

Chapter 7

Immigration

Introduction

Since people have rights to themselves and all people have equal rights to natural opportunities, nations can justly defend their claims to territory by saying, "Because our citizens have rights to themselves, they have a right to a place where they can express themselves. The territory we occupy is no more than our share (or if it is more than our share we are compensation those who have less than their share) and we have been living here lately."

Now suppose that some people come and say, "We would like to become citizens of your nation. May we join you?" How should the citizens of the petitioned nation respond?

Good people will do what they can to accommodate others. If the petitioners are prepared to accept their laws, the citizens of a good nation will generally be willing to accept the petitioners. In a just world they will have a reason to accept the petitioners that does not apply today: With additional citizens the nation will have a claim to a greater share of natural opportunities. If they have more than their share they can reduce the compensation that they pay others. If they have less than their share they can expect additional compensation from others.

If the petitioners' backgrounds suggest that they may cause trouble, the citizens of the petitioned nation may decide that accommodating these particular persons is more than can reasonably be expected of them. They may say, "We are sorry, but we would find it just too difficult to live with you. You will have to go home."

In a just world, this will not be a great problem. The petitioners can return home and either find a way to get along with those among whom they were born or find like-minded fellow citizens and ask to secede. But what about a world that is not fully just? What if the petitioners come from a nation where they are mistreated and are not allowed to secede? That is, what if the place from which the petitioners come does not recognize that people have rights to themselves and that all people have equal rights to natural opportunities?

In that case, the citizens of the petitioned nation have an obligation under justice to make some accommodation for the petitioners, whether or not they find the petitioners acceptable, and whether or not their circumstances are dire. The petitioners can say, "We have rights to ourselves and to equal shares of natural opportunities. We come from a place that does not recognize these rights. Since you do recognize these rights, you have an obligation to make room for us." How

can such an appeal justly be denied? There are a variety of arguments that might be offered for denying the appeal, but none of them are adequate.

Arguments for Refusing Those Who Wish to Immigrate

Consider first the argument that the petitioned nation is too crowded. However crowded the nation is, the petitioners can say. "It cannot be just that you have *some* space in which to express yourself and we have none. Squeeze in a little and let us have at least some." If all the citizens of the petitioned nation can say in reply is, "No, we were here before you and we don't want to share," then they are behaving unjustly. Earlier arrival does not give the citizens of the petitioned nation greater rights to natural opportunities than other persons.

The citizens of the petitioned nation may offer other reasons. They may say, "We are not so crowded that we could not make room for you, but we are unhappy about the potential consequences of your participation in our economy. You would compete with workers whose wages are uncomfortably low. If we allow you to participate in our economy, their wages will be even lower. We are not prepared to subject these most vulnerable of our fellow citizens to the loss of income that your presence among us would bring."

To this concern the petitioners can reply, "While it is understandable that you have compassion for the most vulnerable of your fellow citizens, you need not allow them to suffer from competition with us just because you allow us to participate in your economy. If our participation causes the most vulnerable of your fellow citizens to suffer, then the lower wages for them and us provide a gain for the rest of you. You can offset the reduction in wages among the most vulnerable that will occur as a result of our participation in your economy by levying a tax on those who gain from our participation and using the revenue to finance a subsidy for the wages of the most vulnerable. In this way you can ensure that our participation in your economy will not lower their incomes. If you want to exclude us from the subsidy because you do not have the compassion for us that you have for them, we will not complain. Just let us in."

The citizens of the petitioned nation may say, "It isn't simply that you will lower the wages of our most vulnerable fellow citizens, there is also the problem that you grew up with traditions that are different from ours—a different religion and a different understanding of community norms, for example. We have a right to organize our lives in a way that permits us to affiliate only with those who share our culture, and that excludes you."

To this the petitioners can reply, "While it is true that you have a right to affiliate only with those whom you choose, you do not have a right to a world composed solely of those who share your traditions. And since you do not have that right, there must be some place that those who do not share your traditions have a right to be. Since those who control the place where we were born do not recognize our rights, we ask you to do what your principles require. You don't

even need to let us live in any of your existing communities. Just designate a place where we can build our community and we will be satisfied.”

The citizens of the petitioned nation may say, “It’s not just that you will crowd us, that you will lower the wages of our most vulnerable fellow citizens, and that you do not share our traditions, the fact is that we do not trust you. It could be very costly for us if you turn out to be criminals. Why should we be obliged to take that risk?”

To this the petitioners should reply, “You are right. Justice does not compel you to accept the risk that we may be criminals. We cannot claim a right to be trusted. But even if you do not trust us, we still have equal rights to natural opportunities. You may compel us to remain within the confines of the territory that you designate for us if you must, but we do have a right to *some* place to express our rights to ourselves. And if the territory that is allocated to us is less than our share, we have a right to compensation for the insufficiency.”

The citizens of the petitioned nation may ask, “Why us? There are other nations that recognize your right to yourself and your equal right to natural opportunities. Why should we have to be the ones who must find a place to accommodate you?”

To this question the petitioners should reply, “There is no reason why it should be you in particular. We have rights to some place to express ourselves, but it need not be in your nation. If you can arrange for habitable space to be allocated for us somewhere else, we will be satisfied.”

The petitioners have responded adequately to all of the reasons that the citizens of the petitioned nation have offered so far for not admitting them or at least granting them some separate space in which to live. Bruce Ackerman offers an additional reason that the citizens of the petitioned nation can offer for refusing the petitioners.¹ The leaders of the petitioned nation may say that while they have made progress toward establishing a just nation, their ability to continue in that direction while accepting new citizens is limited, and they believe that they have already accepted as many immigrants as they can without threatening the progress they have made. They believe that if the petitioners are admitted, it will be impossible to sustain a geoliberal tradition.

This provides a coherent reason for refusing the petitioners, but it is a prudential reason and not a just reason. And it is strongly subject to abuse. It is entirely too tempting to hide our selfishness from ourselves by saying, “Gosh we would love to help you, but our fellow citizens just aren’t morally advanced enough to let us do it. If we try to help you, they will undo the progress we have made toward establishing a just society. You’ll just have to do the best you can without our help.” There maybe times when such a response actually is necessary to preserve the possibility of geoliberal tradition. But it is also possible that those

¹ *Social Justice in the Liberal State*, pp. 93-95.

who offer such argument are succumbing to selfish impulses and underestimating the resilience of their tradition. And in refusing the petitioners they are abandoning justice.

You may object. "Surely," you may say, "It cannot be unjust to preserve the possibility of justice."

This is an issue of what we mean by justice. I believe that it is better not to introduce a prudential element into justice. Justice describes what we will do if we recognize the equal rights of all. Occasions may arise when we cannot believe that it is actually a good idea to do what is just. But let us describe such circumstances in those terms and not compromise the meaning of justice.

Conclusion

To summarize, any nation that recognizes that people have rights to themselves and equal rights to natural opportunities will recognize that it has an obligation to accommodate any person or group that petitions for a place to give expression to those rights. The fact that the petitioners may crowd them is not an adequate reason to ignore them. If competition from the petitioners will worsen the circumstances of poor persons for whom the citizens of the petitioned nation have special compassion, then the citizens of the petitioned nation should provide compensation for those persons rather than deny the rights of the petitioners. The fact that the petitioners do not share the culture of the petitioned nation is not an adequate reason for refusing them. The citizens of the petitioned nation have the right, if they wish, to require the petitioners to live separately in an assigned place, but they cannot justly refuse to allow them any place to live freely. If the citizens of the petitioned nation do not trust the petitioners not to behave criminally, they may fence off the territory assigned to the petitioners. The obligation to provide for those who seek a place where they can live freely is an obligation of all just nations. They may coordinate their actions to satisfy this obligation if they wish, but in the absence of such coordination it is an obligation of every just nation. Even if accepting the petitioners will threaten the continued existence of an emerging tradition of recognizing the rights of all persons to themselves and their equal rights to natural opportunities, justice requires us to accommodate those who petition for an opportunity to immigrate.