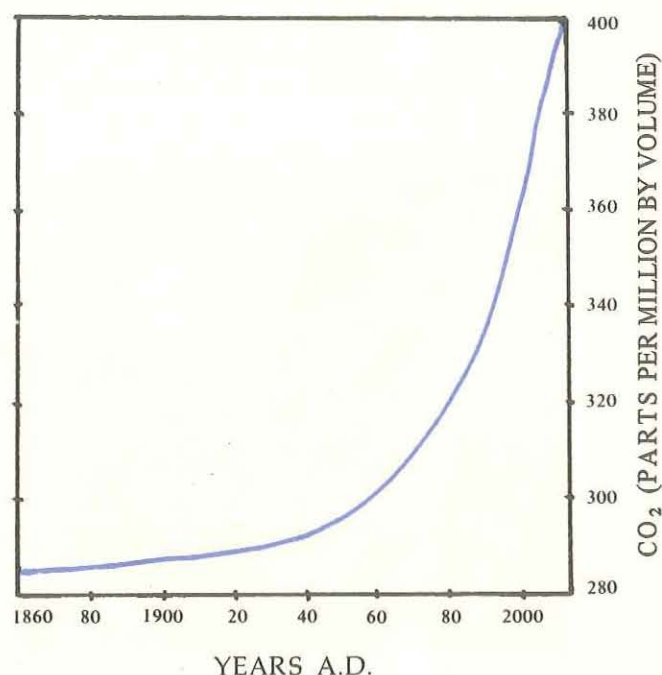
But, of course, there isn't really any such lottery. In his CPPP working paper, "International Justice in Energy Policy," philosopher Brian Barry points out that "all there are really are successive generations, some of which are potentially disadvantaged by the actions of their predecessors." Lady Luck may know nothing of fairness or unfairness, but *we do*, and if we grab and despoil, we are accountable, in the name of justice, for what we have done. Justice to whom? To those who inherit the earth after we have depleted and despoiled it.

Here, however, an objection can be raised: Justice cannot govern our relation with our descendants, because justice, according to some popular theories, obtains only among equals: the principles of justice are the rules by which those roughly equal in power and opportunity agree to cooperate for their mutual advantage. Realizing that all will be better off if each restrains himself within the bounds of the agreement, rational, self-interested individuals contract with one another to regulate their conduct accordingly. But among generations no such bargain is possible. Later generations have no bargaining power; there is nothing they can threaten and nothing they can offer.

Barry characterizes this view (which he himself rejects) by this metaphor: each generation inhabits a single island, arranged along a current, with all the resources located on the island farthest upstream. The generation with the resources must decide what to use and what to float downstream to the later generations. What do the inhabitants of the upstream island gain by sharing resources with less fortunately situated islands? Nothing, it would seem. And so we can ask ourselves, in the words of Robert Heilbroner, "What has posterity ever done for me?"

If justice applies only in situations of reciprocal advantage, then justice cannot dictate our treatment of future generations. However, philosopher David

A. J. Richards, in "Contractarian Theory, Intergenerational Justice, and Energy Policy," a CPPP working paper, argues that a different kind of reciprocity is at the heart of our concept of justice. This notion of reciprocity involves not mutual actual advantage, but what philosophers call universalizability or role reciprocity: treating persons in the way one would oneself reasonably like to be treated. We have obligations of justice even to the weak and powerless, and these obligations are precisely to treat them as we would want to be treated were we weak and powerless. Applying these principles across generations, Richards concludes: "Insofar as the actions of one generation directly affect the interests of later generations, there is a relation among persons governable by moral reciprocity." What matters is not what future generations have done for us, but what we would have liked them to have done for us had our temporal positions been reversed.



Atmospheric carbon dioxide is projected to continue to accumulate at a rapidly increasing rate. (After Kellogg, 1977; reproduced courtesy the World Meteorological Organization.)

Here another complication emerges. Douglas MacLean, Research Associate at the Center for Philosophy and Public Policy, points out that, whatever other rights potential future persons might have, they have no "right to be born." We have no obligation to bring as many future persons as possible into existence—if we did, the planet could rapidly get mighty crowded. But if potential persons have no right to be born, this seriously undercuts the claim of future generations to just treatment from us. For then the pres-

ent generation can simply "solve" the problem of meeting its obligations to future generations by causing it to be the case that there aren't any future generations in the first place. 'You don't like boating down the Mall in between the sunken monuments? Well, try not being born at all, and see how you like *that!*'

To this challenge, two responses are possible. The first is simply to assume it away. The human race is *not* going to be deliberately exterminated; there *are* going to continue to be future generations—and so the fact that ending life on earth might be one solution to problems of intergenerational justice has no practical relevance for us in assessing our obligations to future persons.

The second response involves a radically different way altogether of viewing intergenerational justice. MacLean, in *Energy and the Future*, forthcoming from Rowman and Littlefield, proposes that, rather than looking at the rights and interests of future generations, we might do better to look at our own most deeply rooted interests and values. "A better proposal," he suggests, "is to argue that a concern for posterity is in our own interests—the interests of our-

selves and our contemporaries. . . . Many of the interests we value most are directed not toward our own satisfaction, but toward the world." We value scientific research, political activism, and cultural monuments for their contributions to making a better world, a world that will endure long after we are gone. "The value of these things requires protecting them and passing them on, and this in turn requires creating an environment where culture and history can continue in ways we like to imagine they will. Alternatively, if we do not value posterity in this way, we undermine the value of these interests in our own lives."

Landsberg's statistics about carbon dioxide build-up alarm us not merely because we recognize an obligation to those who come after us, but because so much of what we ourselves value is directed toward the continued existence and flourishing of the human race. We do not want our monuments to be submerged because they are our *monuments*, our legacy to our descendants, the distinctive mark we have made on the universe. It is up to us, the members of the present generation, to see that this legacy is preserved and transmitted.

An Attack on the Social Discount Rate

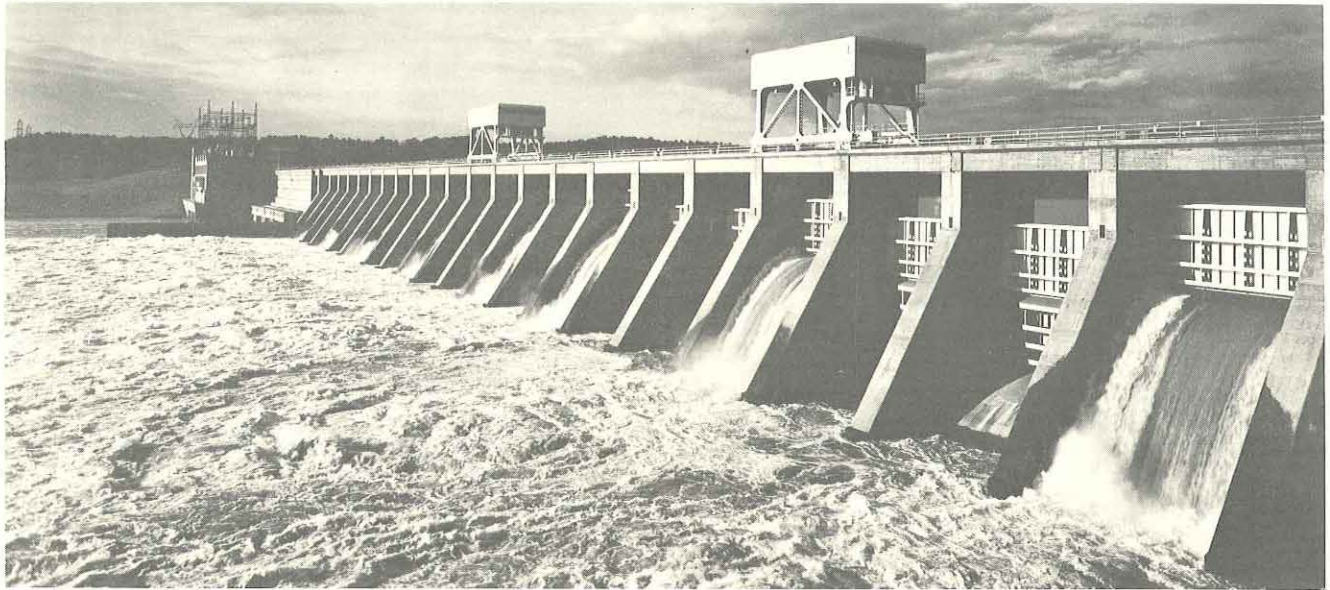
Economists and policymakers are commonly faced with determining when it makes economic sense to invest in large-scale public projects whose investment costs are immediate, but whose benefits return only over a long period of time. In making these decisions, most economists make use of a positive discount rate that diminishes the value of costs and benefits as these occur further in the future—a project is worth undertaking if the discounted value of its benefits is greater than the discounted value of its costs. Reliance on such a discount rate provides one reason for believing that the present generation need not sacrifice on behalf of future generations. In the following abridgement of a portion of his Center working paper, "Energy Policy and the Further Future," Oxford University philosopher Derek Parfit argues that the social discount rate is unjustified.

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It is now widely believed that, when we are choosing between social policies, we are justified in being less concerned about their more remote effects. All future costs and benefits may be "discounted" at some rate of n percent per year. Unless n is very small, the further future will be heavily discounted. Thus, at a discount rate of 10%, effects on people's welfare next year count for more than ten times as much as effects in twenty years. At the lower rate of 5%, effects next year count for more than a thousand times as much as effects in 200 years.

Such a "Social Discount Rate" seems to me indefensible. The moral importance of future events does *not* decline at n percent per year. A mere difference in timing is in itself morally neutral. Remoteness in time roughly corresponds with certain other facts, which are morally significant. But since the correlation is so rough, the Discount Rate should be abandoned.

Why was it adopted? I am aware of six arguments.



The choice of a social discount rate for large-scale government projects is often a politically controversial one, since the discount rate used may make a crucial difference in how the costs and benefits total up. Conservationists may argue for a steep discount rate in order to block construction of a proposed dam, whose benefits would be realized only over a long period of time. The same conservationists would choose a low discount rate when what is at issue is the conservation of nonrenewable natural resources for the use of future generations.

(1) The Argument from Probability

It is often claimed that we should discount more remote effects because they are less likely to occur. This confuses two questions: (a) When a prediction applies to the further future, it is less likely to be correct? (b) If some prediction is correct, may we give it less weight because it applies to the further future? The answer to (a) is often "Yes." But this provides no argument for answering "Yes" to (b).

We ought to discount those predictions which are more likely to be false. Call this a "Probabilistic Discount Rate." Predictions about the further future are more likely to be false. So the two kinds of Discount Rate, Temporal and Probabilistic, roughly correlate. But they are quite different. It is therefore a mistake to discount for time *rather than* probability.

One objection is that this misstates our moral view. It makes us claim, not that more remote bad consequences are less likely, but that they are less important. This is not our real view. A greater objection is that the two Discount Rates do not always coincide. Predictions about the further future are not less likely to be true at a rate of n percent per year. When applied to the further future, many predictions are indeed *more* likely to be true. If we discount for time rather than probability, we may thus be led to the wrong conclusions.

(2) The Argument from Opportunity Costs

It is sometimes better to receive a benefit earlier, since this benefit can then be used to produce further benefits. If an investment yields a return next year, this is worth more than the same return ten years later, since the earlier return can be profitably rein-

vested over these ten years. Once we have added in the extra returns from this reinvestment, the total returns over time will be greater. A similar argument covers certain kinds of costs. The delaying of some benefits thus involves "opportunity costs," and vice versa.

This is sometimes thought to justify a Social Discount Rate. But the justification fails, and for the same two reasons. Certain opportunity costs do increase over time. But if we discount for time, rather than simply adding in these extra costs, we will misrepresent our moral reasoning. More important, we can be led astray. Consider those benefits which are not reinvested but consumed. When such benefits are received later, this involves no opportunity costs. Consider this example. If we build a proposed airport, we will destroy some stretch of beautiful countryside. We might try to estimate the benefits that we and our successors would then lose. If we do not build the airport, such benefits would be enjoyed in each future year. At any discount rate, the benefits in later years count for much less than the benefits next year. How could an appeal to opportunity costs justify this? The benefits received next year—our enjoyment of this natural beauty—cannot be profitably reinvested.

Nor can the argument apply to those costs which are merely "consumed." Thus it cannot show that a genetic deformity next year ought to count for ten times as much as a deformity in twenty years. The most that could be claimed is this. Suppose we know that, if we adopt a certain policy, there will be some risk of causing such deformities. We might decide that, for each child so affected, the large sum of k dollars could provide adequate compensation. If we were



going to provide such compensation, the present cost of ensuring this would be much greater for a deformity caused next year. We would now have to set aside almost the full k dollars. A much smaller sum, if set aside and invested now, would yield in twenty years what would then be equivalent to k dollars. This provides one reason for being less concerned now about the deformities we might cause in the further future. But the reason is not that such deformities matter less. The reason is that it would now cost us less to ensure that, when such deformities occur, we would be able to provide compensation. This is a crucial difference.

Suppose we know that we will not in fact provide compensation. This might be so, for instance, if we would not be able to identify those particular deformities that our policy had caused. This removes our reason for being less concerned now about deformities in later years. If we will not pay compensation whenever such deformities occur, it becomes irrelevant that, in the case of later deformities, it *would* be cheaper to ensure now that we *could* pay compensation. But if we have expressed this point by adopting a Social Discount Rate, we may fail to notice that it has become irrelevant. We may be led to assume that, even when there is no compensation, deformities in twenty years matter only a tenth as much as deformities next year.

(3) The Argument that Our Successors Will be Better Off

If we assume that our successors will be better off than us, there are two plausible arguments for discounting the costs and benefits that we give to them. If we are thinking of costs and benefits in a purely monetary sense, we can appeal to diminishing marginal utility. The same increase in wealth generally brings a smaller real benefit—a smaller gain in welfare—to those who are better off. We may also appeal to a principle of distributive justice. An equally great benefit, given to those who are better off, may be claimed to be morally less important.

These two arguments, though good, do not justify a Social Discount Rate. The ground for discounting these future benefits is not that they lie further in the future, but that they will go to people who are better off. Here, as elsewhere, we should say what we mean. And the correlation is again imperfect. Some of our successors may not be better off than us. If they are not, the argument just given fails to apply.

(4) The Argument from Excessive Sacrifice

A typical statement runs: If we did not use a discount rate, any small increase in benefits that extends indefinitely in time could demand any amount of sacrifice in the present, because in time the benefits outweigh the costs.

The same objections apply. If this is why we adopt a Social Discount Rate, we shall be misstating what we believe. Our belief is not that the importance of future benefits steadily declines. It is rather that no genera-

tion can be morally required to make more than certain kinds of sacrifice for the sake of future generations. If this is what we believe, this is what should influence our decisions. If instead we take the belief to justify a Discount Rate, we can be led quite unnecessarily to implausible conclusions. Suppose that, at the same cost to ourselves, we could prevent either a minor catastrophe in the nearer future or a major catastrophe in the further future. Since preventing the major catastrophe would involve no extra cost, the Argument from Excessive Sacrifice fails to apply. But if we take that argument to justify a Discount Rate, we can be led to conclude that it is the major catastrophe that is less worth preventing.

(5) The Argument from Special Relations

According to common sense morality, we ought to give some weight to the interests of strangers. But there are certain people to whose interests we ought to give some priority. These are the people to whom we stand in certain special relations. Thus each person ought to give some priority to his children, parents, pupils, patients, constituents, or his fellow-countrymen.

Such a view naturally applies to the effects of our acts on future generations. Our immediate successors will be our own children. According to common sense, we ought to give to their welfare special weight. We may think the same, though to a reduced degree, about our obligations to our children's children. Such claims might support a new kind of discount rate. We would be discounting here, not for time itself, but for degrees of kinship. But at least these two relations cannot radically diverge. Our grandchildren cannot all be born before all our children. Since the correlation is, here, more secure, we might be tempted to employ a standard Discount Rate.

Here too, this would be unjustified. Applying a Standard Discount Rate, more remote effects always count for less. But a discount rate with respect to kinship should, I believe, level off. When we are comparing the effects of two social policies, perhaps effects on our children ought to concern us more than effects on our grandchildren. But should effects on the fifth generation concern us more than effects on the sixth?

Nor should the rate apply to all kinds of effect. Thus, if our acts may inflict severe harms, the special relations make no moral difference.

(6) The Argument from Democracy

Many people care less about the further future. Some writers claim that, if this is true of most living Americans, the U.S. government ought to employ a Social Discount Rate. If its electorate does care less about the further future, a democratic government ought to do so. Failure to do so would be paternalistic, or authoritarian.

This argument need not be discussed here. We should distinguish two questions. These are: (a) As a community, may we use a Social Discount Rate? Are

we morally justified in being less concerned about the more remote effects of our social policies? (b) If most of our community would answer "Yes" to question (a), ought our government to override this majority view? The Argument from Democracy applies only to question (b). To question (a), it is irrelevant.

Conclusion

I have discussed six arguments for the Social Discount Rate. None succeed. The most that they could justify is the use of such a rate as a crude rule of thumb. But this rule would often go astray. It may often be morally permissible to be less concerned about the more remote effects of our social policies. But this will never be *because* these effects are more remote. Rather it would be because they are less likely to occur, or will be effects on people who are better off

than us, or because it is cheaper now to ensure compensation—or it would be for one of the other reasons I have given. All these different reasons need to be judged separately, on their merits. To bundle them together in a Social Discount Rate is to blind our moral sensibilities.

Remoteness in time roughly correlates with a whole range of morally significant facts. But so does remoteness in space. Those to whom we have the greatest obligations, our own family, often live with us in the same building. Most of our fellow citizens live closer to us than most aliens. But no one suggests that, because there are such correlations, we should adopt a Spatial Discount Rate. No one thinks that we should care less about the long-range effects of our acts, at a rate of n percent per yard. The Temporal Discount Rate is, I believe, as little justified.

Racial Balance in the Military



Courtesy U.S. Army.

This article summarizes a portion of the recent research of Robert K. Fullinwider, Research Associate at the Center for Philosophy and Public Policy. A fuller discussion of Fullinwider's positions on racial balance in the military and on reverse discrimination and affirmative action generally can be found in "The AVF and Racial Imbalance," available from the Center for Philosophy and Public Policy, and The Reverse Discrimination Controversy, published by Rowman and Littlefield.

When the creation of the all-volunteer force was being debated in 1967–71, one objection frequently made was that an all-volunteer force would become largely black. Such a fear, for example, underlay the opposition to the AVF by a group of liberals led by Senator Edward Kennedy. The Gates Commission, whose 1970 report to the president laid the basis for the tran-

sition to the all-volunteer policy, explicitly addressed this objection. It argued that the racial composition of the armed forces would be little affected by substituting an all-volunteer policy for a mixed policy of conscription and volunteering.

The Gates Commission predictions proved to be wrong. Since 1972, the Army (the branch of the service most affected) has seen a dramatic increase in the proportion of black enlisted personnel serving in its ranks, increasing from 17.5% to 32.2% in seven years. Current accessions for the Army are running at 37% black, with total minority participation over 40%. Moreover, blacks reenlist at higher rates than whites. In a few years, if present trends continue, the Army could be 45% black, according to one estimate.

Is this racial imbalance cause for concern? It has been contended that disproportionate black representation will erode public support for the military and raise doubts among allies—and enemies—about the reliability of American combat arms. It has also been contended that racial disproportion exacerbates racial tensions both in the Army and in society. Some fear that, in case of combat, black casualty rates of 30–40% might precipitate domestic violence. Moral arguments have been offered against the imbalance as well: it seems unfair that blacks should bear a share of the defense burden greater than their proportion in the population.

Several different policies have been suggested to achieve a more representative military. One proposal is a return to the draft. Another option would be to upgrade entrance requirements, at the same time offering sufficient educational benefits to attract middle class whites to meet the higher standards. Observers differ in their solutions, but all agree in rejecting explicit racial quotas as morally repugnant.

Are Racial Quotas Morally Repugnant?

Are racial quotas morally repugnant? One reason for thinking so might be that limitations on black enlistments have an adverse effect on disadvantaged blacks, whose only available employment option is military service. For black teenagers, facing the highest unemployment rates in our economy, the Army provides opportunities for job training and social and economic mobility. These youths would be further deprived if denied access to the military.

This argument applies equally well, however, against any attempt to achieve greater racial balance in the armed forces. Keeping force size constant, any gain in white enlistments must be made at the expense of black enlistments; more whites mean fewer blacks. A return to the draft means taking unwilling whites instead of willing blacks; upgrading entrance standards means turning away blacks who could have performed capably in today's Army. If adverse effect on blacks is what bothers us about racial quotas, other means of limiting black military opportunities must be rejected for the same reason.

Quotas may bother us for other reasons as well—perhaps because they treat persons merely as members of groups, rather than as individuals in their own right. Policies establishing restrictive racial quotas treat individuals as if the only feature about them that mattered were their race.

Condemnation of public policy because it treats persons as members of groups is, however, misconceived: public policy necessarily focuses only on certain characteristics of persons, disregarding others. This is not to say that only these characteristics are supposed to matter, but rather that these are the relevant characteristics to consider in formulating general policies. If racial imbalance is the social ill to be corrected, then race becomes the relevant characteristic from the policymaker's point of view.

The objection to racial quotas, then, must be that race in particular is never an acceptable consideration

in the formulation of public policy. Any policy based overtly or covertly on race is morally prohibited. Race ought never to be taken into account in judging the eligibility of persons for positions or offices, in the military or elsewhere. Our policies must be colorblind.

However attractive such a position may initially appear, on reflection it does not seem either morally or legally acceptable. Given our history of black segregation and exclusion, race remains an important fact about individuals, with significant import for their social and economic prospects. Government policy has recognized for a decade that a colorblind stance merely allows the effects of past discrimination to perpetuate themselves. Court-upheld federal and state affirmative action policies now require that organizations be in certain ways color-conscious.

Two Forms of Color Consciousness

In its weak form, color-consciousness requires organizations to be continually aware of the racial impact of their practices so that those having even an inadvertent adverse effect on blacks can be detected and eliminated. Since discrimination involves not merely conscious, explicit racial bias, but unreflective habits and attitudes, color-consciousness in this weak sense is necessary to correct for the discriminatory effects of apparently neutral policies.

In its strong form, color-consciousness extends preferential treatment to blacks to accelerate their integration in proportional numbers into areas where they have long been excluded. Recent Supreme Court cases have upheld policies giving explicit preferences to blacks and other minorities. The decision in *United Steelworkers v. Weber* sustained the use by the Kaiser Aluminum Company of 1-to-1 black/white ratio admissions into its training program for craft jobs, an admissions scheme explicitly designed to produce in each craft a representation of blacks equal to their proportion in the labor force in the communities surrounding Kaiser plants. In *Fullilove v. Klutznick* the Court approved the constitutionality of the 10% minority set-aside provision of the Public Works Act of 1977. This provision requires that prime contractors for federal projects use at least 10% of their federal funds to procure services from minority subcontractors.

It is not easy, however, to discern a clear and coherent basis for the Court's support of color-consciousness in this strong form. The prevailing rhetoric of the Court holds that race may be used as a basis for assigning benefits and burdens when this is done for remedial purposes—to "remedy the effects of past discrimination." But in the past decade the notion of remedial action has been broadened very considerably. "Remedying the effects of past discrimination" need not mean, as it meant in the early years of Civil Rights litigation, remedying the effects on an identified victim of a specific wrong inflicted by an identified agent. Instead, it has come to mean altering any present condition that is arguably a result of past discrimination—not anyone's discrimination in particular, but societal discrimination in general.

The condition usually corrected by such "remedial action" is racial imbalance, or underrepresentation. Broad "remedial" policies aim at overcoming racial underrepresentation, regardless of whether or not the beneficiaries of these policies have themselves suffered injurious past discrimination. These policies, therefore, are not clearly required by any notion of compensatory justice; the question is not one of compensating victims of past wrongs, since those "compensated" may not be the original victims at all.

The "remedial" standard seems more coherently viewed as the expression of a group welfare goal. It may be most useful to understand the principle underlying Court doctrine and Congressional legislation as this: racially preferential policies are justifiable if they contribute to the betterment of the condition of blacks in general. We may suppose this principle takes its moral justification from the supposition that improving the condition of blacks in general will serve the public welfare by promoting integration, racial harmony, and mutual respect.

It must be recognized that this "black welfare" standard is a double-edged sword. The standard can be used to justify some policies that give preferences to individual blacks, but it also conceivably can be used to justify some policies that work to the disadvantage or exclusion of individual blacks. Could discrimination against some blacks ever be justified on the grounds that it contributes to the betterment of blacks in general? It seems the answer is yes. There may be instances where blacks as a whole are benefitted by actions that are to the disadvantage of some individual blacks.

Consider the 1973 case of *Otero v. New York Housing Authority*. The Supreme Court upheld a New York City Housing Authority policy of black admissions quotas to City housing units, since the quotas were designed to preserve integration in the face of the "tipping phenomenon": the phenomenon of white

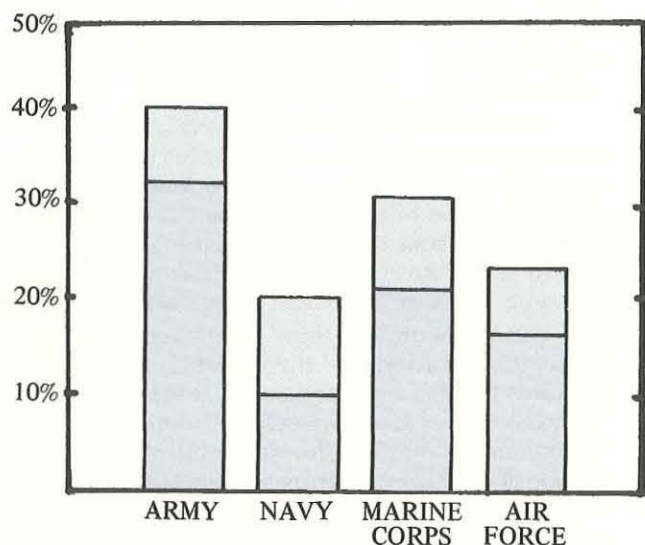
flight from buildings that reach a certain percentage of black occupancy. Here blacks were the intended beneficiaries of a policy of racial integration, and discrimination against some blacks was necessary to carry out this policy.

Implications for the Military

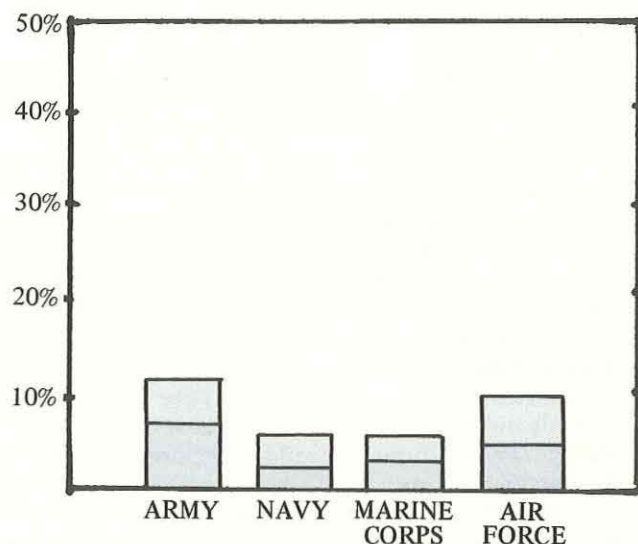
Where does all this leave the all-volunteer Army? The Army is not currently colorblind in its employment policies, nor, on the basis of the preceding arguments, should it be. Since 1970, each of the armed services has been expected to increase and intensify its efforts to achieve a more proportionate distribution of blacks throughout all ranks and occupational specialties. The Army's affirmative action program has the goal, for example, of increasing the percent of minority officers from the current low 11% to a figure more representative of the proportion of minorities in the enlisted ranks.

These color-conscious affirmative action programs work to make black overrepresentation in the military less disturbing. If blacks and other minority enlistees feel they have full participation in the Army, this will promote their institutional loyalty, reducing concern about their reliability and effectiveness as soldiers. Moreover, to the extent that blacks are well represented in all ranks and occupations, the fact that in a war there will be a high proportion of black casualties may be less inflammatory to the black community.

There might still be grounds for believing, however, that disproportionate black representation in the military is to the long-run disadvantage of blacks in general. Despite the mitigating factors mentioned, wartime black casualties of 30-40% might provoke black opposition and domestic unrest, which could in



Percentage of black and total minority enlisted personnel—
Department of Defense figures.



Percentage of black and total minority commissioned officers—
Department of Defense figures.

turn seriously threaten the social and economic situation of the black population. Alternatively, minority concentration in the military may reinforce the current low status of minorities, undermining black civilian prospects; if "too many" blacks continue to enlist, military service may begin to be viewed as the only fitting occupation for minority members.

To the extent that either of these scenarios seems likely—which is not to argue for the plausibility of either—it could be morally justified to limit black enlistments by explicit racial admissions quotas. Since any successful effort to restore racial balance will diminish black opportunities to serve, and because white policymakers may be disposed to magnify the

seriousness of problems arising from black overrepresentation, it seems reasonable to set a high threshold of proof. Evidence of the deleterious effects of black overrepresentation must be strongly persuasive, if not compelling. But should this be the case, racial quotas in the military might be, not morally repugnant, but appropriate and justified.

These speculations are not designed to justify a quota policy for Army enlistments. In any event, such a policy would be impossible to implement under current recruiting conditions. The speculations have been aimed, rather, at sharpening our appreciation of the moral grounds for reviewing any efforts to restore racial balance to the military.

Book Review

Political Theory and International Relations by Charles R. Beitz (Princeton, N.J.: Princeton University Press, 1979).

In 1651, Thomas Hobbes wrote that nations continually and inevitably find themselves "in the state and posture of gladiators; having their weapons pointing, and their eyes fixed on one another; that is, their forts, garrisons, and guns upon the frontiers of their kingdoms; and continual spies upon their neighbors." This posture is not an unfamiliar one to twentieth-century readers, although our pointed weapons are now nuclear, and our espionage, electronic.

A venerable tradition of political theory, extending from Hobbes, concludes from this grim picture that no international morality is possible among states; each is involved in an amoral war against all. In reaction to this tradition, an equally venerable response has developed. The behavior of states is indeed governed by moral principles, it is claimed, arising out of respect for their sovereign autonomy. These are the principles of non-intervention and national self-determination.

Political philosopher Charles R. Beitz, in *Political Theory and International Relations*, rejects both the Hobbesian view and its traditional alternative. In this rich and rewarding book, he argues for a third conception of international relations. International morality is possible, on Beitz's view, but its principles derive, not from the idea of state autonomy, but from the idea of justice. "Intervention, colonialism, imperialism, and dependence are not morally objectionable because they offend a right of autonomy, but because they are unjust."

Beitz closely examines Hobbes's account of international relations before rejecting it. According to

Hobbes, nations necessarily behave amorally toward one another, each exclusively following its own national interest, because each nation knows that all the other nations are doing the same. Since there is no common authority constraining states to comply with any international morality, it is not in the interest of any state to follow moral rules. But on Hobbes's view, moral rules are legitimate only if they advance the interests of everyone to whom they apply. Hobbes concludes, therefore, that international morality is impossible.

This conclusion, however, presupposes a picture of international relations that Beitz shows to be increasingly false, if, indeed, it ever was true. It is not the case that nations have entirely independent and hostile interests, threatened by the prospect of any international cooperation. Instead, economically interdependent states cooperate extensively to meet domestic economic goals and achieve balanced economic growth. Certain rules of cooperation are binding on states, Beitz explains, because states have common interests.

If international morality is possible, what is its content? Beitz considers one dominant account: the first rule of international morality is respect for state autonomy—states are not to interfere in one another's domestic affairs. But what is the source of this right to state autonomy, Beitz asks? He answers that a state's right to autonomy is justified only by appeal to the rights and interests of its individual citizens. Persons, not states, are "ends in themselves," and states are legitimate only insofar as they respect their citizens' autonomy, only insofar as they are just. Thus Beitz rejects any absolute non-intervention principle: interference with just institutions is morally wrong; interference with unjust institutions, for the sake of increasing their justice, is not.

By emphasizing justice rather than autonomy, Beitz is able to resolve several perplexing problems about the scope of the right to self-determination.

Does self-determination apply to groups other than colonial populations—for example, to cultural minorities? Beitz replies: yes, if “independent statehood is a necessary political means for the satisfaction of appropriate principles of justice.” Must the right of self-determination be satisfied by economic as well as political independence? The answer depends on whether economic independence in any given case promotes or impedes the growth of just institutions.

In the book’s final section, Beitz presents his alternative to non-interventionist international morality. Traditional theories of justice, such as John Rawls’s *A Theory of Justice*, have operated on the assumption that each state is a self-sufficient, internally cooperative venture, with the benefits and burdens of this cooperation to be distributed within state boundaries. This assumption Beitz has shown to be false: “national boundaries cannot be regarded as the outer limits of social cooperation”; benefits and burdens must be distributed globally. Beitz endorses a worldwide version of Rawls’s redistributive “difference principle”: “social and economic inequalities are to be arranged so that they are . . . to the greatest benefit of the least advantaged.” If this is a plausible principle of domestic justice (and Beitz does not argue here that it is), it is equally plausible as a principle of international justice. “If evidence of global economic and political interdependence shows the existence of a global scheme of social cooperation, we should not view national boundaries as having fundamental moral significance.”

Given the cogency of Beitz’s arguments, their strong redistributive implications for the foreign policy of affluent nations cannot be easily ignored.

—Claudia Mills

SUMMER WORKSHOP

The fourth annual Workshop on Ethics and Public Policy will be held June 21–27, 1981, at Bowdoin College in Brunswick, Maine. The workshop will focus on the ethical issues that arise in: voluntary versus involuntary military service, the role of consent in centralized decisions, the appropriate claims of legal and illegal immigrants, and other topics. For further information, contact Elizabeth Cahoon, (301) 454-6604.

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Human Rights and U.S. Foreign Policy: Principles and Applications, edited by Peter G. Brown and Douglas MacLean (Lexington, Mass.: Lexington Books, 1979—\$16.95; paper, 1980—\$10.95).

Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy, by Henry Shue (Princeton, N.J.: Princeton University Press, 1980—\$17.50; paper, 1980—\$4.95).

The Reverse Discrimination Controversy: A Moral and Legal Analysis, by Robert K. Fullinwider (Totowa, N.J.: Rowman and Littlefield, 1980—\$22.50; paper, 1980—\$9.95).

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