

Münster Lectures in Philosophy

Matthias Hoesch  
Nadine Mooren *Editors*

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# Joseph Carens: Between Aliens and Citizens

 Springer

# Münster Lectures in Philosophy

Volume 6

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Department of Philosophy, Westfälische Wilhelms-Universität Münster,  
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Matthias Hoesch • Nadine Mooren  
Editors

# Joseph Carens: Between Aliens and Citizens

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# Preface

The present volume is the result of the 22nd Münster Lectures in Philosophy held with Joseph Carens. In November 2018, Joseph Carens was a guest at the Department of Philosophy and the Cluster of Excellence “Religion and Politics” at the Westfälische Wilhelms-Universität Münster, where he gave an evening talk and joined a two-day colloquium dedicated to his work. The papers presented in the colloquium had been prepared by graduate students from the Department of Philosophy as the result of several months’ engagement with Carens’s philosophy in seminars and discussion groups. This volume comprises an introduction that outlines Joseph Carens’s Political Philosophy, the evening talk that Carens gave, the papers presented at the colloquium, and Carens’s detailed replies to the critical remarks made by students.

Joseph Carens is rightly regarded as the “founding father” of the ethics of migration, and is still undoubtedly one of the most influential writers in the field. His preoccupation with the pressing issues of Western democracies today, and with the normative challenges of distant cultures, made him an appropriate choice as guest of the Münster Lectures in Philosophy. It has probably never been more important than today to motivate students to engage in philosophical arguments concerning issues of immigration and cultural pluralism, and to initiate public discussions informed by ethical reasoning. Joseph Carens’s work, as well as his intellectual engagement during his stay in Münster, gave proof to the fact that ethics has plenty to contribute to public discourse and political deliberation.

Münster, Germany  
December 2019

Matthias Hoesch  
Nadine Mooren

## Editors' Acknowledgments

The *Münster Lectures in Philosophy* depend on the efforts of many people and several institutions. First of all, we would like to thank all the graduate students who participated in the colloquium. It is their enduring zeal and enthusiasm that make the *Münster Lectures in Philosophy* so worthwhile. We would also like to thank all colleagues and students from the Philosophy Department for attending the colloquium and becoming involved in the philosophical discussions.

Since 2014, the *Münster Lectures* and the accompanying book series documenting the colloquia have been generously supported by Springer International Publishing. Our thanks go to Diana Nijenhuijzen, Alexander James, and their colleagues who have been a great help in answering the questions that arose as the book was being prepared.

The *Münster Lectures* in 2018 were jointly hosted by the Department of Philosophy and the Cluster of Excellence "Religion and Politics." We are very grateful for all the financial and organizational support that they provided. We were very happy to be able to pool the resources and competences of both institutions, and would like to thank in particular Iris Fleßenkämper, Judith Grubel, Claudia Güstrau, Mareike König, Sibille Mischer, and Tanja Uekötter, who helped us solve all the organizational and administrative problems that arose.

During the whole planning process, Johannes Müller-Salo kindly shared his know-how in organizing the *Münster Lecture*. Corinna Triller and David West gave us indispensable language support, from the preparation of the presentations up to the revision and language correction of the final manuscript. Stefan Klatt translated the abstract issue of the evening talk into a witty and appealing poster. Manon Westphal from the Department of Political Science was involved in preparing the presentations of the colloquium.

The student assistants Jeremias Düring, Yvonne Elger, and Anna Kahmen gave us excellent support in planning and running the event, as well as in preparing the manuscript for publication. Besides working on their own papers, they also relieved us of many duties and responsibilities, thereby helping the whole project run smoothly and successfully.

Of course, our special thanks go to Joseph Carens himself for his readiness to accept our invitation as the 22nd Münster Lecturer. We could not have wished for a more agreeable guest. His enthusiasm, patience, and desire to discuss the intricacies of his theory and philosophical interests led to a fruitful and inspiring event for all its participants, and to the lively debates documented in the present volume.



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Joseph H. Carens

## Abbreviations of Carens's Works

- AAPT Carens, Joseph H. 2015. Alternative Approaches to Political Theory. A Response to Miller, Bauböck, and Abizadeh. *Political Theory* 43 (3): 401–411.
- AC Carens, Joseph H. 1987. Aliens and Citizens: The Case for Open Borders. *The Review of Politics* 49 (2): 251–273.
- CA Carens, Joseph H. 2004. A Contextual Approach to Political Theory. *Ethical Theory and Moral Practice* 7 (2): 117–132.
- CCC Carens, Joseph H. 2000. *Culture, Citizenship, and Community. A Contextual Exploration of Justice as Evenhandedness.*
- EESM Carens, Joseph H. 2015. The Egalitarian Ethos as a Social Mechanism. In *Distributive Justice and Access to Advantage. G. A. Cohen's Egalitarianism*, ed. Alexander H. Kaufman, 50–78. Cambridge: Cambridge University Press.
- EMIM Carens, Joseph H. 1981. *Equality, Moral Incentives, and the Market. An Essay in Utopian Politico-Economic Theory.* Chicago: University of Chicago Press.
- EoI Carens, Joseph H. 2015. *The Ethics of Immigration.* Oxford: Oxford University Press.
- IoI Carens, Joseph H. 2005. The Integration of Immigrants. *Journal of Moral Philosophy* 2 (1): 29–46.
- IRS Carens, Joseph H. 2010. *Immigrants and the Right to Stay.* Cambridge: MIT Press.
- M&M Carens, Joseph H. 1989. Membership and Morality. Admission to Citizenship in Liberal Democratic States. In *Immigration and the Politics of Citizenship in Europe and North America*, ed. William R. Brubaker, 31–50. Lanham Md.: Univ. Press of America.
- MRS Carens, Joseph H. 2007. Wer gehört dazu? Migration und die Rekonzeptualisierung der Staatsbürgerschaft. In *Bürgerschaft und Migration. Einwanderung und Einbürgerung aus ethisch-politischer Perspektive*, ed. Simone Zurbuchen, 25–52. Zürich: Lit.

- QN Carens, Joseph H (Ed.). 1995. *Is Quebec Nationalism Just? Perspectives from Anglophone Canada*. Montreal: McGill-Queen's University Press.
- RNCER Carens, Joseph H. 2019. *On the Relationship between Normative Claims and Empirical Realities in Immigration*. In *Proceedings of the 2018 ZiF Workshop. Studying Migration Policies at the Interface between Empirical Research and Normative Analysis*, ed. Matthias Hoesch und Lena Laube, 13–29. Münster: ULB Münster (miami.uni-muenster.de). doi: 10.17879/15199614880.
- SPD Carens, Joseph H. 2003. An Interpretation and Defense of the Socialist Principle of Distribution. *Social Philosophy and Policy* Vol. 20, No. 1: 145–177.

**Part I**  
**Introduction**

# Chapter 1

## Between Aliens and Citizens. An Outline of Joseph Carens's Political Philosophy



Matthias Hoesch and Nadine Mooren

**Abstract** The text outlines Joseph Carens's Political Philosophy and is the introduction to the volume *Joseph Carens. Between Aliens and Citizens* which comprises a critical discussion of Carens's work as well as his detailed replies.

**Keywords** Cultural pluralism · Ethics of migration · Joseph Carens · Socialist principle of distribution

Born in 1945, Joseph Carens is widely known today in political theory and philosophy for his contributions to the ethics of migration. He is known particularly for his claim that, in principle, justice requires states to open their borders to everyone who wants to enter. However, even a brief glance at his biography and bibliography shows that the ethics of migration is only one of the fields of academic debate to which Carens has made a significant contribution.

In his dissertation, Carens reflected on the cogency of socialism and the possibility of conceiving of an egalitarian state based on the socialist principle "From each according to abilities, to each according to needs". The dissertation, originally submitted at Yale University, was published in 1981 as *Equality, Moral Incentives, and the Market* (EMIM). Although Carens has largely written within the framework of liberalism since his dissertation, he has also recently returned in several papers – such as "An Interpretation and Defense of the Socialist Principle" (SPD, published in 2003), and "The Egalitarian Ethos as a Social Mechanism" (EESM, published in 2015) – to the socialist idea, thus suggesting that he does

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after all cherish the idea that the socialist principle holds a great deal of truth in terms of justice.

After his PhD, Carens taught at Princeton University, Lake Forest College, and North Carolina State University. It was only after moving to Canada in 1985 as a Visiting Assistant Professor in the Department of Political Science in Toronto (where he has had a full professorship since 1993) that he began to engage in an issue that would assume a prominent place in his research for many years to come: namely, how can different cultures live together in a modern state? This issue was no doubt suggested to Carens by his experiences in Canada, where there was fierce debate about the rights of native tribes and about making special arrangements for the Francophone area of the country. He edited *Is Quebec Nationalism Just? Perspectives from Anglophone Canada* in 1995. His book *Culture, Citizenship, and Community* (CCC), published by Oxford University Press in 2000, also dealt with the issue of cultural pluralism, and was in part a reaction to Will Kymlicka's approach to the same issue.

Carens already began to think about the issue for which he has become most well-known – namely, immigration – in the 1980s. Provoked by Michael Walzer's strong affirmation of a state's right to admit immigrants on the basis of its preferences, Carens wrote "Aliens and Citizens. The Case for Open Borders" (AC, published in 1987) as the first philosophical attempt to argue for open borders. Carens has since addressed further questions to do with the relation between aliens and citizens that lie beyond the open borders claim. Not least, and drawing on his personal situation as a permanent resident in Canada, he discussed how people should be treated once admitted as immigrants, how the costs of integration should be shared between aliens and citizens, and how those people who live in a country without official permission to do so should be treated.

*Immigrants and the Right to Stay* (IRS) appeared in 2010. Most important for current debates, however, is *The Ethics of Immigration* (EoI), which was published by Oxford University Press in 2013, since it condenses many years of intense work on the issue of migration, and provides the most comprehensive discussion to date of the normative issues raised by immigration. The book has since won numerous prizes, and the *Journal of Applied Philosophy* (2016), *Political Theory* (2015), *Ethical Perspectives* (2014), as well as the blog *Crooked Timber* (2014), have published symposia on the book. In 2015, Carens was made a fellow of the Royal Society of Canada.

In what follows, we will briefly introduce the main ideas and central arguments of Carens's work – those that are also the subject matter of this volume's investigations. While the various papers in the volume address Carens's theoretical conceptions in more detail, we will attempt here to provide a more general overview of the areas of study that Carens has reflected upon philosophically. In addition, we indicate in our footnotes where particular chapters in this volume deal with these areas of study in more detail. The first section is dedicated to the socialist principle (1); the second, to cultural pluralism (2); and the third, to migration (3).

## 1.1 The Socialist Principle of Distribution

Marx coined the phrase: “From each according to his ability, to each according to his needs”. Irrespective of the role that Marx intended the phrase to play in its original context, it is possible to interpret this phrase as a principle of the just distribution of income and burdens: in a just society, the phrase suggests, everybody contributes according to their abilities, and everybody receives resources according to their needs. Thus, justice requires people to contribute within the range of their individual possibilities, and it requires states to assign resources in proportion to particular needs. Understood like that, the phrase can be called the socialist principle of distribution (see SPD, 145).

The socialist principle has not attracted much attention in contemporary political philosophy: Rawls, Nozick and the Utilitarian thinkers exclude the socialist principle from the sphere of debatable theories; they do not even mention it as a noteworthy proposal of what justice could require. Carens, however, believes that the socialist principle is at least as promising a candidate (not to say, the best candidate) to explain the concept of distributive justice.

But this does not mean that Carens wants liberal states to adopt the principle immediately. On the contrary, given that the world is as it is now, he sympathizes with a Rawlsian conception of justice. According to Carens, though, Rawls's theory is convincing not because of eternal truths. Rather, it owes its persuasiveness to particular empirical facts from motivational psychology (see SPD, 168–176). If Rawls is right in thinking that most people today work more efficiently if their income depends on the success of their work, then we might have reasons to offer special income for good work. However, it is very important to note that these facts from motivational psychology are not immutable, but vary from time to time and from society to society. People used to be motivated by other reasons, and we can easily imagine societies whose motivational set-up deviates from that of contemporary societies (see EMIM, 103–105).

According to Carens, motivational psychology depends at least in part on the “ethos” of people, i.e. on their beliefs about what has value and how they should live. It is crucial to note that *every* theory of justice presupposes some kind of motivational psychology, and thereby some assumptions about the ethos of a society (see EESM, 62). For example, the theory of democracy presupposes that many people are willing to engage in democratic debates and to accept, to some degree, majority decisions. Thus, claiming that the socialist principle requires a particular ethos of a society does not imply acknowledging any disadvantage of socialism, compared with competing theories of justice.

Now, according to Carens, a well-understood version of the socialist principle yields a defensible principle of justice, given that people have a socialist ethos that motivates them to act in ways compatible with the socialist principle. However, is it really conceivable that there can be a socialist ethos that makes socialism work in practice? Critics emphasize that, without a free market, there will always be a central planned economy, mismanagement, and illiberal interference in people's lives.



Carens's aim is to counter that line of reasoning by means of a thought experiment that is meant to show how the "socialist ideal is compatible with a deep commitment to individual freedom" (SPD, 145). In a liberal capitalist society, people are motivated to a certain degree by the attempt to increase *their own* income. Now, we can imagine a world where exactly that item of motivational psychology is replaced by the attempt to contribute as much as possible to the wealth of *society*. The same force that leads people these days to act according to their self-interest would then lead people to act for everybody's benefit. Suppose we had a society with a free market and non-egalitarian pre-tax incomes, as we know it, except that the incomes in that fictive society were taxed in a way to make after-tax incomes egalitarian, with every member of society earning the same. Given that motivational psychology works as described, people in that fictive society would act exactly the same way as they do today, take up the same professions and buy products according to the same preferences, the only difference being that everybody would have an equal income. Since, according to Carens's *EMIM*, egalitarian incomes are the best approximation to what everybody needs, such a society would indeed be governed by the socialist principle, without being less efficient or having less individual freedom than today's capitalist societies.

To be sure, the socialist society envisioned is more a utopia than a realistic political aim. The thought experiment, however, is meant to prove that the socialist principle can be combined with the advantages of free markets. Thus, we can rule out the objection to the socialist principle mentioned, and plausibly hold that socialism is what justice requires in principle. This, in turn, implies that we should at least try to change the ethos of people *somewhat* towards the socialist ethos.

## 1.2 Cultural Pluralism

Conflicts between cultural groups have become an important theme in philosophical debates since Kymlicka's liberal justification of cultural rights at the latest (see Kymlicka 1989, 1995). Carens's diagnosis is that normative discourse suffers from simplifications, and this is why he has developed what he calls the "contextual approach".<sup>1</sup> Its main idea is that normative principles have to be seen in relation to real cases. What counts as a political problem, and what is implied by a normative concept, depends in part on the context. Therefore, it is only by considering particular contexts that we can evaluate normative claims – whereas analytical philosophy tends to disregard contexts deliberately in order to reach supposedly clear concepts. To tighten the central claim of *Culture, Citizenship, and Community*, Carens suggests that "we do not really understand what general principles and theoretical

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<sup>1</sup>This subject is addressed in this volume by Elger/Zurwehne (Chap. 7) and Pöld/Ünlü/Zemke (Chap. 8). Carens explains his contextual approach as well as his broader methodological aspirations in greater detail in his replies that make up the final part of this volume.

formulations *mean* until we see them interpreted and applied in a variety of specific contexts" (CCC, 3).

At the same time, the contextual approach tries to avoid a problem that seems to be similar to what Wittgenstein once described as a "one-sided diet" of examples, by which he meant that one of the main problems of philosophy is that it "nourishes" its "thinking with only one kind of example" (Wittgenstein 1995, § 593, 155). Carens can be said to apply Wittgenstein's general observation to the more specific field of political philosophy, demanding that philosophers work with a set of real examples of political problems, rather than with stipulated thought experiments only. Furthermore, Carens warns us not to fall into the trap of rashly generalizing familiar impressions and claims, as these might make "sense only in relation to a limited set of cases" (CCC, 3).

When Carens moved from America to Canada, he came to see how particular political contexts and cultural identities shape moral ideas and philosophical thinking about political practices and institutions. These personal experiences led to a real systematic challenge – namely, one that picked out our (more or less) *familiar* approach to political theorizing as a problematical issue of its own. His pointed remark that "Rawls could not have been a Canadian" (CCC, 5) expresses his idea that we should quicken our sense of how cultural contexts give priority to certain issues while disregarding others. Most importantly, this attitude is due to the fact that such cultural imprints also bear on our eventual understandings of what justice requires. In Carens's words:

Whatever one's views about Quebec and French language issues, no Canadian would think it appropriate to ignore the problem of language in a comprehensive discussion of justice, just as no American writing about justice would leave out the issues of race and religion. Similarly, questions about cultural minorities pressed themselves upon me much more forcefully in Canada simply because my daily paper would often contain stories about aboriginal people or about Quebec that brought these issues to the fore (CCC, 5).

Hence, Carens advises political philosophers to reflect on *unfamiliar* cases, where they are not biased by their own range of experience. Indeed, such unfamiliar cases might serve as a test of familiar conceptions, uncovering their implicit and frequently overlooked presuppositions (see CCC, 5). This is why Carens addresses not only problems that have already attracted a great deal of attention in the literature, such as the debates on cultural politics in Quebec, the rights of native tribes, and a just treatment of Muslims in liberal democracies.<sup>2</sup> He also deals with one very unfamiliar case – namely, the history of Fiji, the small island state in the South Pacific. Carens's chapter on Fiji explores how the particular history and conflicting moral claims of the aboriginal Fijians and the 'Indo-Fijians' (the latter brought to Fiji from India as indentured labourers under the British colonial regime in the nineteenth and twentieth centuries) challenge liberal understandings of citizenship and political legitimacy. Carens dedicates sixty pages to the chapter, which would eventually become his favourite chapter in the book.

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<sup>2</sup>Carens's claims about the fair treatment of Muslims are challenged in this volume by Güttner/Heying/Luangyosluachakul (Chap. 4).

All of his case studies aim to set out an idea of justice that he calls *justice as evenhandedness*. Taking sides with feminist theorists, Carens emphasizes the importance of judgements that strive to be “contextually sensitive” by responding to “the claims that arise from different conceptions of the good, including matters of culture and identity” (CCC, 8). Thus, every conflict to be solved needs diligent exploration of the interests of the individuals and cultural groups involved, and argument should always be conducted from an impartial point of view – in other words, from a perspective precisely between aliens and members of a cultural group. Normative answers are to be found more in a comprehensive understanding of the particular interests at stake than by means of general liberal principles or an abstract demand for neutrality. For example, Carens argues that the language policies in Québec aiming at the protection of a culturally distinct Francophone society are defensible as long as they respect basic individual freedoms and go hand in hand with a commitment to equality of opportunities for those who, by origin, do not belong to the Francophone group. In the Fiji case, to give a second example, justice as evenhandedness leads Carens to agree with some (to a certain extent) antiliberal policies to regulate the sale of real property, on condition that these policies are likely to increase the well-being of the natives (see CCC, 227–232).<sup>3</sup>

### 1.3 The Ethics of Migration

The issue of migration does not have a long history in philosophy. Apart from a few remarks, the great names in the history of philosophy have not addressed normative questions arising from migration. This is why Carens, together with Michael Walzer, counts as the founder of the philosophical discipline going by the name of the ethics of migration. Almost every moral debate concerning the relationship between aliens and citizens draws at some point on Carens’s texts – this applies to debates concerning the moral claims of immigrants and of host societies, as well as to debates on who should be allowed to enter a country.<sup>4</sup>

#### 1.3.1 *Citizenship and Integration*

What is the nature of citizenship and who should be a citizen? According to Carens, the moral right to be a citizen is based on social membership – the fact that a person either has become a member of society or, in the case of newborns, has the prospect

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<sup>3</sup>The arguments used to justify these policies are critically discussed in this volume by Jeggle/Vogt-Reimuth (Chap. 3).

<sup>4</sup>For a condensed summary of Carens’s claims about immigration, see also Chap. 2 of this volume.

of becoming a member, constitutes the right to be a full citizen.<sup>5</sup> At first sight, this theory might sound uncontroversial. It does have important implications, however: since the children of resident non-citizens have the same prospect of becoming members of the society as the children of resident citizens, they should, according to Carens, be treated in the same way as citizens – that is to say, the children of resident non-citizens should automatically become citizens at birth.

This suggests that Carens rejects *ius sanguinis* – the widespread arrangement by which children ‘inherit’ their citizenship from their parents. However, even though Carens condemns the view that citizenship is linked to race, or to something that can be transmitted genetically, he does not reject all forms of *ius sanguinis*. In his view, some aspects of *ius sanguinis* are defensible because they protect some fundamental interests of children that would otherwise be violated. Suppose a couple has lived in their home country for a long time, but then moves to another country where they have a child. The child has grandparents in her parents’ country of origin, and her parents might want to move back at a later point of time. *Ius sanguinis* correctly attributes the parents’ citizenship to the child, enabling her to move to her parents’ country of origin whenever she wants to. At the same time, of course, it is likely that the child will become a full member of her present country of residence – at the latest, when she goes to school. That is why Carens opts for dual citizenship.<sup>6</sup>

Carens’s discussion of citizenship at birth brings to light a principle that he uses several times: namely, differential treatment of citizens and non-citizens requires justification. One of Carens’s most powerful personal experiences as a permanent resident in Canada was that it did not really matter that he was *not* a citizen, since he enjoyed most of the rights and privileges that citizens have. A significant part of his intellectual work has attempted to bring to light the moral basis of this equal treatment of foreigners, and to call for equal treatment in all those areas where Western states still give unwarranted privileges to their citizens. One such privilege is precisely the birthright to citizenship: if the children of citizens automatically gain citizenship at birth, this should apply to the children of resident non-citizens as well, as long as there are no weightier reasons against. This kind of argument characterizes many passages in Carens’s work (e.g. EoI, 32–34). Just to mention one further example that illustrates Carens’s way of reasoning: if certain standards of health care or worker protection apply to citizens, then why should there be different standards for non-citizens (say, for guest workers)?

Some rights are of course membership specific. In order to be entitled to the benefits of a pension scheme, a person has to pay into the scheme for a number of years. Thus, a person who has only recently arrived is not entitled to the same benefits as those who have been part of the system for many years. Other rights are not

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<sup>5</sup>The temporal element of Carens’s view is discussed in this volume by Müller-Salo (Chap. 6), while Bonberg/Rensing (Chap. 5) argue that Carens should treat voting rights differently from other rights linked to citizenship.

<sup>6</sup>See EoI, Chap. 2. Carens already points out at length in *CCC* (Chaps. 7 and 8) that citizenship should be understood in ways that are compatible with multiple memberships and overlapping identities.

membership specific, however. The state where a person lives has to protect that person's life and safety, regardless of how long she has lived there.

In the context of irregular migrants (to avoid stigmatization, Carens refuses to speak about 'illegal' migrants), this leads Carens to a major political demand: states should install a firewall between those government agencies that stand for the protection of human rights, and those that monitor immigration law. His justification is that immigrants are often unable to claim their rights to protection because they fear sanctions by the immigration agencies – for example, women who have been raped will not go to the police if they fear being deported. Only a strict firewall between these agencies would enable these often extremely vulnerable people to inform the police about a crime to which they have been a victim (see EoI, 132–135).

### *1.3.2 The Ethics of Admission Within the Conventional View*

As we have already said, when it comes to the question of who should be admitted to a country, Carens is a defender of open borders. However, he often sets aside the issue of whether immigration restrictions can be justified at all. Most people do not believe that open borders are morally required. Instead, they think that states have the right to restrict immigration in a discretionary way – Carens calls this the Conventional View. Although Carens holds the Conventional View to be deeply misled, he nevertheless addresses questions that arise on condition that the Conventional View were valid.

With regard to the politics of admission, what moral demands do advocates of the Conventional View have to acknowledge? When it comes to questions of admission, states are obviously not completely free from moral constraints even within the Conventional View. There are two issues at stake here:

First, the rules according to which states pick out those whom they admit must be non-discriminatory. To use an easy case, the respective rules cannot be based on race, religion or sexual orientation; however, they may be based on language skills, family ties, and economic prospects (see EoI, 174–185).

Second, there are some groups of people that, even within the Conventional View, cannot be excluded. Saying that states generally have a discretionary right to exclude is not to say that there are no exceptions to this right. Carens addresses two possible exceptions: people who have a claim to enter via family reunification, and refugees.<sup>7</sup>

Let us just add a few words concerning the latter case. Adopting a broad definition of who counts as a refugee, Carens argues that liberal states have strong obligations towards refugees for several reasons. First, there is a humanitarian duty to assist those in need, and, in the case of refugees, that duty requires states to offer

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<sup>7</sup>That Carens should add victims of historical injustice to the list of exceptions is the argument made in this volume by Urselmann/Schwabe (Chap. 9).

them protection and a new home. Second, Western states are in many cases involved in situations that make flight and the seeking of refuge necessary, with this causal connexion giving rise to special responsibilities. Third, Carens believes that the duty to admit refugees also “emerges from the normative presuppositions of the modern state system” (EoI, 196) – if the world is organized in a way that divides all territory between a number of states, then these states are obliged to care for those who cannot find protection in their countries of origin.

States meet their obligations towards refugees primarily by complying with the principle of non-refoulement. In order to achieve a just distribution of the burdens involved in admitting refugees, and, even more important, in order to discourage states from interpreting asylum laws too narrowly, Carens argues that, after the asylum claims have been examined by the agencies in charge, resettlement into another country should become the standard case. If the state that makes the decision is not identical with the state that has to admit the asylum seeker in the case of a positive decision, then there is no incentive to reach negative decisions by all conceivable means (see EoI, 216–217).

### ***1.3.3 The Arguments for Open Borders***

The claim for open borders is probably Carens's most well-known claim; it is nonetheless also his most contested. Originally introduced in the 1987 paper “Aliens and Citizens. The Case for Open Borders” (AC), it triggered the philosophical debate on migration. Yet, before its publication, the paper had been rejected for the most curious of reasons: some reviewers said that Carens's claims were obviously too false to be published, while others said that the claims were obviously too right and therefore not interesting enough to be published. Once published, though, the paper soon became the focus of a new philosophical debate, was reprinted at least nine times, and was translated into German, French and Spanish.

In his recent book *EoI*, it is only in the final chapters that Carens took the ideas of the paper up again. While most of the book argues within the Conventional View (the view that states have the right to restrict immigration in a discretionary way), the last chapters aim to challenge the Conventional View by defending the moral necessity of international freedom of movement. Interestingly, the argument for open borders as it is presented in *EoI* both continues *and* reworks the original argument from 1987.

Common to both versions of the argument for open borders is Carens's comparison of citizenship in the modern Western world to the privileges of the feudal estate system of the past. Sketching this analogy, Carens wants us to compare the disadvantages produced by contemporary social arrangements and political practices for people born in poor countries in Asia or Africa to the situation of the peasantry in the Middle Ages. Like a feudal birthright privilege, restrictive citizenship in Western liberal democracies is “an inherited status that greatly enhances one's life chances”,

which is – again like birthright privileges – “hard to justify when one thinks about it closely” (AC, 252; see also *EoI*, 226).

In his paper from 1987, Carens adds to this a discussion of three contemporary and well-recognized approaches from political theory, showing that each approach supports the claim for (at least relatively) open borders. He shows in detail that his claim is supported by the approaches of Robert Nozick and John Rawls, as well as by Utilitarianism. According to Nozick, all individuals have the same natural rights, and the state has no right to prohibit someone from entering a territory if she happened to be born somewhere else, as long as no private property is violated (see AC, 252–254). Behind Rawls’s “veil of ignorance”, everyone would opt for rules that maximize the position of the most disadvantaged party, and, according to Carens, would therefore press for the right to migrate to be recognized among the basic liberties, because that right significantly improves the situation of the disadvantaged (see AC, 258).<sup>8</sup> Utilitarianism, in Carens’s view, cannot provide any arguments for immigration restrictions, either. On the contrary, it can actually provide support for open borders, since economic gains can probably best be increased through free mobility (see AC, 263).

The case for open borders that Carens made some 25 years later in chapter 11 of *EoI* does not repeat that threefold argument from 1987, but adds a new argument to the feudal analogy. The reason seems to be that Carens intends his arguments in *EoI* to be independent of particular theories of political philosophy. Instead, he bases them on widely accepted assumptions about democratic values – values that are part of an overlapping consensus of different understandings of political issues. In other words, Carens intends in *EoI* to convince not so much scholars of political theory, but members of Western democratic societies. Thus, the new argument does not immerse itself in concepts from controversial theories, but rather starts from Art. 13 of the Declaration of Human Rights, which states that every person has the right to move freely within the state where she lives. Carens claims that every justification of that right of national freedom of movement is also a justification for global freedom of movement, to the effect that everybody who affirms Art. 13 should also acknowledge global freedom of movement to be a human right. Since the disputed claim of open borders is built on a widely shared normative belief, Carens’s argument has been called the “cantilever argument” or “cantilever strategy” (Miller 2013; *EoI*, 238). Insofar as Carens’s strategy is convincing, it is up to his opponents to explain why the two possible rights of movement (national and global) should be treated differently.<sup>9</sup>

In *EoI*, Carens emphasizes that the argument for open borders is *not* meant as a policy proposal to be adopted in the near future (see *EoI*, 296).<sup>10</sup> Carens makes an

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<sup>8</sup>Rawls himself would later reject the attempt to use the veil of ignorance at an international level; see Rawls 1999.

<sup>9</sup>The structure and implications of the cantilever argument are scrutinized in this volume by Düring/Luft (Chap. 10).

<sup>10</sup>Whether the Open Border Claim can justify claims in nonideal worlds is discussed in this volume by Hoesch/Kleinschmidt (Chap. 11).



important operative distinction throughout the whole book between “what one thinks is right as a matter of principle” and “what one thinks is the best policy in a particular context” (EoI, 229). While the latter would mean having to take into account questions of feasibility and current political dynamics that constrain the range of options, Carens also argues for the importance of constraints that result from considerations of morality and justice, and that are intended to provide “a critical perspective on the ways in which collective choices are constrained, even if we cannot do much to alter those constraints” (EoI, 229). To him, such a critical perspective is legitimate and appropriate, even if real possibilities to change unjust arrangements seem unattainable at present.

Thus, the arguments for open borders establish a political utopia, rather than a political programme. As we have pointed out in Sect. 1.1, the same is true for the socialist ideal that Carens reflected on in his dissertation. Both utopias, open borders and socialist societies, are deeply linked to the arguments for which Carens is most well known.<sup>11</sup> Hence, his account is clearly different from those who see utopian political designs as a source merely of misleading orientations and who would prefer restricting themselves to comparative assessments of feasible options. In contrast, Carens views the question of what should be seen as a desirable aspect of a political utopia as fruitful for a number of reasons. It seems that, in his view, the question helps us to

- gain a critical perspective on existing practices and institutions;
- identify what is valid in principle without restricting our thoughts by what is or seems familiar;
- determine the desirable directions of political reforms, even though the ideals themselves cannot be achieved at present;
- refine principles of justice in different spheres of social and political life according to the respective utopian ideal (e.g. economy, tax policy and redistribution, labour, international relations, refugee relief, gender politics, etc.).

Carens has said in conversations that he is struck by how authors have invested such little time in depicting positive utopias compared with the time that they have spent writing about dystopian futures and shockingly desolate social systems (most famously, the dystopian fictions of Orwell and Huxley). Thus, he seems inclined to believe that political philosophy might profit greatly from having more and better articulated conceptions of desirable political arrangements. As claims to realism and feasibility make up a strong current in contemporary political theory, it is those voices that criticize utopian thinking that are the loudest. We can hope from Carens's enduring interest and hints at current writing projects that he will return to utopian matters in the near future.

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<sup>11</sup>The question of how both utopias might be combined is treated in this volume by Förster/Gotzes/Hennemann/Kahmen/Westerhorstmann (Chap. 12).



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# **Part II**

## **Lecture**

# Chapter 2

## Immigration, Political Realities, and Philosophy



Joseph H. Carens

**Abstract** This essay is based on the 22nd Münster Lecture in Philosophy, held in November 2018. The essay addresses central ethical issues in the field of immigration: access to citizenship, the rights of irregular migrants, refugees, and open borders.

**Keywords** Citizenship · Ethics of immigration · Irregular migrants · Open borders · Refugees

Immigration is a hot political topic today in Europe and North America and indeed in other parts of the world as well. People often have strong views about immigration policies, views that are deeply connected to their political identities and indeed to their own sense of their interests. For the moment, however, I want to invite you to set aside any partisan political concerns you may have and indeed even to set aside, for a short time at least, your understanding of your own immediate interests. I want to ask you to reflect upon the ways in which immigration raises questions about our most fundamental moral values, about what we think is right and wrong, just and unjust. You may not agree with my views. In fact I suspect that most people will not. Certainly, no conventional politician, in Germany or North America, would embrace most of my ideas, and they would be kicked out of office if they did. But I hope, nevertheless, that you will experience what I say as challenging in a good sense – something that may provoke you but that also assists you to think about immigration at a deeper level than the one at which it is normally discussed in political debates. After all, that is what universities and scholarly research are for – to help us to think and reflect more deeply. I hope that this lecture will do that, whatever your own final views on the issue. In particular, I hope that it will lead you to discuss these topics with your friends and neighbours in the sort of open, candid way that can happen when democracies work well and people respect one another

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