

**Final – Ethics in U.S. Immigration**

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Immigration is a contentious issue in the United States, one factor behind the increased political polarization among Americans. While a Gallup Poll found that in the past decade, around 60 percent of Americans are satisfied with the current level of immigration in the U.S., Americans' views on whether the level of immigration should decrease, remain the same, or increase are more split. As of 2022, 38 percent of Americans believe the level should decrease, 31 percent believe it should remain the same, and 27 percent believe it should increase (Duffin, 2022, pp. 35-36).

According to the Migration Policy Institute, there are around 44.9 million foreign-born citizens in the U.S., comprising 13.7 percent of the total U.S. population (Esterline & Batalova, 2022). Furthermore, approximately a quarter of immigrants in the U.S. are undocumented. Abby Budiman (2020), a former research analyst at Pew Research and current research scientist at New York University, writes: "From 1990 to 2007, the unauthorized immigrant population more than tripled in size – from 3.5 million to a record high of 12.2 million in 2007. By 2017, that number had declined by 1.7 million, or 14%." The decline here stems from more restrictive policies on immigration, which will be addressed later.

We cannot further discuss immigration without knowing its terminology in federal court. *Deportation* is when the government removes a non-U.S. citizen from the country who came here illegally, while *exclusion* is when the government denies entrance to a non-U.S. citizen attempting to enter the U.S. It is important to note that since 1996, *deportation* and *exclusion* are no longer official legal terms. Instead, the U.S. government combined them into one term: *Removal*. There is another term commonly used concerning immigration: *Return* or voluntary departure (Lind, 2014). The difference between the two is small and can confuse people when discussing immigration or recording its statistics.

*Removal* can range from deportation to exclusion and is under *court order* ("Table 39," 2018). Despite this definition, an immigrant being subjected to the removal process does not necessarily mean they will stand before an immigration judge. Low-level U.S. Department of Homeland Security (DHS) officers can determine whether to deport an immigrant as fast as in one day. They have 14 days to decide after apprehending an immigrant not possessing the proper documentation near the border. There is no trial and

opportunity to consult an attorney unless the immigrant claims asylum. This process is known as *expedited removal* (Siskin, 2016, p. 6).

Meanwhile, *return* is when a non-U.S. citizen is denied entrance at the Canadian or Mexican border and moved outside the U.S. without a court order (“Table 39,” 2018). *Return* is more informal, not on legal record, and therefore holds no legal consequence, unlike *removal*. In fact, after the first instance of removal, a non-U.S. citizen cannot return to the U.S. for a minimum of five years. If a non-U.S. citizen does so before this period, DHS officers can immediately deport them; the U.S. government defines this process as *reinstatement of removal*. The immigrant must also wait for a longer period before they can return to the U.S. again (“Removal System,” 2022, p. 2).

There is a trend in the past three decades of the number of removals increasing, while the number of returns has decreased, beginning with former U.S. President George W. Bush’s tenure in office (Duffin, 2022, p. 31). Alarming, more immigrants are subjected to the *expedited removal* process and less so to hearings in immigration courts. According to the American Immigration Council, only 19 percent of removals in 2022 happened after hearings in said courts. The remaining 81 percent are in the hands of DHS officers, whether being *expedited removals* or *reinstatements* (“Removal System,” 2022, p. 2).

The U.S. is currently at a turning point concerning immigration policy; the last two U.S. presidents took or are taking proactive action on immigration, not seen before. According to Boundless, an immigration law firm, former U.S. President Donald Trump enacted 472 executive actions throughout his four-year term, impacting every facet of the U.S. immigration system (“State of Immigration,” 2022). Trump adopted an anti-immigration stance, claiming to put Americans, their safety, and the U.S. economy first (Boak, 2019).

Notable changes Trump implemented include limiting opportunities for asylum, requiring that immigrants attempt to apply for it in other countries on their way to the US, and Title 42, allowing border officers to deport all immigrants without proper documentation, even those seeking asylum, because of the COVID-19 pandemic (Bolter, Et al., 2022, p. 3). Moreover, Trump emphasized the need for stricter public charge vetting, where officers must consider an applicant’s age, health, family status, assets, resources,

financial status, education, and skills for green cards or visas (Bolter, Et al., 2022, p. 103). (Public charge vetting is the process for determining whether a non-U.S. citizen will depend on government assistance in the U.S.)

Current U.S. President Joe Biden, who supports immigration, is set on beating Trump's record. In just his first year in office, Biden passed 296 executive actions on immigration, 89 reversing Trump's changes. In November 2021, Homeland Security Secretary Alejandro Mayorkas, whom Biden nominated, added more flexibility to U.S. Immigration and Customs Enforcement's (ICE) enforcement guidelines, "instructing ICE officials to make individualized enforcement decisions based on the totality of circumstances and taking into consideration 'aggravating' and 'mitigating' factors in each case," i.e. focusing more on the person and not the crime. This contributed to halving the number of ICE arrests (Chishti & Bolter, 2022).

In September, Biden announced plans to streamline the asylum process, giving asylum officers, not just immigration judges, the power to deport immigrants, after interviewing immigrants who within 21 to 45 days applied for asylum (Shear & Jordan, 2022). A compromise between Democrats and Republicans is currently in the works. While the compromise seeks to preserve Deferred Action for Childhood Arrivals (DACA), it also seeks to increase border security ("Rare Opening," 2022). Similarly, the Biden administration continued to use Title 42 to deport families and single adults at the U.S.-Mexican border, despite the decline of COVID-19. The Biden administration plans to stop doing so only after a federal judge forced them to in November (Spaget, 2022).

The course of action the executive and legislative branches take on the U.S. immigration process today will have massive consequences, affecting people across the world seeking a new life in the U.S., as well as future generations. Changes, especially those passed by Congress or ruled by the Supreme Court, will be difficult to undo. Therefore, it is prudent and crucial that we evaluate the ethics behind various immigration policies before choosing a position to support. To do so, it might be helpful for some to evaluate these policies from a few classical philosophers' perspectives.

Aristotle would approach the issue from the perspective of virtue ethics. In Book II of *Nicomachean Ethics*, Aristotle writes: “[We] do not regard man as an individual leading a solitary life, but we also take account of parents, children, wife, and in short, friends and fellow-citizens generally, since man is naturally a social being” (*IP*, 12<sup>th</sup> ed., p. 466). Thus, the virtues we possess relate to our roles in society. While one extreme proposes severe and xenophobic restrictions and the other extreme proposes complete hospitality, Aristotle would be somewhere in the middle. He believes in the Golden Mean or “the means between extremes.” He says: “[We] may say generally that a master in any art ... seeks for the mean and chooses it—not the absolute but the relative mean” (*IP*, 12<sup>th</sup> ed., p. 471).

Aristotle would justify why the Golden Mean should be between the two extreme positions, as said previously, because the Golden Mean is relevant to the person or person(s) at hand; in this case, immigration is an issue relevant to the nation, and therefore Americans as a whole. Aristotle would advocate for the U.S. government to be selective of immigrants, considering whether immigrants possess virtues aligning with American ones and can integrate into American society, claiming that Americans have the right to choose who they can associate and live with.

In the vetting of unauthorized immigrants, Aristotle would combine both Biden’s and Trump’s policies. Like Biden, Aristotle would consider how the immigrant came to the U.S., how they handle the stress of being detained and questioned at the border, and overall, their personality and circumstances that led them here, even disregarding decades-old crimes that do not indicate danger and rose from the immigrants’ poor circumstances. Like Trump, Aristotle would also consider the immigrant’s age, health, family status, assets, resources, financial status, education, and skills.

With all of this in mind, Aristotle would evaluate whether the immigrant displays American virtues—such as self-sufficiency, hard work, determination, courage, and consumerism—allowing them to, as said before, integrate into American society to some extent and not live in a completely separate enclave. He would also evaluate whether the immigrant would ultimately provide more benefits to Americans than costs, such as the economy. It would not be sustainable for the U.S. to accept everyone.

Moreover, Aristotle would not agree with the xenophobic and racist language surrounding immigration. Xenophobia, no matter the extent, could not be considered virtuous. Concerning virtues and the Golden Mean, Aristotle remarks: “There are some [actions or passions] whose very names imply badness, or malevolence, shamelessness, envy, and, among other acts, adultery, theft, murder. These and all other like things are blamed as being bad in themselves ... not merely in their excess or deficiency” (*IP*, 12<sup>th</sup> ed., p. 472). Dr. Ronald R. Sundstrom and Dr. David H. Kim (2014), both philosophy professors at the University of San Francisco, state that xenophobia is “the fear of others, and in particular the fear of foreigners” (p. 23).

In their article “Xenophobia and Racism,” they note how xenophobia is distinct from racism but can overlap. They stress how ultimately xenophobia leads to civic ostracism, which is “morally condemnable” because it strips immigrants, authorized and unauthorized, “the kind of agency that befits life in a modern polity and facilitates fulfillment within it” (p. 24). Meanwhile, racist language propagates prejudices against people of different races. Both xenophobia and racism invoke hatred, envy, and even violence from Americans—the irrational hatred of a group of people due to only their status as foreigners and/or of a different race, their envy of foreigners or other races receiving “better” treatment, and the subsequent violence to put them back into their place. Aristotle would instead advocate for the U.S. government and Americans to listen to immigrants and treat them with friendliness, compassion, and temperance (*IP*, 12<sup>th</sup> ed., pp. 472-473).

On the other hand, Kant would approach the issue from the perspective of duty ethics and justice theory. In his book *Groundwork (or Foundation) of the Metaphysics of Morals*, Kant asserts that our good-will is “good in itself” and dependent on our good intentions. Humanity’s purpose is to exercise our rational faculties and perform our duty, unlike Aristotle who believes it is to achieve happiness. Ideally, our duties should align with our inclinations; if they do not align, we should perform our duty (*IP*, 12<sup>th</sup> ed., pp. 485-486). Kant elaborates on this, commenting: “I am never to act otherwise than so, *that I could also will that my maxim should become a universal law*” (*IP*, 12<sup>th</sup> ed., p. 490). In other words, the moral laws we follow, inducing us to do what is right, should apply to everyone.

Kant's whole perspective on duty ethics here stems from his belief that humanity is an end in itself. Kant emphasizes the following imperative: "*So as to treat humanity, whether in thine own person or in that of any other in every case as an end withal, never as means only*" (*IP*, 12<sup>th</sup> ed., p. 494). All things considered, Kant would argue for open borders in the U.S., accepting all immigrants aside from those that pose a danger to others' safety. Many immigrants come to the U.S. in search of a new life—escaping war, poverty, violence, and/or persecution. According to Kantian ethics, we cannot discriminate between those who possess the right to live in safe zones and who do not. Living in safety with necessities alongside being treated with basic dignity and respect are rights that all humans are entitled to. Therefore, Kant would emphasize that we cannot instrumentalize immigrants for our own ends, especially for material ones, when leveraging these basic human rights.

However, Kant would not support less restrictive immigration policies if they negatively affect the most downtrodden in the U.S. In that case, the U.S. government should direct its efforts into helping the downtrodden in the U.S. first, instead of exacerbating existing problems in the U.S., such as income inequality, by bringing in more people who need assistance. When addressing our meritorious duties towards others, Kant mentions: "Now humanity might indeed subsist although no one should contribute anything to the happiness of others, provided he not intentionally withdraw anything from it" (*IP*, 12<sup>th</sup> ed, p. 495).

Similarly, if accepting more immigrants would negatively affect the downtrodden in the U.S., it would be more efficient and beneficial to everyone to focus on those who need help the most in the U.S. before helping those outside it, instead of trying to split our resources among both groups. Fortunately, this is not the case in the U.S. The Pew Research Center projects that "as the Baby Boom generation heads into retirement, immigrants and their children are expected to offset a decline in the working-age population by adding about 18 million people of working age between 2015 and 2035" (Budiman, 2020).

Josh Boak (2019), a White House and economics reporter for the Associated Press, explains: "[Because] a steady growth in the workforce helps the economy expand, economists say fewer immigrants would equal slower growth and fewer jobs." Moreover, economists found that immigration has little effect

on wages, especially with other factors involved like “decline in unionization, an intensified push to maximize corporate profits, growing health insurance costs that supplant wages and the rise of a lower-wage global labor force.”

I, of course, support immigration. After all, immigration is integral throughout U.S. history, and not to mention, both of my parents are immigrants. Yet, I am unsure to what extent I support it, whether it be open borders or a more selective process. I still have more to learn about the current immigration process and how it came to be in the past two decades, although I vehemently disagree with the lack of support for immigrants at the border, such as a translator or attorney. Some may argue we do not have the resources, and that may be true, but I still do not believe it is right, especially when we Americans pride ourselves on having due process.

Additionally, Trump’s efforts to reduce immigration by forcing immigrants to seek asylum in other countries on their way to the U.S. goes against what the U.S. stands for in being a safe haven for immigrants and a new start. Likewise, I am skeptical of Biden’s efforts to streamline the asylum process and am worried that it will be like the expedited removal process, where immigrants have little opportunity or support to have their case heard. This is personal to me because my mother once informed me that she managed to move to the U.S. because of the asylum process.

Putting that aside, some DHS officers’ lack of respect and compassion towards unauthorized immigrants, after undertaking a difficult journey to the U.S. for a better life, is morally condemnable. It is the very least they could do before deporting them. I also have yet to hear others’ stories about immigration, especially from immigrants themselves. My own parents never discussed it much with me. How can I pass judgment on an issue that affects so many people and their livelihoods without listening to the very people impacted by it? The research behind this essay required more time than I anticipated, where I only saw the tip of the iceberg. Overall, this essay encouraged me to learn more about this topic in the future.



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