

'Barbarians at the Gates': The Moral Costs of Political Community

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Introduction

The phenomenon of 'dirty hands' is often held to be endemic to political life. Success in politics, it has been argued, requires a willingness to sacrifice our moral principles in order to pursue worthwhile goals.¹ I want to argue that the tension between morality and politics goes deeper than this. The very existence of 'politics' requires that morality is routinely violated because political community, within which political discourse is possible, is based on denying the moral claims of non-members. Political community requires borders and borders require keeping outsiders out. Yet there is no justification that we can provide to someone outside of our political community as to why they are denied membership. The price of political community is therefore the unjust exclusion of others. In a world characterized by the movement of peoples as a result of large-scale and systematic international injustices, this exclusion often involves acts that violate important obligations of compassion and respect. Thus, 'we' are the barbarians my title refers to. In order for political community to exist, we must act like barbarians at the gates. A problem of 'dirty hands' therefore lies at the very foundation of political community.

My thinking about these issues is situated in the context of the recent controversy over border protection in Australia. The arrival of a small number of largely Iraqi and Afghani asylum-seekers on Australia's northern shores has generated excessive controversy.² To many Australians, myself included, it has seemed self-evident that we are obliged to grant residency in Australia to those asylum-seekers who are genuinely refugees under the UN definition. We are also required to behave humanely and decently towards all those who have arrived

while they are waiting for their cases to be assessed. However, the Howard government has garnered a depressing level of popular support by portraying these arrivals as representing a fundamental threat to Australia's sovereignty. They have argued – correctly, in my opinion – that Australia cannot grant residency to all the 20 million individuals around the world who are acknowledged to be refugees, let alone to all those who would lay claim to Australian citizenship if they were genuinely free to do so. They have also suggested – much less plausibly – that by travelling to Australia on their own initiative, this group of asylum-seekers have 'jumped the queue' and unfairly advantaged themselves relative to other applicants. Finally, they have in effect argued – and this is completely outrageous in the particular case – that if we were to grant the claims to refuge of this group, or even to treat them decently while we considered them, we would encourage others to pursue a similar course.³ The clear implication of the government's reasoning is that meeting our obligations in this case would risk a greatly increased and possibly unmanageable number of claims to asylum by unauthorized arrivals in the future.

While, in this particular case, the argument fails as a result of the falsity of suppressed premises (it is simply untrue that we could not admit the most recent cohort of asylum-seekers without altering the character of the Australian political community, or that treating their claims properly would lead to a significantly increased influx of asylum-seekers that might do so) there is, it must be admitted, a certain plausibility to the argument in relation to the more general question of the ethics of border protection, which partially explains its political success. There is a limit on the number of people that Australia can admit while still retaining whatever it is that makes being Australian important to Australians. Given this, it seems incumbent on us to try to distribute the scarce resource of refuge in as principled fashion as possible. Finally, although I feel much less comfortable acknowledging it, it does not seem impossible that, over the longer term, the international pattern of refugee flows should be responsive to the success or failure of previous asylum-seekers in achieving residency in particular communities to such an extent that this limit might be reached.

With one or two admirable exceptions, I suspect that reputable thinkers have been disinclined to confront the implications of this structure of argument both because they have rightly been reluctant to risk being associated with a policy that is, in the current context, clearly morally repugnant and also because it seemingly offers little

hope of an acceptable solution. None the less, because it seems likely that refugee flows are only going to increase over the twenty-first century, it is imperative that we begin thinking about this matter in a concerted and critical fashion.⁴ My investigation suggests that the conflict between the moral demands of outsiders and the conditions of possibility of political community, which this argument points towards, is deep, troubling and potentially irresolvable.

Politics and morality

Before I continue, I need to make clear what I mean by 'politics' and 'morality', as I will be using these in a somewhat technical sense to refer to what I take to be related, but importantly different, spheres.

By 'politics', I mean contestation and discourse concerned with the affairs of the political community or *polis*. Politics takes place primarily among *citizens* and against the background of the law.⁵ The subjects of political dispute are the interests of citizens, which are determined within a framework of entitlements established by the law. This definition of politics implies that everything that occurs within the *polis* is political. Furthermore, because the interests of citizens are determined with reference to the institutional framework established by the political community, politics necessarily possesses a public dimension. There is an implicit reference to a 'we' in any argument between citizens. Even 'private' exchanges between citizens have a political dimension because they both affect and rely upon the background context in which other relations between citizens take place.

This conception of politics is self-evidently a communitarian one in that it identifies politics with the affairs of a particular community. There will be a number of such communities, each with their own politics. However, I want to emphasize that I do not wish to attribute any character to these communities other than that constituted by their political structures and affairs. That is, I want to disavow the communitarian tendency to identify political communities with cultures or a rich set of 'shared understandings'.⁶ On my account, the 'political community' is simply a group of people defined by its membership criteria, and its character consists only in its decisions and the procedures whereby they are reached. This qualification is important because it denies the excessive weight given to the demands of community which often follows from more substantive conceptions.⁷ As I will argue below, the only thing necessarily shared by all citizens is the fact of citizenship.

'Morality', I take to refer to our obligations to other people which have their force without reference to the specific character of the political community in which they are expressed. Where politics concerns relations between citizens, morality concerns relations between human beings. Whereas politics is inevitably partial, morality is universal. Our moral duties to others are revealed in their most fundamental form in the encounter with the Other or stranger which is explored in the writings of Emmanuel Levinas and Alphonso Lingis, among others.⁸ What the phenomenology of such encounters demonstrates is that other human beings, by the mere fact of their humanity, possess the ability to impose deep and compelling obligations upon us, of empathy, compassion and respect, among others. Most fundamentally, the encounter with the Other reveals our obligation to strive to justify our actions and attitudes towards them *to them*. Our moral obligations are essentially obligations to particular individuals.

The full force of moral claims is consequently, on this account, inexpressible. As human beings are social animals, all moral claims are expressed in language that has developed within a particular political community. However, while the form of moral claims partakes of the political, their force is distinctive. What we owe to each other morally, we owe to individuals by virtue of their humanity alone. Morality, as I have described it, is therefore a regulative ideal – at least in liberal democratic societies where universalism is thought to be a virtue. In liberal democratic societies, politics pretends to the status of the moral. This is especially the case in relation to the law, as the language of justice is where the universalist ambitions of liberalism are most overt. However, as we shall see, this is merely a pretence. When it comes to the demands of outsiders to be let into the *polis*, liberal politics falls silent.

The necessity of borders

Before I consider the tension between borders and morality, I first need to investigate the importance of borders. This may seem like an unnecessary labour. States, and the borders which divide them, are such a deeply entrenched feature of the political landscape that questioning their justification may seem both utopian and perverse.⁹ However, as a large portion of the argument below will be concerned to demonstrate that the defence of borders involves large injustices, including ignoring the urgent moral claims of individuals, it is incumbent upon me to show why I think there are none the less compelling reasons to defend

the existence of borders. Moreover, in the last decade – especially in the Australian context – the evil done in the name of ‘border protection’ has been so striking, and the injustices of the current distribution of opportunities and well-being internationally so obvious, that the justification of borders themselves should surely come into question.¹⁰

Borders, as I shall understand them, divide different political communities. They are barriers standing in the way of outsiders to entry and full participation in the affairs of a *polis*. This understanding of borders is deliberately much broader than the more familiar identification of borders with territorial divisions between sovereign states enforced by border patrols and customs officers. I want to hold that where rivers, mountains, oceans – or even cultural and/or linguistic differences – divide political communities, then these may constitute borders as much as do customs barriers at airports. The mere absence of border patrols does not serve to establish the absence of borders. Unless we keep this in mind there exists the danger, especially in countries such as Australia where geographical distance and felicitous natural features serve to establish formidable barriers to entry, that we will be deluded into thinking that it would be a straightforward matter to ‘open the borders’ without risking any of the consequences that critics of such a policy are typically concerned about.

The question of the justification of borders is also the question of the justification of the division of the world into distinct sovereign entities. States and borders stand or fall together. However, it needs also to be remembered that borders do not simply divide but also – indeed, primarily – exclude; they prevent those outside from coming in. What needs to be discussed, then, is not just the existence of separate political communities but also the justification of restrictions on movement between them.¹¹

There are five strategies of argument for the justification of borders that I wish to briefly survey here. Arguments for the justification of borders can be made 1) with reference to their role in securing an important set of political goods, or 2) to the value of the cultural goods they help preserve, or 3) based on the right to freedom of association. 4) Borders are also arguably, to some extent at least, an inevitable consequence of the existence of distinct political communities. Finally, 5) a *prima facie* case for borders can be made simply by noting how radically we would need to re-theorize our intuitions and revise our political practice in order to do without them. While, in each case, I will note some reservations about the effectiveness of each of these argu-

ments in justifying borders, their combined weight does, I submit, constitute a compelling case for the necessity of borders.

1) The least ambitious, but consequently strongest, argument for the necessity of borders draws attention to the role borders play in making possible what are generally acknowledged to be crucial, but merely, *political* goods. The practice of democracy and self-government requires the existence of a defined and distinct *polis*, whose affairs are then governed by its citizens. These ideals presuppose that a distinction can be made between the inside and the outside of a social group or geographical region. In some form or other, they require borders.

It is perhaps tempting at this point to reply that one can have a citizenry without a border. However, this is untenable. There must, ultimately, be some institution or process that determines what are the boundaries of the polity and who is – and is not – a citizen. Without this, it is not possible to conduct a vote, or to bind citizens to the results of a democratic process. Without some sort of defined boundaries to the *polis*, the practice of democracy is impossible.¹²

This purely political route is, I believe, the strongest argument for borders. However, as I have just observed, it says nothing about where these borders should go. This silence will prove troubling when we come to consider the justification (or lack thereof) for excluding particular individuals from membership of such political communities.

2) The next argument for borders does intend to establish that they should go in particular places. Perhaps the most popular argument for borders, both philosophically and historically, makes reference to their role in defending cultures. Will Kymlicka has done much, since the publication of *Liberalism, Community and Culture*, to render the claims of culture philosophically respectable even in liberal circles by linking them to the conditions of possibility of the autonomy of individuals.¹³ The historical success of nationalism has in part been achieved by constructing ‘imagined communities’ and associating these with particular cultures, or ways of life, which could then serve as a means of cementing their members’ commitment to them.

However, a distinct political community is neither necessary to, nor sufficient for, the preservation of a distinctive culture. Almost all modern nation-states are multicultural. Moreover, many of the most significant modern pressures towards cultural homogeneity transcend borders to such an extent that the cooption of state power in defence of culture by no means guarantees that cultures will maintain their distinct character. These observations problematize the justificatory route from culture to polity. Nevertheless, borders and the self-government

they make possible can play an important role in defending the distinctive character of particular cultures. Without borders, cultures are subject to pressures and historical vagaries that place their survival at risk over the longer term.

3) Another type of argument for the legitimacy of borders finds them in a presumed individual right to 'freedom of association'. The pursuit of certain goods requires organized collective activity. In order to prevent 'free-riding', it is essential that the members of the collective grant the collective the right to exclude those who do not contribute. There is a range of human activities including intimate relationships, family life and some forms of religious practice, which essentially require some form or other of *privacy* and which are jeopardized by the presence of unwanted strangers. The importance of these goods might be thought to justify a right to exclude others in the course of this association.¹⁴ An argument for borders can therefore be made simply by defending the right of political communities, considered as free associations of persons, to exclude whoever they like. There are, however, two difficulties with this form of argument, both relating to the appropriateness of generalizing from the case of a small group of individuals to a larger political community.

The first concerns the moral status of the goods that are pursued in free associations. The 'right to exclude' derives from the importance of the good pursued by the group to the well-being of its members. However, the goods pursued by political communities are primarily the political and/or cultural goods described above. This argument is, therefore, less distinct from the two surveyed above than first appears.

The second difficulty in grounding borders in political communities' right to free association concerns the nature of the association. In small associations, or in associations united by explicit commitment to a common goal, it is possible to argue that the inclusion of particular individuals may directly threaten the interests of the other members. However, in larger associations, while the admission of large numbers of persons with values contrary to those of the group may threaten the existence of the association and thus the interests of its members, in most cases the admission of any particular individual does not. This suggests that while freedom of association may justify some restrictions on mass migration, it will not be able to justify an untrammelled right of the political community to exclude those who wish to enter it. Moreover, in so far as it does ground a right to exclude others, freedom of association will only justify excluding those who deny the conditions of the association. This may be insufficient to ground restrictions on immigration in practice

because potential migrants may be willing to adopt whatever commitments are determined to be the conditions of membership.

The argument for borders from the right of individuals to free association is a complex and perplexing one. We will return to it below.

The final two arguments for borders that I wish to survey take the form of more general claims about the consequences of the relationship between borders and communities rather than the identification of goods that political communities serve.

4) The first of these proceeds from the observation that the *effects* of political community themselves establish significant barriers to people moving between communities. Political communities distinguish themselves from each other through the exercise of their power of self-determination. If, as a result of this process, or simply as the result of historical circumstances, the currency is different, the language is different, the customs are different, etc., between polities, then these things all make it harder for people to move from one place to another. The costs imposed on movement between polities by these differences are forms of borders themselves, and are sometimes sufficient to exclude those who cannot meet them.

5) A final argument for the necessity of borders simply observes just how radically our institutions and our political thinking would have to change if we were to do without them. Without citizenship – without local, or regional, or national, borders – the only political community possible is a global one. Even if we did not fear domination by those with different cultures, ideas and values than our own, would we like affairs to be decided at this level? Cosmopolitanism is a theoretically consistent and attractive politics, but when we think about what it actually involves, it loses much of its appeal. Yet any retreat from cosmopolitanism acknowledges the need for borders, in some form or other.

This all too brief survey has been intended to demonstrate that there are multiple routes to the conclusion that borders are necessary conditions of political community. I am aware that to a significant portion, perhaps the majority, of my readership it will have appeared redundant. Nevertheless, when we become fully aware of the tension between the claims of political communities and the moral claims of individuals, I believe the question must arise as to whether borders are in fact justified.

The moral cost of border protection

The central thrust of the argument that follows is that, even if they are justified, borders are morally arbitrary.¹⁵ They are arbitrary in two

senses. First, where they go on the 'map' of possible divisions of the world into classes of persons is arbitrary; how many political communities there are and what their character should be is under-determined by the available reasons.¹⁶ Second, the distribution of individuals among political communities is arbitrary; which individual(s) are members of which political communities is not governed by any principles. The second sense in which borders are arbitrary has been subject to less attention than the first despite being, I will argue, more threatening to the moral force of borders.

Borders are unlikely candidates for moral distinctions with life-or-death consequences because they are so clearly a product of historical contingency. If we are to defend existing borders then in most cases we will be defending divisions between communities that have no normatively reputable historical basis. Many borders around the world bear little or no relation to cultural or historical facts on the ground, being no more than lines drawn on the map by a previous colonial power.

There is, moreover, another, more subtle sense in which the borders of political communities cannot be justified. The social group whose interests might be thought to justify them does not exist prior to determining them. Any claims about the interests of peoples, or about self-determination, are moot when it comes to justifying the location of borders because our ability to evaluate these claims presupposes the political community, the borders of which are yet to be defined. This is a profound problem in the political philosophy of secession in particular. I mention it here because it demonstrates that there is always a significant uncertainty about the normative force of borders, especially at the 'edges' where a substantial proportion of the population may identify with a social group which extends across the borders. Of course, eventually the borders established as the result of conquest and contingency may come to define a political community, with reference to which (note here the circularity involved) they might be justified. That is, the nature and character of the community may be such that it becomes plausible to argue that it should be preserved. This is in fact reasonably likely as, by and large, 'peoples' and cultures are the product of states, and not vice versa.¹⁷ However, the normative weight these foundations can bear is surely weakened by the recognition that had historical events turned out differently, a different set of borders would now divide a different set of communities with just as much claim to a right to defend them.

Even if borders are justified because they make possible pursuit of some important good(s), there remains the problem of the distribution

of persons across borders. The onus of proof on those who wish to defend the rights of states to defend their borders is not simply to show that the existence of borders establishes some good(s), but to explain why these are made available to some persons and not others. We might call this the question of the distribution of the goods of citizenship. To appreciate fully the force of this question we must pause to consider first what, if anything, justifies the location of particular individuals within the existing grid of political communities. The answer in the overwhelming majority of cases is clearly 'nothing'. Borders enclose a group of persons who have nothing in common except that they are members of the group they define. This is especially obvious after the mass immigration that characterized the twentieth century. Within any nation, citizens speak different languages, worship different gods, value different goods. If there exists a 'national' culture, it is not one shared by all citizens.

The goods which borders make possible for citizens to enjoy and participate are neither earned nor deserved. The vast majority of individuals who are citizens of any particular nation have not chosen to be so; instead, citizenship was bestowed upon them solely due to the nationality of their parents and/or the place of their birth. If individuals within the nation participate in the collective activities that ground the claims of the nation, they do so only because they are citizens, because they have grown up within the community, or have otherwise been offered the opportunity to participate in it. Their participation in these activities therefore provides little grounds for their citizenship.

In most cases, then, citizenship is both unchosen and morally arbitrary. This means that when it comes to explaining to any particular individual why they are excluded from our community there is little that we can say. I am not denying here the arguments that I have made above for the necessity of borders, nor even that political communities possess some limited right to determine who may or may not become members. What is lacking is any justification that we can provide to the particular individuals that we excluded why we have excluded them.

If it were plausible to theorize political communities as free associations, a possible resolution of this problem beckons. Communities are under no obligation to admit particular individuals, as they are under no obligation to admit anyone at all. They are free to offer or deny membership to anyone they like and need offer no justifications for their decisions.

However, very few defenders of states' rights to control their borders are prepared to go this far. Almost all defenders of immigration controls grant the existence of obligations to admit the immediate family members of existing residents and to provide refuge to those fleeing persecution. This is sufficient to show that few people believe that states possess an untrammelled right to restrict freedom of entry – and that therefore it is reasonable to demand reasons of states when they do choose to refuse entry.

Moreover, as I argued earlier, the possibility of arguments in favour of a right to exclude on the basis of freedom of association depends on demonstrating that the goods that the community provides to its members are of sufficient importance to ground restrictions on the entry of others, and on establishing that the admission of the persons seeking entry will threaten the provision of these goods. Yet we have just seen that when we pay proper attention to the nature of political communities there is little to suggest that either of these things will always – or even often – be true. It is implausible to suggest that the ties between states and citizens are sufficiently strong to ground an extensive right to exclude others. Moreover, given the diversity of persons already within nations, it will in most cases be implausible to argue that the admission of any particular individual will threaten the conditions of possibility of the association. At most, then, the argument from freedom of association would justify the exclusion of those who were unwilling to comply with the reasonable expectations of their new home in relation to citizenship. As long as potential immigrants are willing to meet the requirements of membership in the community, the problem of justifying their exclusion to them remains.

At this point it might be argued that the distribution of citizenship across persons is not in need of justification of this sort. Whether a person is born a citizen of Australia or of Yemen, for instance, is simply a matter of contingent fact and not something which can be questioned on the grounds of justice.

This is already a weak argument because the distribution of citizenship has enormous implications for the well-being of persons and is maintained by state power. Even in the abstract, then, one would expect it to be justified. However, as I will argue below, it is when we come to consider the reality of border protection, and the denial of the moral claims of individuals that it involves, that the demand for justification becomes most obvious.

If the arbitrary nature of the distribution of persons across nations occurred only in a world in which differences in the standard of living

between nations were negligible, it might be possible to ignore it. However, our world is characterized by grotesque injustices in the international distribution of the prospects for a decent human life. Existing borders do not merely defend and maintain political community, but also defend and maintain manifest and extreme injustices of the distribution of basic goods.

Most obviously, border controls function to keep poor people out of wealthy nations and thus defend injustice. However, the role of borders in the defence of injustice is more pernicious than this. The fact that capital is typically free to move across borders, while labour is not, allows multinational corporations to shift investments to regions where wages and tax burdens are low while hampering the ability of workers to organize collectively across borders in pursuit of their interests. The presence of large communities of undocumented workers or illegal aliens, who are unable to claim the social and civil rights of other citizens, is often tolerated within national borders because it exercises a downwards pressure on wages and undermines the bargaining position of workers. Meanwhile, wealthy individuals, travelling as tourists or business migrants, are able to move around the world in pursuit of their interests with relative ease.¹⁸ In these ways borders also play a crucial role in maintaining inequality *within* – as well as between – nations.

The large-scale injustices in the international distribution of the opportunity to lead a decent life are the underlying cause of the mass migration of peoples that is characteristic of modernity. While such injustices remain, people will move and will be justified in doing so. What can we say to such people when they reach our borders and request permission to enter our community?

Barbarians at the gates

The conflict between the rights of political communities to control their borders and the rights of individuals to cross them appears in its most urgent and dramatic form in relation to the case of refugees under the UN definition, that is, persons who are fleeing persecution on the basis of their membership of a social group. Our obligations to such persons seem especially pressing, as they have no homes and often nowhere else to go.

The force of refugees' claims is, in many cases, amplified by the suffering that they have already experienced. A significant percentage of persons trying to cross modern borders die in the attempt. All of those

who arrive have left friends and family behind. Many of them have seen their relations and other members of their community raped, tortured or executed. Some have lost their loved ones in the course of the attempt to reach Australia as a direct result of the barriers that we have erected to try to prevent their entry.

Our obligations to people in these circumstances are paradigmatically moral obligations as I have identified them in this essay. They are duties to strangers rather than citizens. When asylum-seekers reach our borders, our obligations to them make themselves felt at the most basic level of duties of respect, compassion and mutual aid. The most pressing of these obligations is to attempt to explain and justify our treatment of them to them.

Yet despite the urgent moral claims that refugees make upon us, it remains true, as I conceded at the outset, that we cannot admit each and every person who can make such a claim. The number of potential claimants exceeds our capacity to offer refuge.

Thus, when we are confronted with the moral claims of persons who wish to enter our polity we have two choices. Either we let everyone in, or we refuse permission to some arbitrarily selected subset. We can only do the former at the risk of abandoning entirely any effective right to control our borders. Yet, if we do the latter we are denying the obligation that I have argued is most pressing: to explain to those whom we have excluded, why we have excluded *them*. The policy concerns which explain why it might be a bad thing to do to let them in are oblivious to the moral demands of *this* person.

This is true even if the defence of our decision to exclude some persons makes reference to what is perhaps the most powerful argument in favour of the right of (some) nations not to grant the claims of all those seeking asylum on the grounds of refugee status – the ‘fair shares’ objection. This argument seeks to limit the obligations of nations to provide asylum to their ‘fair share’, which is – roughly – determined by dividing up the global number of asylum-seekers among nations on the basis of their ability to provide asylum to them. However, no matter what we think of the virtues of this argument, it does nothing to address the question of *which* persons’ claims will be granted. The burden of justifying *their* exclusion to those who are excluded remains.

We come, finally, to the title of my chapter. If we deny the obligations that we have to strangers who are seeking asylum, then we are denying the most basic moral requirements imposed by our shared humanity. We are acting like the caricature of barbarians – those who

recognize no such obligations and who are willing to dispose of the moral claims (and lives!) of others in a wilful and callous fashion. We have become ‘barbarians at the gates’. Yet, as I have argued throughout, at some point this seems to be necessary if, in a world characterized by the presence of millions of people with legitimate claims to refuge and by the increasing global mobility of these populations, we are to sustain political community at all.

The demands of refugees are the clearest case of the moral demands of non-citizens, but other persons who do not fit the UN definition of refugees may have equally compelling moral cases to be admitted to our political community. A person who left their homeland because they were starving, or in danger of being killed due to civil war or generalized social disorder, has just as much claim to the security that we enjoy as refugees do. We also owe such people an explanation when we choose to deny them membership of our political community.

What about the person who simply *wants* to move? Don’t we have the right to exclude him/her? Do we owe them an explanation if we do choose to exclude them? I’m not sure that we do not. How we judge this matter will depend upon how we assess the balance of considerations I have been discussing here. On one hand, I have argued that political communities do possess a limited right to exclude others. It is difficult to give sense or content to this right unless it allows them to exclude those who have, by hypothesis, no pressing moral claims to be allowed entry. On the other, given how thin the justifications for the existing distribution of citizenship are we may, even in this case, have some obligation to at least explain our decision.

An ethics of proximity?

Robert Manne and David Corlett have recently suggested that the dilemma that concerns me here can be resolved by invoking an ‘ethics of proximity’.¹⁹ They argue that we are obliged to provide refuge to refugees who reach Australia’s shores, as opposed to refugees elsewhere, simply because theirs are the calls for assistance that confront us most immediately. Manne and Corlett support their argument with the example of someone who ignores the appeal for help of a particular stranger who confronts them personally. They argue that we rightly feel differently about such a person than we do a person who refuses to provide an equivalent amount of assistance to someone whom they are told is suffering far away. One reason for this is that the person who refuses the personal appeal for help reveals themselves to be hard-

hearted in a way that the person who refuses to provide assistance to the distant stranger does not.

Invoking an ethics of proximity therefore seems to offer the prospect that we can allow that we are obligated to grant residency – and ultimately citizenship – to those who reach Australian shores in desperate need of help, while denying that we are required to open our borders to all who would wish to come here.

There is some merit in this argument. Any ethics that is sensitive to the distinction between what we do and what we merely allow to happen should grant that there is a significant difference between refusing to help someone in need in front of us and failing to prevent distant injustices. Virtue ethics, in particular, will distinguish between these different cases. Moreover, what I have described as the moral demands of others are felt most keenly in personal encounters with individual strangers in need. The claims of distant strangers tend to reach us only *en masse* and in an attenuated form through a political discourse about international refugee policy or foreign aid. However, the difficulty with this purported solution is resolving how much weight it is fair to place on the concept of proximity, especially when how far away strangers are, and how loud their calls upon us are, are products of our own choices. It is unclear from Manne and Corlett's exposition whether they intend an ethics of proximity, wherein we must grant asylum to refugees who *arrive* in Australia, to be compatible with allowing governments the right to try to prevent strangers from *reaching* our borders. If it is, it risks the paradoxical implication that states will be justified in doing everything they can to discourage and prevent asylum-seekers from reaching our borders, but that once they arrive states must recognize that they were justified in trying. Such a situation would be an analogous to a householder who surrounds their home with high walls and guard dogs but cheerfully offers anyone who makes it in through the bedroom window tea. If an ethics of proximity does *not* permit governments to restrict entry in at least this fashion then it is hard to see how it differs from the advocacy of open borders and, furthermore, how it offers any real solution to the deeper problem of who should be let in.

More fundamentally, relying on an ethics of proximity to resolve the dilemma of whether and how borders are to be enforced involves an illusion about the nature of borders that I drew attention to earlier. Borders do not consist solely in territorial lines, crossing points and customs barriers but in the entire complex of factors that divide communities and work to exclude outsiders. Borders are diffuse and global

and thus we cannot identify those who have arrived at our borders with those who land on our shores in boats or aeroplanes. What counts as 'proximate' is therefore controversial. One can lodge a claim for asylum in Australia at Australian embassies and consulates, and UNHCR offices all over the world. It is simply unclear why we are less obliged to respond to these claims than we are to those of asylum-seekers who reach Australian territory.

Rather than solve the conflict between the borders necessary to political community and our obligations to those who wish to be let in, an ethics of proximity merely highlights that this is indeed a conflict between the moral and political.

Conclusion: a problem of dirty hands?

Identifying phenomena as a case of 'dirty hands' involves two claims that must both be held to be true, despite being contradictory: first, that an action or policy is evil or wrong, violating our moral principles at the deepest level, and second, that there are compelling reasons for engaging in it. These reasons are typically held to be distinctive to, or constitutive of, the political domain in which the circumstances that motivate the action arise.²⁰ The conflict I have been describing has this character. The defence of borders, especially in the face of the moral appeals of refugees, involves denying the profound obligations that we have to other people by virtue of our shared humanity. Yet the existence of borders is a condition of the possibility of political community. A problem of 'dirty hands' thus lies at the very foundations of politics.

One further question that arises at this point is exactly who it is whose hands are 'dirty' in this situation? It might be argued that the most pressing dilemma of dirty hands is confronted only by those who actually guard the borders – immigration officials and border patrols. It is undoubtedly true that these personnel should think long and hard about the morality of what they are doing and whether they are justified in doing it. However it would, I think, be disingenuous to argue that they are the only, or even the main, group who must confront the question of the morality of border protection. Responsibility for the evil done in the course of this policy is surely borne primarily by those who have decided to adopt it, that is, the government of the polity involved. Indeed, if I am right that it is a condition of the existence of political community that such evil be done, then it is actually incumbent upon those whose responsibility it is to serve the

community to confront this necessity and to get their hands dirty as a result. Of course it is a further question, beyond the scope of this chapter, how much this taint diffuses to cover the individual hands of the entire political community. It may well be that all those who benefit from the unjust exclusion of others bear some responsibility for it.

Cases of 'dirty hands' are philosophically unsightly (as, indeed, is the phenomenon itself), offending against the desire for consistency and symmetry that suffuses the discipline. The tensions which constitute them can be resolved in one of two ways. The immorality of the action or policy can be explained away by insisting that the moral injunctions against them lapse in such cases, or that the 'compelling reasons' have moral weight sufficient to justify them being overridden. Alternatively, it can be denied that there are compelling reasons for it at all – and therefore that it should be carried out. The first strategy reconciles morality and politics by giving moral weight to political imperatives, while the second does so by insisting on the priority of morality. Both, however, have the goal of reconciling them.

These strategies are both available in the case I am discussing here. Some critics will hold that the defence of borders is justified, because the goals it serves are of sufficient moral weight to justify the wrong done to those who are excluded by them. Others, more conscious of the evils done in the course of the process of controlling immigration and of the difficulties involved in justifying immigration restrictions, may prefer to resolve the tension by privileging morality over politics and embracing the ideal of open borders. My own position, however, is that we should acknowledge that the dilemma of the exclusion of non-citizens is a problem of dirty hands and think about it in that light.²¹

Acknowledgement

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Notes

- 1 For an introduction to the literature around the idea of 'dirty hands', see C. A. J. Coady, 'Dirty Hands', in *A Companion to Contemporary Political Philosophy*, ed. Robert E. Goodin and Philip Pettit, Oxford: Basil Blackwell, 1993.
- 2 An excellent account of the history of the recent Australian debate surrounding asylum-seekers is provided in Peter Mares, *Borderline: Australia's*

Treatment of Refugees and Asylum-seekers, Sydney: University of New South Wales Press, 2001. See also Robert Mann with David Corlett, *Sending Them Home: Refugees and the New Politics of Indifference*, Quarterly Essay 13, Melbourne: Black Inc., 2004.

- 3 Mares, *Borderline*, esp. chapter 6.
- 4 For a discussion of contemporary patterns of migration, their causes and possible future trends, see David Held, Anthony McGrew, David Goldblatt and Jonathon Perraton, *Global Transformations: Politics, Economics and Culture*, Cambridge: Polity Press, 2000, chapters 6, 7 and 8.
- 5 Aristotle, *Politics*, trans. Ernest Baker, rev. R. F. Stalley, Oxford: Oxford University Press, 1998, Book III, chapters 1–5.
- 6 See, for instance, Alasdair MacIntyre, *After Virtue*. Notre Dame: University of Notre Dame Press, 1981; Michael J. Sandel, 'The Procedural Republic and the Unencumbered Self', in *Communitarianism and Individualism*, ed. Shlomo Avineri and Avner De-Shalit, Oxford: Oxford University Press, 1992.
- 7 Nancy L. Rosenblum, 'Pluralism and Self-Defense', in *Liberalism and the Moral Life*, ed. by Nancy L. Rosenblum, Cambridge, MA: Harvard University Press, 1989; Allen Buchanan, 'Assessing the Communitarian Critique of Liberalism', *Ethics* 99 (1988/89).
- 8 Alphonso Lingis, *The Community of Those Who Have Nothing in Common*, Bloomington and Indianapolis: Indiana University Press, 1994; Emmanuel Levinas, *Entre Nous: On thinking-of-the-other*. London: Athlone Press, 1998, and 'Ethics as First Philosophy', in Sean Hand (ed.), *The Levinas Reader*, Oxford: Basil Blackwell, 1989.
- 9 Veit Bader, 'Citizenship and Exclusion: Radical Democracy, Community, and Justice. Or, what is wrong with Communitarianism?', *Political Theory* 23 (1995), p. 214.
- 10 There has been an explosion of interest in questions related to the moral status of community and nation and to the justification of borders since the early 1990s, spurred in part by Will Kymlicka's work and in part by events in Europe and the former Soviet Union (Daniel M. Weinstein, 'Is there a Moral Case for Nationalism?', *Journal of Applied Philosophy* 13 (1996), p. 88). For a useful starting point, see Warren F. Schwartz (ed.), *Justice in Immigration*, Cambridge: Cambridge University Press, 1995.
- 11 Louis Michael Siedman, 'Fear and Loathing at the Border', in *Justice in Immigration*, ed. Warren F. Schwartz, Cambridge: Cambridge University Press, 1995.
- 12 Robert Sparrow, 'Borders, States, Freedom and Justice', *Arena Magazine* 66 (August–September 2003).
- 13 See, for instance, Will Kymlicka, *Liberalism, Community and Culture*, Oxford: Oxford University Press, 1989, and *Multicultural Citizenship*, Oxford: Oxford University Press, 1995.
- 14 A useful early discussion of this argument is contained in James L. Hudson, 'The Ethics of Immigration Restriction', *Social Theory and Practice* 10 (1984).
- 15 Mark Tushnet, 'Immigration Policy in Liberal Political Theory', in *Justice in Immigration*, ed. Warren F. Schwartz, Cambridge: Cambridge University Press, 1995.
- 16 Weinstein, 'Is there a Moral Case for Nationalism?'

- 17 Chandran Kukathas, 'Are There Any Cultural Rights?' *Political Theory* 20 (1992).
- 18 My argument here draws on Sparrow, 'Borders, States, Freedom and Justice'.
- 19 Manne with Corlett, *Sending Them Home*.
- 20 Anthony P. Cunningham, 'The Moral Importance of Dirty Hands', *The Journal of Value Inquiry* 26 (1992); C. A. J. Coady, 'Politics and the Problem of Dirty Hands', in Peter Singer (ed.), *A Companion to Ethics*, Cambridge, MA: Blackwell, 1993; Coady, 'Dirty Hands'.
- 21 I wish to emphasize that while I have argued that it is a necessary condition of political community in a world characterized by deep injustices that that community denies the urgent moral claims of non-citizens, I have said nothing about the politics of any particular policies to defend borders. This chapter should therefore not be seen as a defence of the current Australian government's racist and discriminatory 'border protection' policy. It is quite clear that granting citizenship to all the recent cohort of asylum-seekers in Australia would not threaten the conditions of political community in Australia in the slightest. The only policy I believe is ruled out by the demands of political community is a policy of genuinely 'open' borders. However, as I have argued, anything short of this policy inevitably involves us in the unjust exclusion of non-citizens and thus raises the dilemma I have here described.

11

Lying and Politics

David W. Lovell

I

Popular dissatisfaction with politics and politicians in liberal democracies seems to be a phenomenon of increasing interest but disputed significance. Such dissatisfaction is comprised of a range of discontents, including disappointment that a preferred candidate or party was not elected to office; opposition to particular government decisions; outrage at so-called 'broken promises', and claims that some or all politicians have engaged in inappropriate behaviour to gain, retain or benefit from public office. The suspicion that politicians lie is an unmistakable element in this amorphous compound of dissatisfaction, and the one on which this chapter focuses. I do not propose to hazard whether on account of popular dissatisfaction generally politics is now in crisis (though, like Goot,¹ I doubt it), but rather to isolate and examine the validity and weight of the charge of lying itself.

The adversarial nature of electoral politics undoubtedly contributes to citizen dissatisfaction, especially when politicians themselves routinely accuse each other of the misdeeds of which they are all suspected. We may gauge politicians' reputation as liars by noting some broader measures of their perceived 'honesty'. For example, in a poll conducted in September 2004, only 9 per cent of Australians surveyed believed that Federal members of parliament had high or very high standards of honesty and ethics.² A poll by Gallup International in mid-2004 reported significant levels of distrust in politicians around the world, with 76 per cent of Germans and 90 per cent of Poles surveyed believing their political leaders were dishonest.³ A popular joke reinforces such statistics: 'How do you know when politicians are lying? When their lips are moving!' Nevertheless, honesty as such