Ilios is the undergraduate-run journal connected to the Political Science Undergraduate Association (PSUA) at the University of Southern California; it is primarily a journal of political science and political philosophy. Our intention is to create a forum for students to critically assess and analyze political issues—whether contemporary, historical, or theoretical in nature. The idea is to create a space for argumentation and analysis that mirrors the world around us—since all aspects of public life make their way in and out of political life, we believe our journal should be similarly open to such a flow of issues and dilemmas.

Ilios is published online as an undergraduate journal of political science and philosophy.

dornsife.usc.edu/ilios
To our parents, guardians, and teachers
whose love, passion, and guidance
we cannot appreciate enough

To Anthony Kammas
professor, mentor, and friend
whose spirit constantly challenges us
to have the courage to carry the burden
of thinking for ourselves
and for our hearts to be gladdened by it

“One repays a teacher badly if one always remains nothing but a student.” ~ Nietzsche
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Letter from the Editor

You’re here. We’re here.
Now we can begin.

Unceasing passion, in its political and philosophical form, has brought to us our second issue of *Ilios: the Journal of the Political Science Undergraduate Association*. Quite often, passion compels the production of exceptional work, both in relation to one’s own works and to the works of others. Precisely this is what the supreme form of energy, passion, has produced for our second issue. It has produced works so outstanding that I am proud simply to be able to call myself a peer of, and interlocutor, with the works’ authors.

On this note, it must be added that *Ilios* was created with the underlying philosophy that it ought to be the primary task of educational institutions to instill and cultivate within students noble passions. This raises a question. For what should these passions be instilled and cultivated? This instillation and cultivation ought to be achieved to impel an exchange of thoroughly developed ideas, which will necessarily lead to the production of the conditions for human advancement.

In a time when academic institutions, as a result of powerful pecuniary forces, have strayed from this task, *Ilios* is intended to help positively fill this growing void. In a word, *Ilios* is a venue for the infusion and development of noble passions, but also it is a platform for dialogue between impassioned men and women of true political and philosophical sagacity.

It is my hope that this dialogue will become more than just dialogue; that it will grow into a broad practice that will shift the course of human events toward a more perfect union between man, his fellow man, society, and nature. Considering the iconoclastic road humanity has recently begun to navigate once again, I do not feel my hope will be in vain.

Following this letter, you will find the contributions of the authors featured in our second issue. As you may well know, this issue’s papers will be primarily concerned with the concept of inequality and equality. Today, as the gaps between rich and poor, educated and uneducated, powerful and weak grow exponentially, and as humanity seeks permanent solutions to these problems, what would be more fitting a topic for our journal? The papers range from a theoretical explication of the origins of such prejudices as racism and xenophobia to a researched argument for allowing undocumented residents to pay in-state tuition rates at public educational institutions, as well as an inquiry into the relationship between equality and the political theory of libertarianism to a witty dialogue between Robespierre and Wollstonecraft.
concerning the nature of revolution. In addition, a video recording of Dr. Dick Howard’s talk, “From Protest to Revolution”, will be featured.

I hope you that you appreciate our endeavors and that this journal will grow into a lasting and respected tradition.

I would like to end with a poem by Langston Hughes entitled “Youth”:

We have tomorrow
Bright before us
Like a flame.

Yesterday
A night-gone thing,
A sun-down name.

And dawn-today
Broad arch above the road we came.

We march!

Best,

Damon Alimouri
Executive Editor, Ilios
On the Origins of Racial Inequality

Ben Rolnik and Micah Zehnder
University of Southern California

I

“O fury to gain distinction, of what are you not capable?”

Rousseau

There is a community of homosapiens that has developed, like much of the flora/fauna of Madagascar, in utter isolation from the rest of humanity. Their race is unknown to us, and ours unknown to them—yet they have a rich heritage. Their language is complex, capable of expressing even the most poetic and scientific of ideas; in essence their language and cognitive capacities have evolved precisely in tandem with our own. They lack no culture, and they know themselves. We can consider them like the early humans who migrated across the Bering Straight from Siberia to Alaska into the New World during the Pleistocene. Thus, they would become anomalous nomads.

To say they know themselves is simply to say this, that they have an understanding of species. They developed the same category, human, in which we too placed ourselves. What is a human being? “I am, of course” is their response.

But, you see, their understanding of the human is nothing like ours—and by ours I mean specifically those who may consider themselves to have an expert (as opposed to a folk—in Jacksonian terms) understanding of human. That is, for us human defines a metaclass that includes a diverse plethora of racial and ethnic classes. For our anomalous nomads, the human defines only one class: themselves.

We should make a note sooner as opposed to later about what we mean by human. For by human our anomalous nomads mean purple-skinned featherless biped. As we shall see, the importance of this distinction arises only in respect to certain crises we will soon explore. We should not expect such distinctions to even be intelligible beforehand. Since I have assumed that we have an expert understanding of the human, that our way of understanding human at present is mostly influenced by a global trend towards a conceptualization in terms of an isomorphic metaclass encompassing all known, and potential distinctive classes of humans, we have removed the prefixing qualities, and posit that human is only featherless biped. This is of exceptional importance, for our anomalous nomads are in the position of brute nature, wherein they have conflated a single class, for the metaclass; this is to say that the anomalous nomads have defined purple-skinnedness as an essential property of humans; this conflation of a particular class with a metaclass, is due to Hume’s age-old problem of induction: all humans observed
have possessed the property of purple-skinnedness. However, the anomalous nomads have yet to encounter a white crow, so naturally, the statement “all humans are purple” is true to them, and they have no reason to believe it false, as there is no evidence to the contrary.

Now, what happens if their world should intercept ours? Over time, surely they may assimilate (or something like that)—but we mean what would happen instantly. If we give ourselves the benefit of the doubt, we should consider them humans. Though they look distinct from any other group of humans that we have heretofore discovered/known, we should nonetheless recognize them fairly quickly as an “us”, for our metaclass, by which we define human, has but to go through a simple process of existentially quantifying the class of purple-skinned featherless bipeds, and the procedure is done with, we impute the property of human to these new creatures.

From the perspective of the anomalous nomads things happen much differently. Their immature (folk) understanding of human would preclude them from recognizing us as human. No paucity of stories from the early days of colonialism could confirm this. Of course, in this respect, we know that for them this misidentification (from our point of view) could go two ways. One way is that they identify us with some higher, spiritual class—as was the case with certain Cargo Cults. Another way is that they identify us with some lower, demonic class—as was the case with certain Aborigine (Amazonian) tribes. This last point is not important for us now, for we are concerned with the underlying cognitive processes generally involved in getting to those end results, the particularities of which we will not deal with specifically here.

The important thing to notice from this intuition pump is how we have each identified the Other differently. To each group, the Other is an anomalous instance—a black spawn, if you will. The question then becomes: what sense do we make of these anomalous instances, or black spawns.

For us, they are particularity of human. This represents our expert or mature understanding. For them, we are not human because we are not a particularity (instance) of the class that functions to define human for them. Because we lack purple-skinnedness the anomalous nomads cannot consider us human. But why is this? Is the error not apparent, so that they immediately recognize that they must shift their definitional locus to a metaclass of human, which incorporates a great many potential classes of humans, many of which are now existentially quantified? Obviously it is not. There are several possible courses of (cognitive) action, which may be taken, and the natural tendency in humans, and indeed it may be so with all living organisms, is to operate via a principle of exclusion, and to deny that the anomaly (us) is human; the nomads will simply deny us human status, whether they treat us as gods or dogs is another matter, but clearly this is the natural method. This then explains all racism, classism (in the most technical sense), and ingroup/outgroup dynamics throughout all of Earth’s short history.
II
Identification

Philosophers have spoken extensively on the subjects of Identity and Personal Identity. We do not think they have gone far enough. Thus, we are not interested in the subject of Identity. We are interested in the process of Identification.

Since the process of Identification, which has heretofore only been explored superficially, can quickly become lost in a confusion of terminology (one need only read Heidegger’s discourse on Being/Dasein to see what we mean), before we begin our discussion we would like quickly to present a brief outline of Identification.

First. By Identification we mean the process by which we ascribe something (singular and plural) a nominal meaning. This of course is vague because we see Identification not as a thing but as a process—which is, of course, not a radical claim.

Second. The process of Identification must be understood in respect to a typology of Identification. In other words, to identify is to ascribe a nominal meaning—however, what is to be offered is a typology of Identifications: ways of assigning something a nominal meaning. That is, to identify is to identify in terms of. It is that in terms of that we wish to understand first and foremost.

Third. This understanding of the typology of Identifications we believe to be of instrumental significance. Our entire theory cannot be understood without it. Therefore, before we proceed, let us present the outline of our proposed typology of Identifications. Keep in mind that for now this is just meant to be a preliminary understanding. Since we will be developing this typology further throughout our paper—do not be surprised if it seems strange at first. We present it now in full so that it may be easily referred to later.

Class: Defines groups of particularities within a category (or metaclass).

Particular: A particular is an instance of a class. This also may be referred to as: particulate(s), particularity, particularities, and particulation (identifying such-and-such as a particular)

Metaclass: a class of classes; a metaclass arises as an attempt to reconcile a categorical exclusion of difference which seems “necessary” to include within the category. E.g. When one’s categorization has failed to draw certain “necessary” distinctions (in the Humean sense). – a metaclass is identified when two classes may be subsumed under a more general dichotomy. A metaclass is essentially a category—only it has been Identified ipso facto by poorly distinguished classes.
We also posit that there are two principles of identification: Inclusion (Humean/Inductive) and Exclusion (Deductive/Analytic).

Identification by Principle of Inclusion: All X’s are Y
Identification by Principle of Exclusion: If Y, then X

A mature understanding of Identity operates fundamentally upon the principle of inclusion, whereas an immature understanding of Identity operates upon the principle of exclusion. Let us explain.

Hume famously reported on the problem of induction. This however is in service of a greater point: the problem with universal quantifiers. Hume said that All crows are black does not suffice—for it is not certain that we may encounter a white crow. Therefore, the principle of inclusion is always in danger of becoming falsified by a single anomaly—namely a non-black crow. Black spawns therefore are falsifications of any Identification by principle of inclusion. It is necessary to note here that this is obviously self-destructive as a process. To shift the locus of Identification to a metaclass means fundamentally remapping the concept of self, for now one is a self in relation to others who are the same, essentially, but not nominally. So the fundamental concept of self that the nomads possess must fracture, and be reconstructed in a different relation. We can imagine that this process is rather traumatic, and hence, the human tendency to not choose this path, but always to operate by a principle of exclusion.

The principle of exclusion is immune to the Humean objections. This is because the identification is not made in virtue of induction—but in virtue of analyticity. This will become more in a moment.

The question then is: how do we respond to black spawns—or anomalous instances of an identification.

For Hume, we must define our identification – shift our locus of identification. That is because, we no longer can identify a crow as black—since our principle of identification is inclusive—that is, it must account for all crows, and blackness must be dropped as an essential (definitional) property of crows. If just one crow is not black, then our identification must be redefined.

In this respect, to deal with this problem of the black spawn there are two recourses. 1. We create a metaclass “crow” in order to deal with our particularities of black crow and white crow respectively, as well as any other potential class of crows of any other hue. As such, we find a way to include the anomaly in our definition, as it is necessarily part of this metaclass, and our locus of identification is shifted to this metaclass. This is what we may refer to as a mature identification 2. We simply exclude non-black crows from the class of “crow.” The anomaly is not an instance of the class crow which currently is equivalent to “black crow” hence consider blackness an essential quality of crows, so, by definition, any non-black crow, by exclusionary principle, which is the natural principle of response, is simply a non-crow. This is
what we may refer to as an *immature* identification—and is the folk/natural tendency of all human group (perhaps of all groups of living organisms).

If we did not identify crow by the principle of inclusion to begin with—but rather by the principle of exclusion, you see, this problem of the anomaly does not arise. A crow is then defined by black—blackness being essential to being a crow. As such, a non-black crow *is not a crow*—it is not an anomalous instance of the class that necessitates a redefinition of the class, it is rather simply an object.

In other words, Hume finds similarity, *all crows are black* (principle of inclusion), and transforms it into difference, *not all crows are black*. That is, he anticipates the anomaly that undermines any identification by a principle of inclusion. The problem, of course, with Hume’s criticism of the principle of inclusion is that it does not apply to the principle of exclusion. This is important because our natural tendency is to *exclude* the anomaly as opposed to *including*, hence there being no non-black crows without some other catalyst enabling the trauma of the definition (the shift of the locus of identification to a metaclass. Similarly, if we accept Hume’s criticism of the principle of inclusion and decide anyway to *exclude* the anomaly—then this no longer seems like an immature understanding precisely because we cognitively recognize the inevitability of operating under the principle of exclusion to avoid the threat of the trauma which working by inclusion presents.

For example, our anomalous nomads identify us in regard to the principle of exclusion: they do not recognize us as human, for we lack the essential property of purple-skinnedness, and for precisely this reason we are only objects to them, we are categorically excluded from the class of human to avoid the trauma of shifting their locus of identification, and destroying their self. We define them in regard to the principle of inclusion: we recognize them as humans and persons. However, suppose that we decided, for whatever reason, to exclude them from the metaclass of human because of their anomalous race, suppose we simply decided that purple-skinnedness is impossible for some genetic reason, then we have good reason to simply exclude them from the metaclass, for their property does not enable them to existentially quantify any potential class of human within the metaclass. It seems then that our identification is *not* mature like it is for the anomalous nomads identification of us: for we know that we may either include them or exclude them—whereas they are *only* cognizant of difference, not similarity. The point is that it is not necessary that we do include them. That is, it is not necessary that we choose to identify them by the principle of inclusion. We could just as justifiably identify them by principle of exclusion—in which case similarity has been rejected for difference.

In this respect, it seems strange that we *ever* redefine our identifications based on the inclusion of anomalies. From one perspective, it is literally self-destructive. For example, if the Self is a particularity of Being—we must include undifferentiated Being in the class of the Self. Existentialism is a philosophical program aimed directly at raising Being to the metaclass. The trouble with this is obviously
that if the Self is only a particularity of Being, then—as Sartre would conclude—it is not essential. While one may take this view (for we think that it is reasonable), we would like also to say that it rests upon including the anomaly of (undifferentiated) Being into the class of the Self. But, as we have seen, one can do just as well to exclude it.

What then is the catalyst? Perhaps we must give credit to philosophy for precisely this task, for it is philosophy, which gives us an overall view of the world, a cognitive bird’s-eye view of our world systems. The philosophical enterprise then is the catalyst for ever shifting our locus of identification in the presence of anomaly; except that Nietzsche stood upon the precipice of nihilism and proclaimed that to operate by inclusion was madness, and that we ought to maintain our nature, and to operate by principles of exclusion. This is precisely why Nietzsche is properly termed an anti-philosopher. Indeed, we take Nietzsche’s program and expand it to explain the utility of classism in the sense we have been discussing.

III
Dichotomy

We understand dichotomy is an either/or distinction. In terms of Identification, it is essential to understand dichotomy because of how similarity and difference may be reached in virtue of inclusion versus exclusion.

In similarity, difference is eliminated. In difference, similarity is suspended to a metaclass or eliminated. This leads to what may be referred to as compatabilism: maintaining dichotomies by eliminating Identifications.

Before we jump ahead of ourselves we must posit a new entity. If the anomaly creates difference out of similarity, then the antinomaly creates similarity out of difference. If Hume can illustrate the former, Dawkins may illustrate the latter.

Take for example Dawkins’ reduction of altruism into narcissism. Dawkins takes the antinomaly of the selfish-gene as eliminating the dichotomy between altruism and narcissism. This is the very opposite of the Humean criticism of Identification. Hume critiques the principle of inclusion by saying that anomalies create difference out of similarity. As such, we must posit a metaclass to distinguish between the initial class and the anomalous class. Dawkins proposes that antinomies eliminate difference into similarity. As such, we must eliminate a metaclass so that we do not make the mistake of positing a false dichotomy.

Hume’s approach is to distinguish the Other from the Same. Dawkin’s approach is to reduce the Other into the Same.
However, just like excluding the anomaly resolves Hume’s critique—we may similarly exclude the antinomaly to resolve Dawkin’s critique. This is exactly what compatibilism aims to do. For example—if we assume that the selfish-gene is an antinomaly that may reduce altruism into selfishness—we can exclude this antinomaly by identifying altruism and selfishness by the principle of exclusion.

The problem becomes this. If we have the mature understanding of Identification we risk eliminating the dichotomy (reducing the different into the same). On the other hand—immature understanding may preserve the dichotomy and thus the difference. The trouble is that we cannot escape similarity or difference.

IV
Closure

So far we have spoken of Identification only in the abstract: in terms of the typology of Identification. For example, we have heretofore only analyzed Identification, the point is to change it. Now we must conclude by taking another angle: discussing personal Identification. That is, how one actually identifies the self and others.

Tajfel, social scientist attributed to the discovery of minimal groups, has been especially influential in respect to our understanding of in-group and out-group bias. Based on our discussion so far, it should be obvious that in-group and out-group bias is wholly contingent upon Identification in respect to a nominal entity (class, metaclass, etc.) in relation to the locus of identification.

If we extend Tajfel’s work, we can raise an even greater idea. Consider Hobbsbawm’s conception of Nationalism. We may understand Hobbsbawm’s conception of Nationalism in respect to the current analysis in the following way. Nationalism is a fundamentally exclusive identification. This is because it is explicitly constructed. In other words, Nationalism is an example of carving difference (which is identification by the principle of exclusion) out of what would otherwise be similarity. Of course, this is in opposition to both Hume and Dawkins who are dealing primarily with the principle of inclusion—which respects anomalies and antinomalies.

The problem of racism, we should say now, is the problem of Identification. Thus, racism, more formally, should be considered classism—for it is a matter of identifying oneself in terms of difference to the Other. Let me reiterate: classism (racism) consists solely in one’s Locus of Identifications (regarding the Self and Other).

For example, if I identify first and foremost with the metaclass (as I would in a mature understanding of similarity) then we should expect that I should be far more tolerant than otherwise – this follows from the simple fact that the distance between self and other is severely reduced to something
nominal. This is fairly close to the liberal program that such movements as Civil Rights and Feminism have aimed at: to raise people’s locus of identification from the particulate to the metaclass.

But now we may recognize certain problems. For starters: when the Other defines us by virtue of exclusion—they thus push their difference up against any definitions of similarity we may propose. This creates tension and, ultimately, conflict.

There are 2 movements then we should recognize as emanating from Identifications by the principles of Inclusion and Exclusion respectively:

**Globalization.** This may be represented as the process of eliminating difference by virtue of similarity – a move towards homogeneity. It is fundamentally a movement of inclusion—assimilating the Other (the anomalous) into a metaclass.

**Terrorism.** This may be represented by the process of eliminating similarity by virtue of difference – a move towards heterogeneity. It is fundamentally a movement of exclusion—distinguishing an Other.

### V

**Predictions**

Based on what we have said so far, we predict that terrorism will rise in response to globalization. This is not to imply that only religious groups will be rising to terrorist activities (as we see with radical Islam) but that secular groups will be doing the same as well (a la Nechaev, the Bolsheviks, etc.).

Thus, we think that there is no end to classism, for there is immature classism, which is the result of classes not identifying themselves as belonging to a metaclass. This leads to tensions of difference. And there is mature classism: classes that identify with a metaclass seek to distinguish themselves from it. This leads to tensions of similarity.

There is no end to classism because there will always be either tensions of similarity or tensions of difference. What we mean here is something very basic. On the one hand we can suppose that some class may well wish to become equivalent with, be subsumed under a metaclass, as when black Americans fought to be brought under the metaclass of Americans. This move falls under globalization in our broad sense, and is a move toward homogeneity of the populace, and it appeared as desirable, for it furthered equality, and our sense of justice. However, when this occurs, black people are made into white people (why it is not white people who are made into black people is an arbitrary distinction) by the very nature of what has occurred. This is dangerous, for classes, though they do not wish to be oppressed, and hence seek equality (inclusion in a metaclass), also desperately want to maintain their difference less they lose their Self (we might also say, their culture). In truth, no class ever wishes to follow the globalization
pattern, for that is a trauma, a self-destructive program; what then makes such a traumatic move desirable can only be extenuating circumstances. There are two types of circumstances under which a class will choose the trauma of inclusion: a) the class’s existence is threatened by some other class, and their only recourse is to be subsumed under the metaclass; that is, the only warfare that the class can engage in is political warfare, and not physical warfare; b) the class uses a pseudo-globalizational move to gain power within a certain established political structure; this is particularly effective when a class is small, or represented primarily by a small collection of individuals, and the claim that it is just that this special class be included is spurious, for the special interests of the group benefit by a global perception that this special interest class is subsumed in the metaclass, while the special interest class carves itself out as different, that is, the particulates of the special interest class do not really consider themselves part of the metaclass, even when those in the metaclass proper do consider them so. These are the methods of political warfare, class warfare, that are engaged in, and constitute the only reasons for a class to ever wish to make a move towards globalization.

Instead, Nietzsche’s program correctly diagnoses that classes inherently wish to move via exclusionary principles, and to eliminate other classes, or at least to distinguish themselves as sharply as possible from them. It is natural to avoid this trauma, which only brings more misery into the world, what is good is honest warfare, and to be the very best, to craft one’s self, which is precisely what a mature understanding of an exclusionary principle is, to literally be the creator of one’s self (as a class), while moving towards inclusion is to be defined in terms of others, this is the move of weakness, and is unnatural, so globalization as a program must utilize the media as a catalyst for feeding propaganda against those classes unwilling to submit to inclusion; meanwhile, the disingenuous special interest classes engage in subversive political warfare against the metaclass, and this is what creates the chaos of our world.

In the end, we must ask ourselves which program we wish to follow as individuals. Shall we subscribe to a program in which we are included, and hence defined by others, and all equal? Or is it more natural to wish to be the best, to distinguish one’s self, to create one’s self? It is only through the modern Huxleyian program that the global metaclass is able to restrain the natural impulses of exclusion, and hence we see no paucity of trauma in the individual selves, evidenced by the massive distribution of anti-depression medications in the Western world. The warriors are silenced, and virtue is dead…the anti-philosophy of Nietzsche has now become philosophy, for the philosophical tradition has been twisted into the propagandist program of globalization; thus the only way to reclaim honesty, authenticity of being, is to be a part of chaos, of exclusion, this explains all violent movements from Islamo-fascist terrorist acts, to the copious amount of gang members spattered throughout the Western world engaging in random violent acts. These are the underlying cognitive moves made by gang members or Islamic terrorists, to
define themselves by the exclusionary act, to be against, to be honest, to be violent, for political warfare is unnatural, and distasteful to the righteous, virtuous soul.
In the world of philosophy, where the life of the mind holds court, the man of action is often thought secondary, of a mindless sort. Yet, of all those often ascribed esoteric areas of philosophy, political thought is frequently considered the most useful and needed in the world today. Properly understood, political philosophy is a departure from and derivation of ethics, to a sphere much larger and indeed of much greater consequence. Its importance is thus a necessary antidote to the type of thinking characterized by a lack of action. It may be that such an enterprise is hopeless, that humanity is doomed to injustice and suffering, where the wicked inevitably prosper and the good languish, but even here there is hope; hope that something better lies just around the bend, fleeting for the moment but never gone entirely, always possible, and in its potentiality, inspiring beyond belief. Such is the goal of philosophy and of political thought. That it should be carried out with the utmost seriousness and furthermore, an air of vigilance towards our reasoning, not unbecoming the philosopher kings of Plato’s *Republic*, is essential.

The purpose of this paper is to critically assess libertarianism, addressing what central questions the theory aims to answer and the answers given, in light of an important political value; equality. To begin, I shall give some note to the nature of political philosophy (and its significant questions) before discussing the basic features of libertarianism and the rationale given for it. I shall then assess the merits of this rationale and subsequently, its relevant criticisms. Pointing towards a need for some greater conception of equal opportunity and social welfare, I will then argue for a conception of happiness which accounts for both, incorporating the basic merits of libertarianism with a more genial utilitarianism. In conclusion, I shall discuss what these considerations ultimately show about libertarianism, equality and utility.

It seems necessary to begin with some preliminary remarks regarding what questions a political philosophy is attempting to answer, so that we may be all the more prepared to assess libertarianism, with all of its merits and demerits. In general, there appear to be two questions of primary importance to political philosophy; *why* and *what*. The “why” has to do with why a government is necessary or good in the first place. One may indeed wonder what the point of a government even is. Is it to avoid some rugged state of nature? To increase utility among humanity? Or, perhaps more pessimistically, to control and coerce the weak? The “what” is concerned with which government is to be chosen, given such a
thing is indeed desirable. This often takes the form of comparison, where one asks whether or not a
democratic form of government is better than a communist one, or if an absolute monarchy is better than
anarchy. Such questions revolve around what values are considered relevant and desirable, some
common examples being life, property, liberty, justice, equality and the pursuit of happiness.

The central questions libertarianism aims to answer then are twofold. Firstly, why is a
government (in any form) desirable? Secondly, given a government is desirable, what form ought it to
take? In answering these questions, libertarianism is primarily concerned with two issues; property
ownership and the minimal state. I shall address each, noting first how they fit into what the libertarian
view is, and secondly why they are advocated as the relevant basis for the libertarian ideal.

Self-ownership is important as the primary sense of property ownership; that a person is his or
her own property, an end in his or her self. The second sense of property ownership involves the
ownership of external objects (property in the normal sense of the word) such as land, food, shelter and so
on. As it is often regarded, one has certain negative rights entailed by the ownership of property, which
consist in what may be termed “control rights” (to use the entity and to claim others may not), “rights to
compensation” (to be recompensed if the entity is used without consent), “enforcement rights” (to prevent
a rights violation), “rights to transfer” (to sell, rent, loan or give the entity) and the right to not lose these
rights without consent (Vallentyne 2010). Each individual equally and naturally possesses these rights,
both to the ownership of his or her self and to the ownership of external objects. As the basis of
libertarian liberty, property ownership thus allows every person to live freely, with one condition. Since
each individual equally possesses these rights, no individual may act in such a way as to violate
those of others. What this “maximum empirical negative liberty” means, in effect, is that one may live his or her
life as he or she sees fit as long as he or she does not infringe upon another’s property (Vallentyne 2010).
This, of course, makes such acts as murder, enslavement and theft (among other similar ones) all
violations of natural rights. Seen as a theory of social justice, libertarianism thus interprets negative rights
as the basis for what is just, making their protection by the state, in effect, the fruition of justice.

It is typically admitted among libertarians that some form of authority is required in order to
protect the rights of individuals, which may take the form of a central government or a private agency.
Either way, it is often thought desirable in so far as such an organization maintains the negative rights of
persons (such as compensation, enforcement and the like) all the while not interfering in their personal
lives (beyond enforcing their basic obligations to others imposed by the negative rights possessed by all).
We may consider such a minimal state in opposition to what may be termed “the welfare state”, a
government in which the liberty of individuals is commonly abridged for the public good, or else the
betterment of some group within the population thought in need (as in liberal egalitarianism).
Libertarianism, on the contrary, does not directly advocate any such welfare. To attain it by means of
government intrusion (i.e. taxation) would require a violation of rights, considered unjust. Property ownership and the minimal state thus play a central role in the libertarian ideal. I will now discuss why these two issues form the basis of libertarianism. In doing so I will address why a government is necessary in the first place and how this explanation serves as a rationale for the theory.

According to John Locke, without the existence of a government or central authority, humans exist in a “state of nature”. What this essentially means is that without some central governing body, which can judge and regulate human action, each individual is free to live how they wish and to pursue their own ends. Governments arise from this natural state by the consent of individuals who accept the need for a minimal state in return for the protection of their basic rights (understood by Locke to be life, liberty and property). Granted one accepts the plausibility of this “state of nature” thesis, in addition to persons possessing basic natural rights to life, liberty and property (as rational animals in this state), a government seems to be the prudent conclusion, should persons be self-interested to the extent that they desire their rights to be protected. That this government furthermore should at most be minimal, existing to protect these rights but never violating the freedom of individuals to pursue their own ends (except when the means to such ends conflicts with the rights of others) seems a further implication. Hence, a government is not only warranted, but in particular, necessary to protect the basic natural rights we all possess as human beings. Such a government, however, must be strongly limited so as to prevent violating what basic rights it is meant to protect. We are thus lifted from the cruel and savage state of nature into a more amenable society where, presumably, liberty may reign and the ever abundant blood of humankind may cease to be spilled in the name of survival and competition.

Before critically assessing libertarianism, it is necessary to make some note on the differing variations of the theory, most importantly, the distinction between right and left-libertarianism. With regard to property ownership, and in particular, the ownership and acquisition of natural resources, libertarians often divide on the issue as to how persons are to use natural resources. One (radical) version of right-libertarianism asserts that there are no constraints upon one’s acquisition or use of resources. However, given this allows for grossly unfair access to basic necessities, it is often qualified with the claim that some be left for others and none goes to waste or that no one is made worse off by their use. Left-libertarianism, on the contrary, maintains that “natural resources initially belong to everyone in some egalitarian manner” (Vallentyne 2010). Since this creates the problem of deciding when one is and is not permitted to use such resources (must everyone give their consent?), this view is often qualified with the proviso that one only take their fair share or that which allows for equal opportunity among all. Both of these variations on libertarianism will be further discussed as part of my evaluation of the theory, which I will now proceed to begin.
As a political philosophy, libertarianism has several powerful merits. To begin with, the notion of self-ownership is a very plausible one. That we, as rational agents, are our own persons, self-legislating and in control of our own fate, holds it would seem immense appeal not only to those philosophically minded few, but to free men and women everywhere. That we may possess property external to ourselves, such as food and shelter, and in the direction of greater comfort and leisure, books and automobiles and so on is moreover quite an acceptable claim to most. In fact, the very notion of property is so basic to the fabric of human life that civilized life seems quite strange, if not incomprehensible, without it. Moreover, the state of nature thesis seems a reasonable one. That such a “solitary, poor, nasty, brutish and short” life may be avoided in creating a central authority is indispensable to political thought. Lastly, the minimal state (resulting from this) is attractive as it implies greater freedom, both from indirect intrusions such as taxation as well as more direct ones like arrest and prosecution for private matters like drug possession. It should perhaps be noted that libertarianism is not necessarily dependent upon some variation of social contract theory for its justification. Indeed, one may imagine a sort of utilitarian basis as well, where a libertarian government is seen as producing the most utility. In this vein, one may see the “natural rights” found therein as instead legal rights, not granted to us by our very nature but rather decided upon because of their consequential importance. These possibilities will be further discussed later.

Despite the above merits, libertarianism is not without its criticisms. Although I have not the space to deal with them all, I shall address a few which suffice to show the failure of libertarianism when devoid of additional considerations, following which I shall discuss what these additional considerations might consist in. One common objection is that in advocating self-ownership and purely negative rights, libertarians are in effect arguing for a political philosophy which discounts entirely one’s obligation to help others. If you only ever have a claim to not be harmed, robbed, killed and so forth, then where does one’s responsibility to aid others enter the picture? One response is that simply because libertarianism does not advocate helping others does not mean it considers such a thing bad, only that individuals should not be forced by the state to do so. Furthermore, such enforcement may make impossible a truly virtuous life. Here we may draw the distinction between moral conduct and supererogation, the former being (in general) what is required by one’s moral theory, the latter what is above and beyond such requirements, though nevertheless right or good. Libertarianism then, may consider such aid supererogation, or else not the duty of the government to enforce, should the individual fail to give it. In either case, the objection appears to falter in that it must assume a strong connection between law and morality, and thus a need to enforce where individuals fail to be moral, or else that the distinction between morality and supererogation is a false one (a dubious premise).
A second and stronger objection regarding self-ownership has to do with the strictness or strength of one’s right to life and property. A simple consequentialist thought experiment suffices to show neither can be absolute, but must admit of degree, if sustained at all. For example, if one had the option of saving millions of lives by murdering one person, the choice seems clear. Let us further assume this one person is an evil one and will be responsible (if left alive) for the deaths of those millions. In this case, our moral intuition seems to clearly indicate that we ought to kill this person, regardless of what “right to life” he has. It thus appears that libertarians must admit, at the very least, that self-ownership has its limits.

A third objection to libertarianism addresses the use of natural resources. I have previously mentioned the division within the philosophy regarding this issue, namely that of left and right-libertarianism. As the objection goes, right-libertarianism fails to adequately allow for the freedom of others by conceding the possibility of one individual or group of individuals owning all the relevant resources, thus preventing others from access to them, which in turn restricts those excluded from what are potentially basic forms of sustenance. At its extreme, this view allows for the starvation of others who do not own the means to food. Yet, isn’t this clearly contrary to moral intuition, which seems to dictate that such a monopoly would be grossly unethical, and hence (ought to be) illegal? Left-libertarians (and certain qualified versions of right-libertarianism) are able to answer this objection by adding a proviso allowing individuals to only acquire and use a limited amount of natural resources, thus saving some for others. This proviso, however, seems to look mightily like an appeal to the importance of equality and perhaps, additionally, an extension of the libertarian notion of justice, albeit cleverly disguised in a language of negative rights and liberty. Conversely, it may be seen as a result of two Lockean provisos regarding property acquisition, that one only take so much that it does not go to waste and that as much and as good is left for others. In terms of left-libertarianism, this can be phrased in terms of the co-ownership of all by all. Yet, even here one might wonder to what extent a desire for some standard of equality is simply being veiled behind talk of this or that qualification of acquisition and ownership.

The last objection to be discussed is that of identifying libertarianism with anarchy (or something close to it). Here the basic idea is that a libertarian government is not much of a government at all. Furthermore, it fails to account for numerous good or important services which a government is capable of giving. One may reply that although such services as public health care or interstate highways are good, the means of acquiring the necessities for them (i.e. taxes) are unjust (by forcing or threatening to force one to turn over their property or currency). In this way, they may claim that such “public goods” are not the responsibility of the state because they require some breach of rights. Yet, as we have already seen, self-ownership has its limits (when considerations of the greater good arise), so why not think that ownership of external property does as well? If this is the case, it seems to follow that taxation for public goods is not necessarily unjust (and hence neither are other similar infringements upon the rights of
persons). Assuming then, that individual negative rights are not absolute, and that certain public goods are indeed desirable (of which there are numerous examples to imagine, such as fire departments and homeless shelters), we may conclude that the minimal state, though possessing merit, is not the optimal one. Moreover, its exclusion of consideration for what may be generally termed the common good seems sufficient to show its invalidity. Something else is needed.

So far, I have considered two primary questions every political philosophy ought to answer; why is a government (in any form) desirable, and given it is desirable, what form ought it to take? In answering these questions, libertarianism appeals to two principles, property ownership and the minimal state, making for a system of government which protects the rights (of ownership of self and other things) possessed by all without further breaching the liberty of the populace. This is justified by a social contract made by individuals who wish to avoid the state of nature and have their rights protected. Although the theory has its merits in emphasizing individual freedom and the rights to life and property, it ultimately fails in its lack of consideration for the common good as a political value. Should such a value be incorporated into the libertarian vision, however, a formidable political philosophy would be born. This is no small feat and requires an assessment of another central political value: equality.

The eighteenth and nineteenth centuries hold numerous examples of the waving of banners entitled “the common good” and “equality”, from the French Revolution, which had a slogan that read “liberté, égalité, fraternité” (liberty, equality, fraternity), to the rise of Utilitarianism in England, which had as its own slogan “the greatest good for the greatest number”. Just exactly what the “greatest good” meant, however, differed from thinker to thinker (John Stuart Mill notably disagreeing with his predecessor Jeremy Bentham). Similarly, equality in general is not so clear a concept until two questions are answered: equality for whom, and equality of what (Gosepath 2011). According to libertarianism, as formulated above, equality is at best a secondary notion. The goal or purpose of a libertarian government is not to promote it, but rather to protect the basic rights of its constituents, which consist in the ownership of property (including oneself). In this fundamental respect, each citizen is equal, but only in so far as having these basic rights and their protection. Beyond such rights, equality of goods like well-being or education is not the government’s concern.

One may reply that disparity in such things, however, is not necessarily a bad thing. The fact that Warren Buffet has more money than me is not prima facie wrong. In fact, it seems fine given he has spent his life earning and accruing it. Indeed, it is a question of considerable importance as to just what exactly the value of equality consists in. Is it a good thing that every child receives an equal education? Perhaps, but would it be just as good that each child was forced to “earn” an equal grade? Probably not. In place of this sort of “equality for equality’s sake”, I would like to suggest another account.
Equality is good, but only extrinsically, and in two fundamental respects: as an aspect of opportunity and of well-being. The above mentioned common good does not necessarily imply that each person live an equally good life and neither does equal opportunity imply that each individual end up equal. I will now argue for a utilitarian conception of equality which in turn implies a common good in line with Locke’s own proviso on property ownership, that one take only so much that it does not waste and that he or she leave as good and as much for others.

Perhaps the most famous utilitarian, John Stuart Mill, viewed pleasure as intrinsically good and pain as bad. As such, the goal of morality and political society is to promote pleasure and where possible avoid pain. Mill’s account of pleasure is not necessarily hedonistic, however. Instead, it focuses on developing human individuality. This in turn implies a sort of threshold for all, without which no such development can occur. What this essentially means is that Mill advocates a basic standard of living for each and every person, as opposed to simply some aggregate of pleasure (like Bentham); that each may live a “good enough” life as centers of individual potential human progress. Secondly, Mill’s account includes a distinction between higher and lower pleasures, where the former are better and preferable (as well as tending to exercise the “higher” faculties in humans). Some pleasures of comparable quality then may be substituted for one another leaving the agent free to choose that which she prefers.

Mill’s conception of the good life and human happiness thus consists in some mixture of higher and lower pleasures. As he puts it, “utility in the largest sense, grounded on the permanent interests of man as a progressive being” (my italics not his) serves as the basis of his ethical and political theory (Mill 1991, 15). If each can have some standard of well-being, they then but require the liberty to pursue their life and the pleasures it may hold. This “liberty”, however, is actually more like a set of basic liberties. If “a good human life is one that exercises one's higher capacities” and a person's higher capacities include “her deliberative capacities, in particular, capacities to form, revise, assess, select, and implement her own plan of life”, then freedom of speech, religion and occupation all play a central role, as each serves to make known various choices and abilities one has (Brink 2008).

The relation here between liberty and well-being has led many to believe that Mill’s thought is incoherent; that such values ultimately contradict each another. An example of this would be one where a man is enslaved in order to benefit (increase the happiness of) a hundred others, the idea being that his liberty is being violated for the well-being of others. This sort of objection is not unanswerable, however. What needs to be decided is how in particular cases one can choose between these two obviously important political values. It is an age old problem as to how they may be integrated and I can by no means completely solve it here. However, I can say that although individual liberty and well-being are not necessarily connected (i.e. having one does not imply having the other), they often go hand in hand and so are correlated. Moreover, having the former often brings about the latter. Because of this, Mill is
justified in advocating individual liberty as a means to an end (greater happiness). Additionally, it appears that the pleasure (or happiness) is greater (and often higher) when it comes as a result of one’s own free action, as opposed to say government paternalism. Indeed, intuitively there is something to earning your own way and overcoming hardship which in turn places a higher value on one’s goal than otherwise. As to the response that there are (or may be) cases where pleasure can be increased at the expense of liberty, Mill might respond that such cases are themselves incredibly rare, misguided because they assume states with slavery actually have a higher utility, or else non-existent entirely, and regardless stray from the initial point, which is to make the best system of action and of political integration that is possible.

Given this conception of happiness then, in which both liberty and well-being are key components, we may ask why equality is important beyond equal basic rights. I think the best answer resides in Mill’s idea of a threshold. Essentially this means each and every person should at the very least be guaranteed a basic level of equality with regard to several things. Although one’s right to life and property are important, they are not all that is important. Individual well-being as well as freedom and opportunity to pursue a good life are integral. Moreover, things like health care (which may be seen as an extension of one’s right to life), education, food, shelter and some basic level of income are crucial to one’s ability to live a good life (in their own eyes as well as ours). If we, as libertarianism does, stop at one’s right to life and property, we will be left with a government which fails to guarantee these other goods. However, if they can be guaranteed, then a certain threshold for all is possible. That each person should at the very least have such a threshold in their own life, and thus be equal in this respect is an extension of the libertarian understanding of equality to include other goods beyond basic rights, but not an unreasonable one. It may not be the government’s job, so to speak, to paternalistically dictate how each person should live their life, or what a good life even is, but it seems at the very least that it should make possible such a life for every person.

As I have argued, this requires an equality of more than basic libertarian rights. Interestingly, this is not contradictory with what may have been Locke’s own view on the matter. Considering his above mentioned provisos regarding property acquisition (that it not go to waste and that as good and as much be left for others), it would appear that even Locke valued some sense of equality beyond basic rights. Returning to our two questions regarding the concept of equality then we have some answers. In accordance with the general utilitarianism underlying the above account (which treats each and every person equally with respect to happiness), we may answer the question of equality for whom by simply saying for all. Importantly, I am not advocating that each person be forced to have equal education or health care, only that every person has the same basic standard of each, where some may exceed it. With
regard to equality of what, we can now refer to Mill’s own conception of a threshold, which includes one’s basic rights but also “less basic” things like education and well-being.

Although libertarianism falls short in its noteworthy lacking of “a common good” (beyond protecting one’s basic rights), a Millean account of happiness can supplement it by advocating an equal threshold for all. What is more, doing so does not necessarily conflict with liberty or property ownership as central libertarian values. Given property ownership as a value is not absolute (as argued above) and liberty is not inconsistent with individual well-being for all, we have as a result an account of government which takes as it core property ownership, equality of rights and liberty, a basic level of well-being for all, and equal access to things like health care and education.

Equality is often taken as a fundamental political value, similar in worth to liberty and well-being. Yet, what many fail to realize is the overlapping and interconnecting nature of all three. As I have argued, libertarianism is persuasive in its emphasis on liberty, but falls short on account of a common good (or public well-being). This defect, however, can be fixed by an appeal to equality. Although it is not good for its own sake, equality is extrinsically valuable, as a means to some threshold of well-being and freedom for all (a point which some may exceed, but which none ever fall short of). I will now discuss two afore mentioned ways in which equality can serve this purpose.

The first is equal opportunity. In his famous book, A Theory of Justice, John Rawls argues for an egalitarian conception of justice which incorporates a desire we all possess to have both the most extensive set of basic rights and liberties possible with the belief that more is needed to ensure a higher standard of benefit for the least advantaged (roughly, Rawls’ two principles of justice). The basic idea is that even in a reasonably just democratic society such as our own, many live below an acceptable standard, and this inhibits their own opportunity for improvement, debasing the so-called meritocracy that is capitalism. By increasing this standard (what Mill and I have henceforth termed a “threshold”), we can in turn increase the opportunity of persons, and finally cash the check which is the “unalienable rights of life, liberty, and the pursuit of happiness” we have long promised ourselves (King Jr. 2010). Equality of opportunity is important because it ensures that every individual is free to pursue a good life, and that no one is treated such that they are forced to live at some sub-standard level.

The second way in which equality is important is in terms of equal well-being. The above discussed “threshold” is here central. Essentially, this means that every person is guaranteed a standard of welfare that allows them the aforementioned opportunity and freedom to live as they see fit, the basic idea being that one should not be impeded from living their life simply because of “external circumstances” like race, gender or social class. Given these are aspects which they do not choose but are born into, they are blameless for them. Justice then is that by which equal opportunity and well-being for all is ensured. This in turn determines our Millean threshold, which in addition to the right to ownership and the
protection of liberty, amounts to a heavily modified libertarianism. Seen in the context of this libertarianism, equality plays a central role.

Reflecting upon all this, I began my paper with a critical analysis of the political theory libertarianism and through a series of small steps moved it in the direction of its very opposite, egalitarianism. I have argued that despite its several powerful merits, libertarianism is ultimately deficient in that it lacks some conception of a common good. Through Mill’s conception of happiness as the development of human individuality via a guaranteed equal threshold of opportunity and well-being for all, I have argued that equality plays a central role in supplementing this notable deficiency. Lastly, I noted that even one such as Rawls may find merit in the incorporation of egalitarian principles of justice into this political philosophy. It may be that as a result, I have made an enormous mess of thinkers and thought far more sophisticated than myself. Although certainly possible, I hope I have avoided this sad fate or at the very least, have made a mess both interesting and compelling, however wrong it is.
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A Reform with a Small Pricetag:
In-State Tuition for Undocumented Students

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According to The New York Times, approximately eleven million illegal immigrants currently reside in the United States (Preston). Of those, says the Urban Institute, sixty-five thousand graduate from American high schools each year (Passell 1). These young illegal aliens face innumerable obstacles to their personal and economic success as a result of their unauthorized status, not the least of which is their near inability to find funding for higher education in the United States. In a society where a college degree is a key to opening many economic and political doors, yet where any meaningful educational opportunities are relatively competitive and extremely expensive, the issue of providing public means for illegal immigrants’ academic achievement beyond secondary school is a critical one. This paper will examine only one facet of the debate regarding education and illegal immigrants: the issue of in-state tuition for unauthorized alien students. It will use scholarly and statistical evidence to demonstrate that charging illegal immigrants for access to public universities at the same rate as legal US residents of the same state can only benefit American society at-large. Despite various arguments to the contrary, allowing unauthorized residents to pay in-state tuition for a public higher education is economically beneficial for both students and the state, and can only contribute to the democratic well-being of our society.

At present, federal law on this issue – codified in the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and Personal Responsibility and Work Opportunity Act (PRWORA) – prohibits states from offering undocumented students post-secondary education benefits on the basis of residency (Urteaga 721-22; 724-25). In 2002, California became one of several states in the union to adopt statutes permitting nonresidents, including undocumented immigrants, to pay in-state tuition for access to its public universities. The law exempts students from out-of-state tuition not by residency but by their attendance of a California high school for at least three years, among other requirements (727-26). This move drew significant criticism from many anti-immigration activists throughout the United States, who brought a landmark suit against the state, called Martinez et al. v. Regents of the University of California et al., and argued that California’s law discriminates against US citizens and is preempted by IIRIRA and PRWORA (727-30). In November 2010, the Supreme Court of California ruled in favor of the state, holding that, since the 2002 statutes regarding in-state tuition based eligibility not on where a student lives but on where he or she graduates from high school, they did not give preferential treatment
to undocumented immigrants (Martinez et al. v. Regents of the University of California et al.). In June 2011, the United States Supreme Court rejected without comment an appeal brought by the plaintiffs, effectively upholding California’s in-state tuition law and those of the eleven other states with similar statutes (Webley). For the moment, California’s provision of in-state tuition for undocumented immigrants remains good law. But its status as good public policy, especially in the context of the ongoing immigration debate nagging at both state and federal governments, remains largely unsettled.

As with any other matter involving the use of public funds, it is critical to examine the economic benefits and costs associated with providing in-state tuition for illegal immigrants. The policy’s proponents argue that, besides fulfilling a number of social needs, giving undocumented students the significant financial break that in-state tuition creates can, for the long-term, only help the economic position of the state as well as of students themselves. Opponents, like University of Missouri law professor Kris Kobach, assert that the policy costs jurisdictions that implement it “staggering amounts of money” (Kobach 499). Given the allegedly extreme costs associated with extending in-state tuition beyond legal residents of a given state, Kobach asserts, most taxpayers would “rather give it to law-abiding U.S. citizens from out of state, who can legally settle and work in the state after graduation,” rather than undocumented students (500).

Kobach’s claim, although perhaps true in principle, is wrong in fact. A comprehensive 2011 report on the most recent studies regarding the effects of in-state tuition for non-citizens, published by the Latino Policy Institute at Roger Williams University, concludes that in-state tuition policies do not in fact result in higher public subsidies for which taxpayers must pay (Institute 12). The report notes that only two studies, published by the Federation for American Immigration Reform (FAIR) and the Center for Immigration Studies (CIS), provide concrete numbers to support Kobach’s argument. Both studies, the Roger Williams report says, have severe methodological flaws. FAIR’s analysis, for example, calculates the difference between a state’s out-of-state and in-state tuition rates and then multiplies that figure by the number of undocumented students expected to enroll in public colleges after in-state tuition laws are passed (11-12). Kobach uses the same method in his own calculations, reporting that California taxpayers must pay over $100 million annually to subsidize the education of illegal immigrants (Kobach 499). As the Latino Policy Institute notes, however, these figures assume that the same number of unauthorized students would enroll at state-funded universities if forced to pay out-of-state tuition, a clearly erroneous assumption (Institute 12). Kobach and FAIR’s numbers are therefore enormously exaggerated.

Kobach and FAIR also assume that the actual cost of educating a college student is equivalent to the out-of-state tuition rate, which the report indicates is also usually false. Any student, therefore, illegal or otherwise, who does not pay out-of-state tuition is not necessarily costing a state money, the report indicates; he or she is only decreasing the amount of revenue a state may receive (Institute 11-12). Other
analyses suggest that, in states with relatively smaller illegal immigrant populations, “public colleges would incur little or no added cost in accommodating these small numbers of additional students”; in fact, considering that as much as “31% more students may attend college if in-state tuition were offered,” these public universities could potentially take in more tuition revenue if undocumented immigrants were admitted and exempted from out-of-state tuition (Salinas 874; Institute 11).

The Roger Williams report concludes that exempting undocumented immigrants from out-of-state tuition does not present any direct, long-term financial net losses to public universities or to the states that subsidize them (Institute 16). The Latino Policy Institute’s director even suggests that “from the digging we’ve done, it appears that there is no cost to states, and there might even be a financial benefit” (Mangan). Echoing the claims of countless pro-immigrant scholars and commentators, the report goes on to suggest that any

“true and accurate cost-benefit analysis of the financial effects of in-state tuition needs to take into account…future financial contribution of college graduates versus high school graduates, and state subsidy per in-state tuition students versus out-of-state tuition student (if such a variable could be precisely determined), along with many other variables that effect the short and long-term costs and benefits of this legislation.” (Institute 16)

In short, merely assessing the immediate effects on state revenues of allowing illegal immigrants in-state tuition is shortsighted. We must look at other short- and long-term economic factors.

Various scholars agree, for example, that failing to make higher education financially feasible for undocumented students will, as one U.S. Supreme Court opinion argued, “permanently lock [them] into the lowest socio-economic class” (Plyler v. Doe). It is undeniable that a college degree confers greater material and personal benefits upon an individual than only a high school diploma. One report indicates that households headed by an individual with a bachelor’s degree earn approximately $1.6 million more in a sixty-year period than families headed by an individual with only a high school diploma (Hansen). Washington University attorney Laura S. Yates, among other scholars, insightfully argues that “Barring qualified undocumented youths from obtaining advanced degrees creates a subclass of persons otherwise capable of becoming professionals and significant taxpayers” – a situation that, if ameliorated by making greater accommodations for illegal students, could open up tremendous amounts of tax revenue to the jurisdictions that implement in-state tuition policies similar to California’s (Yates 605, emphasis added). In short, states would over the long term recoup any direct costs of exempting undocumented students from out-of-state tuition rates.

Besides potentially increasing state tax revenues in the future, in-state tuition policies for illegal students would also save jurisdictions money currently spent on social welfare and crime control. Prominent immigration attorneys Beth Peters and Marshall Fitz persuasively argue that charging
undocumented students out-of-state tuition presents a “ceiling on opportunity” that will “increase reliance on state benefits…and engender a cycle of dependence” on social welfare programs by immigrants, especially Latino students (Peters and Fitz 568). Yates and other scholars are even more explicit in their arguments to this effect, arguing that “providing [undocumented students] with an education today will save the country money in the future – money that the government would need to spend on social welfare, drug rehabilitation and medical emergency services for lower-income individuals” (Yates 605; Alfred 641; Lee 250). By perpetuating poverty, increasing crime, and only contributing to the long-term costs of social programs designed to ameliorate both, denying the undocumented population educational benefits like in-state tuition costs states overall more money than any immediate losses the public university system may suffer (Rich 323). This fact – coupled with the personal miseries (depression, malnutrition, stress, demotivation) of those illegal students denied higher education and relegated to the lowest rungs of the socioeconomic ladder – makes it clear that states lose more than they save by failing to institute in-state tuition policies (Wheelhouse 668-89).

Several other compelling economic arguments have been made in favor of such in-state tuition reforms. One such argument, made by various pro-immigrant attorneys involved in recent educational litigation, asserts that it is both financially and morally irresponsible to educate undocumented immigrants through secondary school, as the U.S. Supreme Court mandated in its landmark decision Plyler v. Doe, and then deny these students a college education (Plyler v. Doe; Alfred 649-50; Connolly 217; Urteaga 741-42; Yates 603-04). When one considers the enormous amount of money already spent on educating illegal students through high school, and also considers that, as Yates notes, “primary and secondary education are no longer sufficient for economic success” today, it becomes clear that failing to accommodate the undocumented is a tremendous waste of precious public resources (Yates 604). Unfortunately, in a technologically advanced and professionally complex society, even the best public K-12 school systems become moot when graduates are forced into low-skilled and low-paying jobs not by their merits but by their immigration status (Lee 248). It is undeniably a waste of state resources to invest in a student’s education through high school and then deny them the opportunity to complete it with a vital college degree. Lowering tuition costs would be a valuable step towards allowing undocumented students to further their academic achievement and maximize returns on states’ primary and secondary school investments.

Further arguments in support of in-state tuition policies can be found in a large body of legal research and public policy work already performed into the issue. These include compelling indications that statutes similar to California’s can be a partial solution to the growing shortage in the United States of native-born college-educated workers (Alfred 643; Huang 436-39; Lee 256). Proponents of this view argue that “instead of importing skilled workers,” a lack of whom has begun to plague the American job
market, the United States “should train the workforce in its midst: undocumented students who want higher education” and from whose “economic and social contributions” American society will benefit (Rich 325; Alfred 643). Another line of supportive reasoning contends that there are potential cultural benefits to educating undocumented students: some studies suggest that “undocumented students at California public universities participate in higher-than-average levels of community service and civic activity, including community education and mentoring” (Rich 325). While such contributions are difficult to quantify, proponents of immigrant-friendly in-state tuition laws argue that educated undocumented students are “asserting themselves as responsible members of society” and “should be recognized and rewarded so that future undocumented students are encouraged to continue in their footsteps” (325).

Several myths exist regarding the dangers or drawbacks of in-state tuition laws like California’s and other pro-immigrant policies; they persist despite the large body of scholarly evidence indicating their factual invalidity. Among these are the arguments, made by a vast swath of media pundits, that immigrant-friendly public benefits incentivize further illegal entry into the United States, and that undocumented immigrants will compete with legal residents and citizens for educational and employment opportunities (MacDonald; Kobach 500-03). Unfortunately, the complexity and scope of these arguments are too great to be addressed in this paper, and for this reason the reader may examine the excellent and thorough treatment of these issues by other public policy analyses, especially those by prominent immigration attorneys Thomas R. Ruge and Angela D. Iza (Ruge and Iza 276-77; Connolly 213-17; Urteaga 742-43; Yates 605-06).

Anti-immigrant commentators do consistently make one argument regarding undocumented students that cannot be ignored here: illegal immigrants, they assert, no matter how well-educated, are not legally permitted to receive employment in the United States and therefore cannot pay income taxes. Kobach notes that college-educated undocumented students “cannot legally remain in the United States for any purpose” and that “employers who seek employees with college educations are reluctant to violate federal immigration laws by hiring unauthorized workers” (Kobach 502-03). Therefore, he says, “even if the federal government did not succeed in removing these illegal aliens during or after their postsecondary education, it is highly unlikely that they would be able to take full advantage of their newly-minted college degrees” (502-03). Kobach concludes that states with in-state tuition laws would “have subsidized the creation of a well-educated class of illegal aliens who cannot take full economic advantage of their education if they remain in the United States” and who cannot pay taxes, meaning that states could not recoup any costs associated with granting them in-state tuition (503). As long as immigration laws restrict undocumented employment, the argument by immigrant advocates that in-state tuition policies are investments in a healthy future, both for immigrants and for states, is void. Kobach
and others argue that until federal immigration policies change, states should not grant in-state tuition to undocumented students.

The clear solution to this legal impasse lies in future immigration policy reform. As it stands, the American government’s legal immigration process is absurdly labyrinthine. Unfortunately for many immigrants, especially those who are unskilled, it is virtually impossible to gain legal access to the United States, leaving those who face dire economic and sociopolitical circumstances in their home countries little choice but to emigrate illegally (Flynn and Dalmia). This creates the enormous population of undocumented residents in the United States today, a subclass of individuals unable to remain in their home countries yet “unable to participate in our democratic society” (Lopez 1377). Unfortunately, the federal government has dragged its feet on resolving the problem its own unjustly and inefficiently designed immigration system creates. Since little serious political consensus has been reached on what kinds of people, if any, should be given legal access to the United States, there have been few successful efforts at immigration policy reform at the federal level since the 1980s, at least in favor of the immigrant population itself. What explains this phenomenon? What political forces have put immigration reform into a standstill for so many years, especially when it is, for many who cross America’s borders, a matter of life and death?

The answer may lie in Rogers M. Smith and Desmond S. King’s theory of racial orders in American political development. These two prominent political scientists argue that, throughout all U.S. political history, two competing “racial institutional orders,” in which political actors and institutions have “adopted (and often adapted) racial concepts, commitments, and aims in order to help bind together their coalitions and structure governing institutions that express and serve [their] interests,” have continuously fought (Smith and King 1). Smith and King trace the development of these polar political coalitions, called the “transformative egalitarian” and “white supremacist” orders, throughout United States political history. Political actors’ support of each is often the complicated result of a clash of ideational, political, social, and economic factors; for this reason, individual or group allegiances to one or the other order may change over time (75-77). In the post-Civil Rights era, Smith and King say, the white supremacist order is more clandestine in its support of institutions of racial inequality in the United States, and therefore may be called the “antitransformative” racial order (77-78; 83).

The transformative egalitarian-white supremacist thesis is highly applicable to the issue of immigration reform and immigrant education today. Politicians on both sides of the ideological spectrum have been largely unable to secure comprehensive changes to U.S. immigration policy on behalf of the transformative egalitarian order – instead, especially in the post-9/11 era, as Smith and King point out, American immigration policy has been characterized by inegalitarian racial paranoia (89). In affirmation of Smith and King’s argument that allegiances to racial institutions go beyond mere ideological
commitment but often include unjust economic concerns, some commentators assert that the “nation’s interest is the maintenance of an underclass of undocumented, low-wage earners who fuel the nation’s economy” (Lopez 1377; Urteaga 726). Others note the tendency of political candidates, often conservative, to prey on the post-9/11 nativist fears of their constituency to win office, therefore subordinating the long-term interests of the nation and immigrants themselves to their short-term political conveniences (Noorani 190-91). For reasons of scope, a full-length discussion of the complex ways in which the issue of in-state tuition, and the larger immigration reform debate, relate to Smith and King’s thesis must be left up to further research.iv

But this discussion cannot be left solely to the academy. Immigration to the United States will never end, but perhaps the obstruction of justice for immigrants, caused by poor public policies and immigration system inefficiencies, can. In-state tuition for undocumented students is a step in that direction, a step in favor of racial egalitarianism. As a policy, Will Wilkinson of The Economist notes, it “signals that we were once a nation of immigrants, and even if we have become too fearful and small to properly honor that noble legacy, America in some small way remains a land of opportunity” (Wilkinson, “The Message the DREAM Act Sends”).
Bibliography


Martinez et al. v. Regents of the University of California et al. No. S167791. Supreme Ct. of California. 15 November 2010.


IIRIRA Section 505 holds that, as Urteaga faithfully summarizes it, “a person who has entered the United States unlawfully cannot qualify for post-secondary education ‘benefits’ if that benefit is determined via ‘residency,’ unless the same benefits are also available to United States citizens who are not residents of the state granting the benefit” (Urteaga 724). PRWORA Section 4, subsection (a) adds that “undocumented persons are ineligible for state benefits and includes ‘postsecondary education’ as a defined benefit. Nevertheless, under subsection (d), PRWORA further provides that…if a state passes a law after August 22, 1996” granting a state benefit, “subsection (a) of this provision no longer applies” (725). In sum, undocumented students are restricted from receiving state educational benefits, including financial aid. Unfortunately, the loophole clause of PRWORA Section 4, subsection (d) just discussed creates confusion: the act seems to obscure, rather than clarify, the extent of state powers on the issue of in-state tuition for illegal immigrants.

California’s law exempting illegal immigrants from out-of-state tuition is not to be confused with the more recent “California DREAM Act,” AB 130 and 131, recently signed into law by Governor Jerry Brown. The second of these laws would allow undocumented students who meet California’s 2002 in-state tuition requirements to apply for and receive Cal Grants by California’s public colleges and universities, with heavy qualifications. The public policy considerations, especially the financial ones, relating to AB 130 and 131 are different from those discussed in this paper, which only concerns the issue of in-state tuition for undocumented students as established in California’s 2002 law and similar statutes in other states. (The California DREAM Act! Official Website of AB130)

Smith and King use this argument to claim that racial inequalities in American history have been more than mere aberrations from the liberal ideal on which the United States was founded. Rather, they are the result of a complicated clash between transformative egalitarian forces, which are concerned with making the liberal equality thesis a reality, and white supremacist, “antitransformative” forces, which for a complex variety of economic, political, and ideological reasons, are interested in maintaining “ascriptive American” racial hierarchies in the United States. For a more thorough examination of this argument, see Smith and King’s article “Racial Orders in American Political Development” and Smith’s piece “Beyond Tocqueville, Myrdal, and Hartz: The Multiple Traditions in America,” both included in the works cited following.

Various media sources have commented in more depth on the political machinery behind the U.S. federal government’s seemingly lethargic pace in resolving America’s immigration problems. The Washington Post’s Philip Rucker and Dan Balz note that Republican presidential candidate Rick Perry, governor of Texas, vehemently defends Texas’s own policy granting undocumented immigrants in-state tuition. This seems to contradict King and Smith’s assertion that today’s antitransformative order is most often aligned with the conservative Republican camp. But Perry’s case is a perfect example of what Smith and King mean when they argue that a political actor’s allegiance to one or the other racial order often goes beyond mere party or ideological commitment. Perry’s apparent support of the transformative egalitarian, pro-immigrant order, despite his generally conservative political alignment, is a result of other competing interests, including his concern with creating a racial subclass of “tax wasters” rather than “tax payers” (Rucker and Balz).

An article by Will Wilkinson from The Economist, entitled “The Demographic Politics of Immigration,” goes into further detail regarding the various long- and short-term interests of the Republican and Democratic parties in regards to the immigration issue. As Smith and King do in their works on racial orders and American political development, he discusses the clash of political ideology – egalitarian or ascriptive – of contemporary candidates with the long-term concerns of the nation. Nativist sentiment in much of the conservative constituency, Wilkinson argues, explains why the GOP, despite its long-term political interest in developing a pro-immigrant platform, resorts to short-term, anti-immigrant tactics to win office (Wilkinson, The Demographic Politics of Immigration).
Peace and Sacrifice

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Introduction

A conversation between historical contemporaries with very different modern-day legacies, Mary Wollstonecraft and Maximilian Robespierre, set in the Reign of Terror, on the just foundation of the state and the balance between idealism and realism in governance. Throughout his political career, on and before his time on the Committee of Public Safety, Robespierre repeatedly warned against the rise of a new Caesar who would come to take political power for himself. Despite his ouster and execution, his fears were ultimately vindicated with the rise of Napoleon and the rebirth of the French Empire. Wollstonecraft’s *Vindication of the Rights of Woman*, one of history’s most passionate and articulate defenses of the individual and political rights of women, helped spark a feminist movement whose implications are still being felt to this day. Inspired by Slavoj Žižek’s Robespierre: Virtue and Terror and Cormac McCarthy's *Blood Meridian*.

The year is 1794. Maximilian Robespierre, as always, is behind his desk. Tall and pale, his gauntly elegant frame is a testament to the strain his time as primarch of France has on his health. Ever the diligent public servant, he pours over the documents at his desk by candlelight, hands splotched with ink and constantly muttering to himself under his breath.

Caught up as he is in crafting his new France, free from the bonds of history and established in virtue, he doesn’t notice the knock on the door, or the doorman who quietly pokes his head in.

"My lord?" No answer. "My lord!"

Robespierre looks up, clearly irritated at the interruption. What? What news?

The doorman bows his head nervously. "It is a woman, my lord. A crowd has gathered outside. The things she is saying- well, she is just a woman, nobody wanted to be hasty, but..."

Robespierre doesn't respond, briefly looks down at his work, and slowly stands, steely-faced. He sweeps out of the room without a sound. He walks out of his office, through the corridors of the Hôtel des Menus Plaisirs, seat of the French Revolutionary government, and as he moves to the entranceway is greeted by
an unusual spectacle: a woman, dressed in blue, waving her hands about and giving an extremely passionate speech in front of a several-hundred-person crowd that had gathered.

She, unlike Robespierre, is very tall, and clearly English.

"This regime is filthy! Violence only begets violence. This terror- it is wrong. How can it be the will of the people to kill so many of themselves? We should not be using torture and wanton execution, we should be using education and building social cohesion to create a better and more compassionate society."

Robespierre, always immaculate in his personal manners, walks up behind this fiery ideologue and coughs politely. She turns.

Excuse me, madam. I don't believe we've had the pleasure. Je suis Maximilien.

"I am Mary. But I already know you. You are France's bloody dictator. You have corrupted the people's revolution with violence and evil. You must denounce these ways, make penance for the harms you have done, and begin making meaningful progressive steps to reform society."

Robespierre blinks. It had been quite some time since anyone was stupid enough to say anything like this directly to his face, and his expression was frozen, torn between indignation and the self-indulgent delight of a born orator anticipating a challenge. A slow smile creeps across his face.

So. You think violence only begets more violence, yes? That after centuries of violent oppression the 3rd estate should be gentle with its oppressors. That the embedded injustice, the evils of the Ancien regime could be wiped clean with books and positive feelings? In the name of morality, I suppose, you would ask us to lay down arms. That it is wrong to inflict violence, that life is sacred - that the aggressor is always wrong, and the victim always to be pitied. That we should be gentle with the Monarchists who would see us dead and the revolution overturned given the barest chance. Is this accurate?

Mary knows she is being goaded, and does not take the bait. "I believe a society founded in virtue is preferable to one founded in terror- not because you owe courtesy to those who would do violence to you, necessarily, but because you owe it to the future of your society to set a positive precedent for posterity. The actions you take in these early days will be remembered by France forever, and therefore you should exhibit the highest moral fiber, and a true commitment to virtue so that the moral soul of our nation is insured against degradation in future generations. Is it not better to create an educated and informed society, to spread the values of our times to the younger generation, that we might grow as a nation towards a better future?"

The crowd murmurs appreciatively. “She kind of has a point, doesn't she?” one woman says. Most,
however, are unwilling to say anything out loud.

The confident smile has at no point left Maximilien's face. It is so easy for those who have never had to face reality to speak of moral certainty!

He chuckles. As someone who has had no such luxury, let me share with you some wisdom that I have come upon in my time in the Committee of Public Safety, and the revolutionary years before.

The crowd falls dead silent.

I have three insights that I would like to share with you. Hard truths that I have been forced to face.

First- Morality is idealistic, and as such, inherently unrealistic. It is also arbitrary, or at least, something defined by society and not by the Supreme Being or natural law. They guide us towards virtue, not morality. For time beyond reckoning, we have been told that obedience to aristocracy is our moral place- that the humble and dutiful will go to heaven and that those who demand their rights are breaking from the social order. Now that we have shattered that old way, we are left without a moral anchor to guide our civic life.

That leads me to my second insight. Morality is contingent, not essential, but nearly inviolable once established and shattered forever once challenged. This is because it is forged in the most unquestionable, essential acts humankind can commit- violence. Everything that we do, while we live, is open to historical interpretation and reinterpretation. But violence is horrifyingly, unavoidably real, and the only language common to all minds and tongues. A government is legitimate when it has a monopoly on the legitimate use of force within its borders, and such legitimacy is not forged lightly.

This is related to my third insight- that evil, an aversion to virtue- is more deeply embedded in society than any of us would like to admit. That although words and ideas can open our minds to virtue, they can also give canny opponents the clothing with which to hide their true malicious intentions. Our revolution is not so secure that monarchy cannot return, and unless we forge the virtues of our time in the language most profoundly understood in history, it will succumb to the inertia and fear, and the Monarchists will return.

Wollstonecraft is taken aback.
"You're a monster! You think society is forged in violence? That all we can do is commit new violence to protect ourselves from the world? Is that all there is? What an awful worldview. What gives you the right to make a decision like that for all France? Why must we suffer all this violence, all in the name of a better future that seems to be just as violent as the past we are so anxious to get away from!"

Robespierre shrugs. It is the duty of one who would assume the mantle of public leadership to see the
world as it is, not as we wish it were. If you believe so strongly in morality, it must be disappointing to be so constantly frustrated by reality - I understand your indignation. But France and the revolution must be protected by those who are willing to do anything necessary to protect it, and it is as simple as that. Myself and the members of the Assembly and the Committee are doing what needs to be done, and France will thank us in posterity.

This time, it is Mary's turn to chuckle. "Trust me, Max - history is rarely sympathetic to the executioner. I wouldn't count on such fond recollection. I understand your intellectual argument there, and the values that you are drawing on, I really do. I don't know that I agree with your conclusion about morality, but I can understand the path to that conclusion. She turns to the crowd."

"But you here - What do you think? This man claims to speak in the interests of the masses. How have you enjoyed this Reign of Terror?" (Robespierre splutters, enjoyed??? Who said anything about enjoying anything - but Mary pretends not to hear) "I bet most of you have not. I would be willing to bet that most of you would prefer - in fact, I am sure - that you would prefer to go through a bit of a longer process toward building a virtuous society that doesn't involve such gratuitous use of the National Razor at the whim of this political spider."

"That seems reasonable to me," one says. "Do we want our children to live like this?" asks another. The mutterings grow louder, and spread.

"But wait!" cries Robespierre. Do you not see? If we allow ourselves to relent, if we do not press our advantage now, before you know it we will have a new self-styled Emperor wasting the blood and treasure of France on foreign escapades, and the voice of the people will be silenced once again! Do not let yourselves be deceived!

The crowd hisses, and Mary rounds on him. "Quiet, snake! The people of France will no longer accept your arbitrary prosecution of justice and your delusions of historical grandeur. Tens of thousands have died already - when does your identity forging stop? When have we stopped forging morality and started ruling through bloody suppression? Please, this violence must stop! We must turn back before it is too late!"

Robespierre draws himself up to his full height - still diminutive, but with a fury of personality that belied his stature. "People of France! Rally to me, my people! Show this woman that we are committed to our historic quest, to free ourselves from the shackles of Ancien and to a society founded in virtue! Show her that she is wrong."

As if on cue, the crowd surges forward and surrounds him. Within moments, it has consumed him, and begins moving slowly towards the guillotine.
Wollstonecraft stands by, her face stony. As the mob moves away to exercise its primordial judgment on its one-time hero and protector, Robespierre's patronizing chuckle rings in her ears.