

Robert W. Heimbürger. *God and the Illegal Alien, United States Immigration Law and a Theology of Politics*. Cambridge University Press, 2018. Paperback. ISBN 978-1-316-62983-3.

*God and the Illegal Alien's* author, Robert W. Heimbürger, is an Associate Chaplain with the Oxford Pastorate, Associate Researcher at the Fundacion Universitaria Seminario Biblico de Colombia, and Editor of IFES Word & World. His new book is divided into three parts and six chapters overviewing the major developments that affected immigration law in the United States. Heimbürger advances his discussion of the formation of immigration law by weaving together the topics of the immigrant as alien, the alien as unlawfully present, and an unlawfully present alien from a neighboring country. Among these topics the chapters are set as: (1) how the alien emerged: allegiance, English law, and federal immigration law, (2) coming near to distant neighbors in God's World, (3) how aliens became illegal: sovereignty, Chinese migration, and federal immigration law, (4) the humble guard: governing immigration under God, (5) how nationals of neighboring countries became illegal aliens: nondiscrimination, Mexican migration, and federal immigration law, and (6) justice and mercy among neighbors.

The book traces the uses of the term "alien" from the beginning of its first appearance in English common law to its current usage in United States immigration law. In light of examples provided from the realm of theology, Heimbürger prompts the reader to consider casting aside the labeling of immigrants as "aliens" and instead consider the immigrant as neighbor. While this suggestion takes a simple approach to a much more complicated body of immigration law and politics, it was an innovative and inspiring challenge for the readers to consider the effects of labeling a people group solely based on citizenship status. However, the book seems to lose the reader in its interpretation of theologians and biblical stories as it attempted to reach the conclusion that Americans owe to the immigrant a status as neighbor because of the work they are willing to do that most Americans refuse or do not want to do.

Of particular note, are two stories recorded in the introduction that lay out two prevailing themes at issue in the book: how the United States government treats immigrants, and how the church treats -- or should treat -- immigrants. The book begins telling the story of how Miguel Villanueva had just been removed from the United States. Miguel was fluent in English and had left his home in Mexico at the age of fifteen because jobs were scarce, and any available jobs barely paid enough to buy clothes, food, and other necessities. He crossed the border to the United States and met a woman with whom he later had a daughter. Later he was deported, after having been apprehended for driving without a license. He tried to re-enter the United States, but was caught by Border Patrol, and in that second instance he pled guilty in order to avoid a sentence of a year or two. The judge warned Miguel that if he was caught again, he could be charged with a felony and spend years in prison. At the end of the book, confusingly, Miguel ends up discovering that the woman had married someone else, and that 'his' daughter was actually not his child.

The next story is of Rev. Charles Adams, who pastors at an evangelical church in a small city in the American South. Rev. Adams has a family in which the parents lack the documents that would allow them to stay in the U.S., but the children were born there, and thus have citizenship under the law of birthright. The parents don't want to move their children to a place where the children not only have never been there before, but also would lack opportunities to make a decent living. The church helped them find a lawyer, who ultimately informs them that nothing could be done except to wait, leaving the parents no option but to remain with their children without legal status. Although the Rev. Adams is a citizen who is intent upon upholding

the law, he feels that he is in a bind as some of the church members feel it would be inappropriate to hire the undocumented parents to work for the church, but Rev. Adams still wants to help the family.

Chapter 1 analyzes how U.S. law from the start distinguished the “alien” from the citizen as its basic division of persons. Although historians disagree about where the origins of federal U.S. immigration lie, Heimburger details, from the account of historian Roger Daniels, that the origin began with the creation of the Chinese Exclusion Act of 1882, which banned the entry of Chinese persons into the United States. From there the term “alien” became a basic building block of U.S. immigration law, as it describes any person not a citizen or national of the United States. “Alien” appeared first in the federal U.S. law in 1790 as Congress established a uniform rule of Naturalization which stated that “any alien, being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for the term of two years, may be admitted to become a citizen thereof, on application to any common law court of record” (27). Eventually, the term was used not only in the context of becoming a citizen, but in the context of moving into U.S. territory. Heimburger then traces the usage the term alien as defined in common law from *Calvin v. Smith*, the alien as one outside the allegiance of the king, the alien as a consequence of the law of nature, the alien as suspicious or stranger, to the use of alien as a legal term. Essentially Heimburger concludes that the term alien increasingly became a standalone, isolating item denoting suspicion in its use in U.S. law.

Chapter 2 analyzes Karl Barth’s reading of Scripture and points toward a way of thinking of the world in which “aliens” are not distrusted, but instead are drawn near out of fellow humanity and love (44-5). Heimburger argues that Karl Barth’s reckoning of nationhood from Genesis to Ephesians answers how those from far away are situated within God’s work of bringing God’s world to its fulfillment. Furthermore, he argues that Apostle Paul’s migration as a missionary provides a picture of the church in relation to migrants. Karl Barth, a twentieth-century Reformed theologian, had a section in the *Church Dogmatics* entitled “Near and Distant,” in which he argues that God has made the world characterizing human life as within one nation and within all humanity: “The human being is determined to be the covenant partner of God, and likewise human beings are brought into partnership with other human beings...human beings are not solitary but freed in fellowship (47).” Heimburger believes that Barth opposes the notion that some human beings are simply alien or plainly foreign, and that Barth does not say that one is always called to honor, protect, and promote only the people for which he is part, but rather one is called to promote all members of humanity: “We have seen that, although this does not mean the removal of boundaries it certainly means the overthrow of barriers and a certain coming and going, a common mind and mutual intercourse, a certain measure of co-operation and the establishment of genuine societies across the frontiers” (51). Ultimately, Heimburger argues that human beings should not be content to let those far away remain alien, but rather consider migrants as distant neighbors coming near as they seek fellowship and partnership in humanity.

Heimburger then analyzes contemporary moral theologians, Brock and Wannewetsch’s, account of Apostle Paul and the notion that Paul was sent out “to become all things to all people that I might save some” (54). Paul’s movement is described as the migration of the missionary with the hope in the gospel that all individuals from all nations come to share Christ’s death and resurrection. Ultimately, everyone in the church is arrested by the good news and sent out to those who are different from themselves in order that all may partake of Christ. Heimburger concludes that, “belonging lies not in this nation now but in that gathering of every nation and

tongue to worship the true Sovereign” (62). This section offers a rather confusing account when applied to national immigration policy because Apostle Paul’s status as a single missionary positions him in a very different place than a nation in regards to immigrants within a particular community. Nevertheless, the general call that everyone should receive the gospel, and that being in the country should provide hope to migrants, are very optimistic.

Chapter 3 analyzes when and how the authority of the federal government over immigration was articulated and established. In the Immigration Reform and Immigrant Responsibility Act of 1996 the term “illegal immigrant” made its first appearance in the context of felons to incarcerate. The 1996 Act also made the debut for the term “alien unlawfully present,” which was defined as “an alien is deemed to be unlawfully present in the United States if the alien is present in the United States after the expiration of the period of stay authorized by the Attorney General or is present in the United States without being admitted or paroled” (67). Eventually, there was a shift from aliens who are unlawfully present to the simpler term “illegal alien” that remains in U.S. law today. Those who are excluded under federal legislation do so by breaking the ban on entry or continued presence in the U.S. For example, according to the Chinese Exclusion Act of 1882, it was forbidden for Chinese laborers to come into the U.S., and in that same year under the Act to Regulate Immigration, it was also forbidden that “any convict, lunatic, idiot, or any person unable to take care of himself without becoming a public charge from land at U.S. Ports” (69). Furthermore, Congress began adding numerical limits that began in 1921, and in 1924 this policy expanded into a full-blown quota system under the Johnson-Reed Act of 1924. Ultimately the bans were in regard to the unfree, the unhealthy, and healthy or rather those people groups who thought to be incompatible with American society. The government reasoned that the authority to expel aliens rested on the sovereignty, self-preservation, and self-defense of the nation. Heimburger argues that this development in immigration law did not fare well for immigrants, as they ultimately became “pawns within the self-interested logic of the federal government” (94).

Chapter 4 analyzes where do guarded places emerge in the Christian narrative of creation, fall, and redemption, and what is their destiny. Herein, Heimburger analyzes how Christian teaching agrees on the need to guard places but it subjects that guarding to God’s guarding with reference to the writings of Martin Luther. The need to defend territories against threats from those outside remains subject to God, and humans should be able to protect migrants, while also respecting its own territory. Heimburger argues the diffuse harm that an immigrant threatens to bring against an economy is rarely or ever commensurate with the standard punishment for illegal entry or overstay which is the removal from the country and calls for a merciful practice of immigration law in America.

Chapter 5 analyzes the 1960’s move by Congress to try to get rid of discrimination in immigration admissions, which led to a system that gave each nation equal standing. However, Heimburger argues that in the process, the United States disregarded the neighboring country of Mexico which resulted in a growing class of undocumented workers. The United States blanketly implemented quota systems without considering the class of farm workers that were already coming and going from Mexico prior to these quotas, causing these workers to hide from authorities. Heimburger suggests that this harm is rooted in the fact that the U.S. did not treat Mexico as the neighboring country, and that U.S. law did not take into account the place, neighborhood, and historical relations between the two countries. The previous workers under the status of contract labors and undocumented workers became illegal aliens because they could no longer come to the U.S. for work and go back home to Mexico. He explains that they became

a permanent class of migrant workers doing the work that Americans would rather not do and argues that this class of people became the next class closest to slaves because they were tied to work on the black market, neither slave nor free.

Chapter 6 analyzes the notions of justice according to Aristotle and Hugo Grotius which result in recommendations of policies that better fit undocumented workers primarily from Mexico. This chapter builds upon the notion that when Mexico was placed on par with countries further away, Mexicans kept migrating northward through illegal channels, and that the U.S. failed to account for its dependence on Mexicans doing much of its manual work. The author then focuses on the work of Aristotle and Grotius as underwriters in early international law regarding the relations between states. From their work, the author gleans that the current set up of federal law does not account for the wrongs done to the unlawfully present migrants from the suitable nearby neighbor of Mexico. Aristotle argued that there were two kinds of justice as distribution or the rectification in transactions. Ultimately, he defines justice as giving what is due in each case. Heimburger draws a parallel of Aristotle's notion of justice to the granting of visas as giving what is owed to the already present or was is fitting to give to the newcomers. Heimburger argues that the U.S. should right the wrongs of the way in which U.S. law ignored the working relations between Mexican contract laborers and our country. Since legislation could not stop the natural migration of Mexicans to America for better working opportunities, Heimburger suggests that instead of focusing on quantitative measures (quotas), the U.S. should focus on qualitative measures, such as felons versus non-felons. Ultimately, he employs the Parable of the Good Samaritan to argue that these laws erect a barrier towards acts of love and mercy towards the unlawfully present, and proper law would recognize a modest neighbor by showing mercy to Mexican immigrants.

God and the Illegal Alien makes important contributions to how we should think and act towards immigrants as a nation, and out of a common human bond. This book provides a profound trace in history of how America has come to classify the illegal alien. This contribution is necessary in today's society because many comments in regard to America building a wall to keep out migrants in the news is shocking. Heimburger's notion of treating immigrants as neighbors is idealistic and perhaps overly broadly stated, particularly since it is directed towards a single case – America relationship with neighboring Mexico. A clearer focus on America's relation to Mexico could have been made to offset the government's current attitude and President's Trump mantra to build a wall. Late in the book it became clear that the concept of neighbor was especially befitting to Mexican migrant workers in the U.S. because of the historical labor relationship between the two countries. If not placed in the context of U.S.-Mexico, it is easy for the reader to feel lost as the simple classification of neighbor is being applied to a complex body of immigration law. The lack of focus on neighboring border countries causes the book to skirt over issues in national security that many American politicians use as a major argument in support of the quota system.

The argument of the book is rather muddled because the author doesn't distinguish the link between how Christians should treat immigrants as neighbors and the specific example of US-Mexico. "Why should America at large be expected to treat the immigrant as neighbors if some do not uphold the same values as theologians and figures from the Bible," is a question that could be left with the reader. This issue is key in order to understand why or if these theological values could actually be applied in such a complex body of politics and law. A quick glance at news headlines and policy from the current U.S. administration would suggest the opposite outlook on immigrant status and ultimately renders this simplistic approach implausible.

However, the link may have been better developed if the focus was specifically directed to Mexico, and if the author had avoided comparing labor performed by Mexicans to “nigger work” (214) which, while provocative, is inadequately developed. While this discourse is timely considering the current administration’s attitudes towards immigrants, the author could have developed the U.S. and Mexico neighbor relationship early on in the book. The lack in clarity that the book’s main argument should be mainly applied to the neighboring border countries, leaves the reader struggling to make connections to apply the “neighbor” principle to a complex body of immigration law and policy.

Michala D. Black, J.D. Candidate, 2019, Vanderbilt University Law School; B.A. Foreign Affairs, University of Virginia.