Most of us have grown up with certain core beliefs, one of the most influential of which is that the United States is exceptional, which may lead us to conclude that whatever we do as a nation, whatever stance we adopt with respect to the rest of the world, is somehow justified simply because of our unique status. This position is sometimes called American exceptionalism, and it was exemplified by a description of this nation by Ronald Reagan -- adapted from John Winthrop -- as a "shining city on a hill." Everyone wants to be an American.

We do, however, have a moral obligation to examine our core beliefs.

The immigration debate in this country has operated under the mostly-unexamined assumptions first, that the United States has the sovereign right to control its borders; and second, that people who have crossed the borders of the United States without proper authorization are criminals liable to deportation. In what follows I will try to call both these assumptions into question.

[I should preface my remarks by saying that I have been deeply influenced in my thinking on this subject by the works of Henry Shue and Phillip Cole. My debt to them is enormous.]

Some facts: I don’t want to drown you in statistics, but a little bit of factual information will help us orient the discussion.

Here are the numbers: There are approximately 11 million undocumented persons presently in the United States. This number has actually decreased in recent years, from a high of about 14 million. About 70% of this number come from Mexico and Central America. In 2013 a little more than 600,000 were removed via deportation or so-called "voluntary" departure. Last year the United States spent more than $18 billion on immigration enforcement, more than on all other federal law enforcement efforts combined. 55% of federal convictions in 2014 were immigration-related.

On to the first prong of my argument, which is this:

Current American immigration policy, with its heavy reliance on enforcement, violates the human rights of the undocumented population already present in the United States.

There are three presuppositions to the argument:

1. human beings have certain rights deriving from their status as free rational beings with inherent dignity;

2. human life, and therefore human rights, are essentially communitarian;

the rights of human beings are independent of their immigration status.

According to Henry Shue [Basic Rights], rights represent everyone's minimum demands against the rest of humanity. They are the protection of the weak against the strong. Rights justify a demand that their enjoyment be socially guaranteed. Three rights in particular are basic:
1. the right to subsistence: sufficient food, clean water, shelter, health care and education to allow for a reasonable human life;

2. the right to security: freedom from assault, torture, murder, and the integrity of one's home and possessions;

3. the right to freedom of movement and participation in the political life of the community.

The Universal Declaration of Human Rights, to which the United States is a signatory, states that every human being has the right to free movement and residence within the borders of a state; the right to leave any country and to return; and the right to seek and enjoy asylum from persecution. Everyone also has a right to a nationality and the right to change nationality.

It is precisely with respect to the demand for social guarantees that American policy falls short. The United States, as a liberal democracy founded on the acknowledgment that “all men [sic!] are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness,” recognizes a twofold duty:

a. respect the rights of all human beings

b. protect the rights of those under its jurisdiction.

Current US immigration policy violates the human rights of unauthorized immigrants who are present in the United States by forcing them to live continuously under the threat of deportation. Here is the argument:

Unauthorized immigrants are particularly vulnerable to violations of their rights. They are often the victims of labor violations, trafficking, and domestic slavery. Agribusiness in particular exploits unauthorized immigrants in a variety of ways, often jeopardizing their security with pesticides and unsafe working conditions while paying sub-minimum wages. According to Interfaith Worker Justice, wage theft—the withholding of money owed for work done—is a particular problem for undocumented workers.

But the fact is that undocumented workers cannot appeal to the normal societal institutions that would protect their rights. That is, they cannot demand social guarantees for the enjoyment of the substance of their rights. Unauthorized immigrants jeopardize their security and subsistence rights by appealing to civil authorities for protection of those rights, since doing so draws the attention of those authorities to their unauthorized presence and makes them liable to deportation. They are therefore required to live in the shadows, unable to either defend their rights themselves or appeal to the normal institutions of the state charged with the duty to defend them. Those who exploit unauthorized workers are keenly aware of this dilemma and use it to their advantage. Workers who attempt to organize or object to poor working conditions or low pay are threatened with “la Migra” as a way of keeping them in their place.

It follows from this that United States deportation policy, ostensibly a way to assert its sovereignty over its borders, has the effect of wholesale violation of the human rights of the undocumented workers within its borders. Since it has an affirmative duty to protect the rights of all within its jurisdiction, the deportation policy conflicts in a fundamental way with its duty as a liberal democracy.

The conclusion I draw is that the United States may not deport those already within its territory (barring well-defined exceptions for criminal behavior). This completes the first prong of my argument.

But this argument does not yet address the question of whether the United States can legitimately limit the number of people who cross its borders, which brings us to the second prong of the argument:

National boundaries cannot have the weighty moral status required for the justification of the sort of limitations on international migration that the United States presently enforces.

[In the argument that follows, I rely heavily on the work of Phillip Cole, especially Debating the Ethics of Immigration: Is There a Right to Exclude? (with Christopher Heath Wellman).]

Presupposition:
Like cases are to be treated alike. This is called the symmetry principle. Treating people differently requires a moral justification. 

In particular, if distribution of benefits depends on membership in a certain group, then we must justify, not assume, that membership is justly distributed. 

A liberal democratic state must abide by the symmetry principle. The United States has long recognized its validity and has a history of codifying this sort of equal treatment in its laws. Arbitrary differences have no moral standing. 

There are two ways in which national boundaries are morally arbitrary: 

1. where they are located; 
2. who falls on which side. 

There are identifiable historical reasons for the location of national boundaries, but none of those reasons supports any moral conclusion. In the case of the United States, its northern boundary was determined by a number of treaties with England and Canada. Its southwestern border with Mexico was established by a combination of conquest (the Mexican war, ended by the treaty of Guadalupe-Hidalgo in 1848), and the Gadsden Purchase, concluded in 1853. As a result, under the slogan of Manifest Destiny, four states in the western U.S. (California, Arizona, Utah and Nevada), and parts of several others, became part of the United States. An examination of the maps of Africa and the Middle East are further examples of the historical accidents that resulted in modern national boundaries. 

It is my contention that this arbitrariness means that the life-prospects of people cannot legitimately depend upon which side of the border they happen to find themselves. To claim otherwise violates the symmetry principle. The people who are “legitimately” in the United States could just have easily been born on the other side of the border. It follows from this that if the United States is to prevent any person from crossing its border, it must be able to provide a moral, and not just a legal or political, reason for doing so. But this puts the onus on the state to justify its actions, which creates a presumption of legitimacy for those who present themselves for entry into the country. The mere fact that some people happen already to be here provides no moral justification for authorizing them to prevent people who are not here yet from coming here. This is the conclusion to the second prong of the argument. Neither deportation nor strict border control is morally justified. 

There are a number of factors that are responsible for migration pressures. Among those pushing people to migrate (push factors) are lack of economic opportunity in the home country, causing a threat to subsistence, especially to one's children; the desire to extricate oneself from a violent situation caused by gangs and drug cartels; and political oppression caused by corruption and official misconduct, especially by the police. Factors attracting migration to the United States (pull factors) include job opportunities; better living conditions; and the desire to reunite with family members. 

It is not irrelevant to point out that many of the push factors are the direct or indirect result of U.S. trade policies (NAFTA, CAFTA) and the demand of U. S. Americans for illicit drugs. 

It might be more appropriate to label undocumented immigrants as refugees, since in our present world the push factors are so strong. This is particularly the case with the large number of unaccompanied minors who have recently been showing up at the border. 

The fact is that the immigrants who are trying to cross our southern border are desperate. No one leaves home casually to engage in a dangerous journey of several hundred miles into an uncertain future. This suggests what I call the desperation argument, which goes like this: 

1. Immigration to the US is the only real-world solution to the immigrants' difficulties. 
2. Temporary refuge is not an option -- immigrants often don’t have the option to return to their own countries within a reasonable time period. 
3. The long-term presence of immigrants requires their participation in the political life of their adopted place. Otherwise their liberty is compromised and their other basic rights put in jeopardy.
The appropriate response to desperate people is compassion, not law enforcement.

We need now to look at some objections based on the supposed consequences of liberalizing our immigration policy.

First, it is sometimes claimed that illegal immigration harms low-wage workers already here. There are two responses to this: first, there is little evidence that immigration has a negative impact on wages. Indeed some studies have suggested that legalization and liberalization would have a positive impact. Second, we need to raise the question of why we would want to defend a system in which some people make so little that they would be vulnerable to such harm. It might make more sense to expend our efforts on trying to improve the economic system so that everyone would have a reasonable chance for a decent life.

Second, some suggest that the presence of large numbers of undocumented causes erosion of social trust and harm to the dominant culture. This presumes that the institutions that maintain U.S. society are too weak to sustain the assimilation of new immigrants. But history teaches us otherwise. Current immigrants are no less anxious than those of previous generations to fit into the dominant culture and learn its language and customs.

One suspects that an underlying reason for the desire on the part of many to limit immigration lies elsewhere. In her response to President Obama's speech introducing his executive order on deferred enforcement, former Congresswoman Michelle Bachman (R. MN) referred to “millions of unskilled, illiterate, foreign nationals”...who "can't speak the language." We need to acknowledge that much anti-immigrant sentiment is based on misinformation about the character of the immigrant population, who as a group are less likely to either commit crimes or disproportionately access social services than other groups in society. To this we may add that the present undocumented population represents only about 3% of the population of the country.

The reality is that wealthy countries want to exclude people who are poor, most of whom are people of color. Border controls impact mostly the global poor, but the right to migration is an essential element in equality. To be free and equal in a globalized world, one must have the freedom to pursue one's interests through free mobility.

What would be the consequences of a less liberal immigration policy built around strict enforcement (as is advocated by many in Congress)? A recent article in America [April 6, 2015] says the following:

A recent study by the American Action Forum, a center-right research institute, has rejected the idea that deporting immigrants would benefit the U.S. economy. According to an analysis by The Atlantic, “removing all 11.2 million undocumented immigrants...would take about 20 years and cost the government between $400 billion and $600 billion.” It would also have a severe impact on the economy, leading to an estimated $1.6 trillion drop in gross domestic product and slowing economic growth by 5.7 percent.

But economic consequences are not the only consequences, nor are they the most serious. Since 1998 about 7,000 people have died in the desert attempting to enter the U.S., due to increased enforcement efforts by Customs and Border Protection (CBP) on safer routes into the country.

Here are some consequences of internalizing immigration control:

- The imposition of identity cards or passport checking at banks and welfare institutions;
- CBP checkpoint away from the border;
- Racial profiling;
- Immigration raids on churches and court houses.

Deportation policies have negative consequences as well, for they require a large-scale detention regime. In response to lobbying by the private prison industry, Congress has mandated that 34,000 detention facility beds be filled every night. This has resulted in selective enforcement, variability of bonds, and transportation of detainees across the country, separating them from both families and legal representation. A particularly egregious abuse is family detention, in which mothers with small children are held in prison-like facilities (often run by for-profit prison companies) for long periods without access to proper medical care, legal representation, education for the children, or even the opportunity to plead their cause in court.
Present detention policy often results in separating families. Siblings are separated and housed in facilities that may be hundreds of miles apart. And in spite of stated priorities to the contrary, parents of U.S. citizen children are routinely deported, leaving the children with no option except foster care.

Abuse of migrants in custody is an ongoing problem. There is ample documentation of Immigration and Customs Enforcement [ICE] and CBP abuse, both physical and psychological, of detainees. Migrants are routinely denied due process and are not afforded the opportunity for an asylum assessment, in clear violation of U.S. and international law. Department of Homeland Security [DHS] reform pledges have had little effect in practice.

Illiberal policies undermine the liberal state. Our national character is in danger not from the presence of undocumented persons but by our misguided and (in my opinion) immoral attempts to keep them out.

The bottom line is this: border controls and deportation policies either imply the incoherence of the liberal political theory that lies at the foundation of the country's institutions, or that theory is just an expression of interest, without any moral component whatsoever. In other words, it can only be maintained by the use of power. We might call this the selfishness justification. It involves the application of the power of an immensely powerful nation against the poor and vulnerable who want to join our political community.

**Conclusion**

What would a consistent and humane immigration policy look like? Catholic Social Teaching is clear on the subject. In the encyclical, *Pacem in Terris* (Peace on Earth), Pope John XXIII clearly articulates the right to migrate and the right not to migrate: “Every human being has the right to the freedom of movement and of residence within the confines of their country; and, when there are just reasons for it, the right to emigrate and take up residence elsewhere.” This sentiment has been consistently reaffirmed by subsequent popes.

In the same *America* article cited above, Archbishop Blase Cupich of Chicago stated that the United States “benefits from the toil, the taxes, the purchasing power of a large number [of] undocumented workers,” yet we are unable to give these workers “their God-given rights.” In testimony before Congress [Feb. 11, 2015], Bishop Gerald Kicanas of Tucson says the following:

> Our nation cannot wait to repair a broken immigration system that does not accommodate the migration realities we face in our nation today, does not serve our national interests, and does not respect the basic human rights of migrants who come to this nation fleeing persecution or in search of employment for themselves and better living conditions for their children.

> In order to achieve real reform, the Administration and Congress must work together on a comprehensive package that would legalize undocumented migrants and their families in the U.S., provide legal means for migrants to enter our nation to work and support their families, and reform the system whereby immigrants come to the United States to be reunited with close family members.

The service of the common good requires no less.