

OBLIGATION AND REFUGEES

by

Howard Adelman

INTRODUCTION

This paper raises the question of the basic principles for determining the state's obligations to refugees, more specifically, the obligation of the state to grant the right to membership to a refugee who arrives at the border of that state to claim protection from that state.

Part I differentiates those macrocommunities to which individuals belong in the modern world -- the state, civil society, and the nation -- and ascribes the proper role of the state as adjudicating between the other two without becoming the prisoner of either. The section distinguishes between the ways each of these grants membership to its respective communities and endorses Michal Walzer's thesis that a primary expression of distributive justice is the granting of membership in the state, and suggests granting such membership by right to refugees is a litmus test of the principles of distributive justice underlying a particular state.

Part II then relates those different communities in different ways according to different ideologies and philosophies of those macrocommunities. Only small "1" liberal states are found to experience any sense of obligation towards refugees

Part III then relates the different ideologies to the different principles of justice underlying them. Though extremist ideologies clearly have no obligations to refugees, given their underlying principles of justice, when we begin with the principles of justice and apply them back to the philosophically small "1" liberal state in Part IV, no clear guidelines for assisting refugees result; results are ambiguous.

Part V examines that ambiguity. We argue that, although there are no clear abstract principles from which to deduce a state's obligations to refugees, particularly granting refugees the right to claim membership in a state (since the determination is a matter of weighing conflicting principles and assessing the alternative implications), the present situation in weighing and applying those conflicting principles favour granting right to refugees to claim membership in one's own state on the most generous basis.

I. Macrocommunities and Distributive Justice

"The primary good that we distribute to one another is membership in some human community. And what we do with regard to membership structures all our other distributive choices."¹ The human community at issue for refugees is the political community known as the state. Participation in other political communities within the state -- political parties, states or provinces, cities -- or non-political communities, depends on having membership in a state.

On the macro level this political community can be differentiated from a national community; the two generally have a large overlap in membership. But they are not identical. Being and experiencing oneself as an American is not identical with being an American citizen. A new immigrant, who has just received his or her citizenship papers, is likely to still feel more Russian or Mexican or Italian than American. A new Canadian citizen living in Quebec and even speaking French is unlikely to experience him or herself as Quebecois. Membership in the political community of the state and membership in the national community are not identical in timing, experience, the mode of acquisition, the requisite conditions, rites of passage and the agents who make the determination. And the conditions for membership in a nation are usually much more

¹Michael Walzer, Spheres of Justice (New York: Basic Books, 1986), p. 31.

lengthy and subtle than the conditions for membership in a state.

A deserter from the Vietnam War who moved to Sweden and became a citizen may remain an American and never experience himself as Swedish even though he acquired Swedish citizenship, spoke Swedish and renounced his American citizenship. A non-Jew whose family acquired Israeli citizenship and may have lived for three generations in Israel will not thereby become a member of the Jewish nation which dominates the political community of that country. Memberships in some nations -- the Anglophone Canadian community, the American nation -- come relatively easily as language, culture and a sense of history are acquired with virtually no formal rites of passage. Membership in the French nation may be much more difficult but still omit a formal rite of passage. While membership in the Jewish nation will require a formal -- in Israel, an orthodox religious conversion, even though the majority of members of that nationality do not practice their religion. Membership in other nations -- Dene, Inuit, Ojibway -- may be virtually a matter of birthright.

Membership in the political community of the state may also be distinguished from membership in the civil society. In the modern world, in many areas of economic exchange of goods and services, membership in the political community is

generally not a prerequisite to membership in the civil society. But as the state has acquired greater input, control and influence over the economic life of a nation, such conditions have generally increased. In order to practice medicine in Canada, Canadian citizenship may be a prerequisite from members of most other political communities. But acquiring membership in the Canadian political community, though a necessary condition for most non-Canadian doctors in order to practice medicine, may be an insufficient condition. Doctors from Vietnam or Poland who pass the professional requirements to practice medicine and who have become Canadian citizens may find other rites of passage to membership in the medical portion of civil society. They may be restricted from practising medicine by limiting the number of internships in hospitals only to those educated in the country, and by quotas for those educated abroad.

The purpose of introducing comments on membership in the national community and membership in the civil society in this paper is because each of these influence but do not control the conditions for membership in the political community. The ability to assimilate into the national community and the local need for the skills and capital one brings to participation in the civil society are usually factors taken into account in considering applications for membership in the political community.

The influence of these two factors is greatly diminished in the case of refugees who wish to become members of the political community. Because of this diminution of influence, a litmus test for the distributive principle for membership in the political community is not the conditions for the ordinary immigrant, whom we select because he or she will contribute to the economic and national life of our community or with whom we may already share a familial affiliation, but the conditions for a refugee becoming a member of the political community.

The conditions for admitting refugees into membership in the political community provide a litmus test for the sense of justice for that political community, not only because we can more easily separate the factors for admission from the conditions of entry into the civil society and the nation, but also because of the conditions of the refugee. It is the treatment accorded the stranger, the individual with whom we do not share an immediate sense of actual or potential community that provides a key into the principles of justice of the political community. More specifically, it is the stranger who lacks membership in any political community or who has been the victim of injustice from the political community from which he or she fled. A litmus test of justice for any political community is how it deals with strangers who are refugees.

Walzer argues that membership in the political community and just a human community is the primary good we distribute because the distribution of membership in the political community governs all our other distributive choices, thus making the principle of distributive justice in the political community primary. Without entering a long debate with Walzer on the expansiveness of this claim, let me simply restate it in a more qualified way. Membership in some political community on the level of a state -- that is, citizenship -- is at least a primary good, because without citizenship in some state our participation in other distributive choices will be severely limited. For the earth is now divided up into recognized political communities, each with a monopoly control over access into and use of the territory within its sphere. Since a place to live, a piece of land, is a primary condition of engaging in most other distributive choices, and since the freedom to have a place to live is now under the monopoly control of states, membership in a political community is a primary that we distribute

Since control of access to a place to live is a monopoly of the state, and the territories of the world have been more or less divided up amongst those states so that, unlike the nineteenth century, there are no lands to which we can flee which are not under the political jurisdiction of some state, control over citizenship is also a monopoly of the

state. Further, it is a monopoly with a highly centralized decision-making structure -- in contrast to membership in a nation which rarely has a monopoly or absolute control over a territory and where the conditions for membership are frequently very amorphous and decision-making is generally decentralized. Similarly, we no longer have East India Companies or the Traders and Adventurers of the Hudson Bay Company with their territorial monopolies over huge land masses. With the exception of the professions, access to membership and participation in the civil society is generally wide open. Pre-conditions for membership -- skill, talent or capital, are not formal criteria -- and a decision-making apparatus may be non-existent.

Because we start with a world divided into political communities, each controlling a territorial base and the entry into that territory, the criteria for distributing membership into those political communities are crucial. Further, refugees are the direct by-product of the exhaustive division of the world into political communities which have developed the technological and bureaucratic means -- passports, border controls, visas, etc. -- to govern access to the territorial base of a political community.

As Michael Marrus makes clear in his book, The Unwanted, the twentieth century is the era of refugees formed because of

the power of political communities -- the power gone awry in those political communities that produce refugees, and the subjection of refugees to the choices and power of other political communities that have realized a higher sense of justice, one which extends beyond its own members to strangers who are the victims of other political communities. And the major reason for that power going awry in political communities which produce refugees in the contemporary world is generally because either one national community seeks or gains a monopoly control over the political community and attempts to identify or equate membership in the political community with membership in the national community, or else because a community sharing an ideology about the civil society attempts or acquires a monopoly control over the political community and drives members out who resist or do not share that ideology of (centralized or decentralized) control over the economy. There are, of course, some refugees who are simply the product of small groups who seize power without equating that power with nationalism or economic state control.

I, therefore, have defined political community as having a higher sense of justice when its monopoly control over territory is not itself subject to the monopoly control of one nation constituting the dominant or a dominant element in the political community, or of one political faction with a belief in the monopoly control of the state by members

having one shared ideology of a centralized control over the civil society. In other words, membership in a political community must be a primary and not a secondary good to membership in a nation or membership in a civil society.

This does not mean membership in the political community is the primary good. A higher sense of justice depends on preventing a monopoly control over justice by any of the macro communities to which we belong -- states, nations and civil societies. Some elaboration on the difference between political, national and economic communities is necessary to clarify this point.

Membership in a national community exists to advance the spiritual development of the individual which, in turn, can only grow to the extent that the national community has a rich culture, history and language. Membership in an economic community exists to advance the material development of the individual which, in turn, can only grow for most members to the extent the economic life of the community is flourishing. Membership in a political community exists not for itself (unlike Aristotle, I do not define man as primarily a political animal), but to allow the spiritual and material advancement of the individual, that is, to allow the national culture or cultures and the economic life of the people to grow and develop. The political community, though unlike the national and economic

life of the nation in not being an end in itself, is a primary good because it exists to separate and mediate between the spiritual and material lives of individuals through the means brought to enhance both the life of the nation and the prosperity of the civil society.

Though the state may have a monopoly over access to the territory, an attachment to and the development of that territory is crucial for the enhancement of the national spirit and the economic prosperity of the community. For that very reason, it is very clear why the civil society and the dominant nations of the state will vie for influence over and upon the state.

But influence should not be translated into control. While the national community operates primarily by means of intellectual influence -- the influence of ideas -- and the economic community operates by means of monetary influence the influence of material wealth -- it is crucial that the influence not be translated into power, for the political community retains a monopoly on the control and use of coercive power to protect its members. Generally, when one nation gains a monopoly control over the political state or when one group with a shared ideology about the economy gains a monopoly control over the political state, the monopoly of coercive power of the state may be used to persecute the members of other nations or the holders of

different materialist ideologies and practices who are members of the state. That is why it is important to separate the coercive power of the state from the creative power vested in the national and economic community of a society, even though the political community exists to enhance the creative energy in both the spiritual and material lives of its members.

This is also why the formal authority for admission into membership into the political community must remain a monopoly of the political community and not be subject to control of either the national or the economic community. Each of these will have their own mechanisms, which will generally not be highly formalized, for participation in the national and economic communities and, more important, for determining which members have the highest degree of authentic authority in influencing and affecting the life of the nation and the prosperity of the economic community. At the same time, the primary responsibility of the political community will not be to decide who should be the leaders within the national and economic communities.

I have argued for here is the modern version of the separation of church and state, the separation of nation and society by means of the state which in turn must remain distinct from both the nation and the society it is set up

to serve, protect and enhance. And it is in that context that we must consider the admission into membership into the political communities of strangers who neither share a sense of national community nor ask for admission into the political community because of the contributions they can make to the economic community, though these may indeed be significant. The litmus test of justice for a political community is not its dealing with immigrants but how it deals with strangers who are refugees for whom the national and economic communities have little primary interest.

II. Various Ideological and Political Philosophical Bases for the Political Community

In terms of the distinctions made in the first section we can identify five political philosophies and/or ideologies underlying differing policies for admitting refugees into a political community. They are fascist, communist (both of which are totalitarian), anarchist, authoritarian, oligarchic and democratic. Each of these varies in the role they ascribe to the influence of the national and economic communities on the state -- that is, in their material and spiritual ideologies

Let us distinguish between two different ideologies for the economic community and two different ideologies for the national community. An ideology, for our purposes, can be

distinguished from a political philosophy for it has an exclusive reference to either an economic community or a national one. A political philosophy addresses itself to the role of the state vis a vis both the national and economic communities.

The two opposing economic ideologies are libertarianism and socialism, or, in popular terminology, capitalism and communism. An extreme form of socialism advocates that the political state have a monopoly ownership of the capital in an economic community and a monopoly control on the assignment of labour roles and its distribution in the economic community. An extreme form of libertarian ideology advocates that the political state have no ownership of the productive capital in an economic community, and that all capital be vested in individuals within the economic community. The effect is simply to ensure that any monopoly control over sectors of the economy tend to remain in the hands of the few who control it at that time. Similarly, any control over labour roles and access to performing a particular labour function would be left solely to the economic community and market forces, and, therefore, remain in the hands of a few -- those in whom monopoly control already existed in certain sectors.

There are clearly less extreme versions and positions which mediate between the two. For example, a less pure form of

socialism might advocate state control and ownership only of those capital formations which already constituted a monopoly or near monopoly in the economic sphere. Or, in an even less extreme version, a socialist position might use the power of the state to vest different sub-groups in the economic sphere with control over different portions of the economy, usually after taking every such control from other sub-groups.

Similarly, a less extreme version of libertarianism might agree that the state own and even control the communication routes -- airwaves, highways, etc. -- of the economic community and/or possibly the educational facilities which develop the national spirit and skills needed for both the national and economic communities

On the nationalist issue, there are also two pure ideologies. The extreme nationalist or ultra-nationalist perspective is that the state becomes the sole instrument for controlling and enhancing the spirit of the nation. These extremists generally also uphold the converse -- that all members of the state must be members of the singular nation that state exists to enhance

In the opposing position is an extreme anti-nationalist, usually internationalist, ideology which holds that the state should have no role in supporting a nationalist

spirit. If the state has any role in promoting a spirit it should be a universalist or internationalist one. To that end, the less the state is dominated by a dominant national community, the better.

A fascist political philosophy is correctly referred to as national socialism because it combines an extreme ultra-nationalist ideology with usually a less extreme but nevertheless socialist economic ideology. The state should dominate both the spiritual and material welfare of a community so that the distinctions between nation, state and civil society are minimized.

A communist political philosophy, in its purest form, combines an extreme internationalist and anti-nationalist ideology with a socialist economic ideology. In de facto terms, not only may compromises be made to accomodate local nationalities, but in the twentieth century we find one nationalism (Russian) in the guise of internationalism tending to repress local nationalist self-expression except in those far away places where it serves the revolutionary purposes of communism. But like fascism, communism uses the state to dominate both the spiritual and material welfare of the community to minimize distinctions between nation, state and civil society. This is why both are correctly referred to as totalitarian and not just authoritarian ideologies, for their concern is with the inner and not just

the outer, the spiritual and not just the material welfare of its members.

An internationalist political philosophy combines an economic libertarian ideology (there is not desire for control of the economy to be vested in an international government with an internationalist anti-nationalist ideology, arguing that our principle allegiance is not to any one nation but to all humanity. This minimization of the role of the regional state has meant that, in a world divided into states, its success could only be measured by its influence on the control exercised by international bodies or by individuals who actively resisted the growth of state power per se and not simply its excessive growth.

An authoritarian ideology has been differentiated from a totalitarian one, primarily because it tends to advocate strengthening the state to defend the nation while arguing for weakening the state to strengthen the civil society. The state, in its identification with the nation, seeks a monopoly over the spiritual life of the nation.

Such authoritarian philosophies have been espoused, not only in the dictatorships of Latin America, Africa and the Middle East, but even in the latest version of the Imperial Presidency of the United States -- Reaganism. While stressing the role of the state in building up and

protecting a nation by the use of coercive force while, at the same time, identifying the nation with a spiritual force opposed to strictly materialist ones, the political philosophy also advocates the diminution of the role of state in protecting and enhancing the economic life of its citizens. The latter factor has generally been well-known, but it is the periodic crises in the Imperial Presidency, such as the Iran-Contra affair, that make the primacy of the authoritarian political philosophy over democratic values most clear.

As Theodore Draper makes so abundantly clear in his essay on the Reagan junta², the apologists for Reagan were angriest at their partners, the conservative democrats in the Republican Party. Buchanan chastised them for heading "the tall grass" instead of providing unquestioning loyalty to their leader. Irving Kristol explained the reason for this was that the Republican Party was still dominated by traditional (i.e., democratic) conservatives and not the "populist conservative and American nationalist wing." Norman Podhoretz attributed irresponsibility to the institution preserving democracy in the democratic monarchy of the American system -- the Congress.

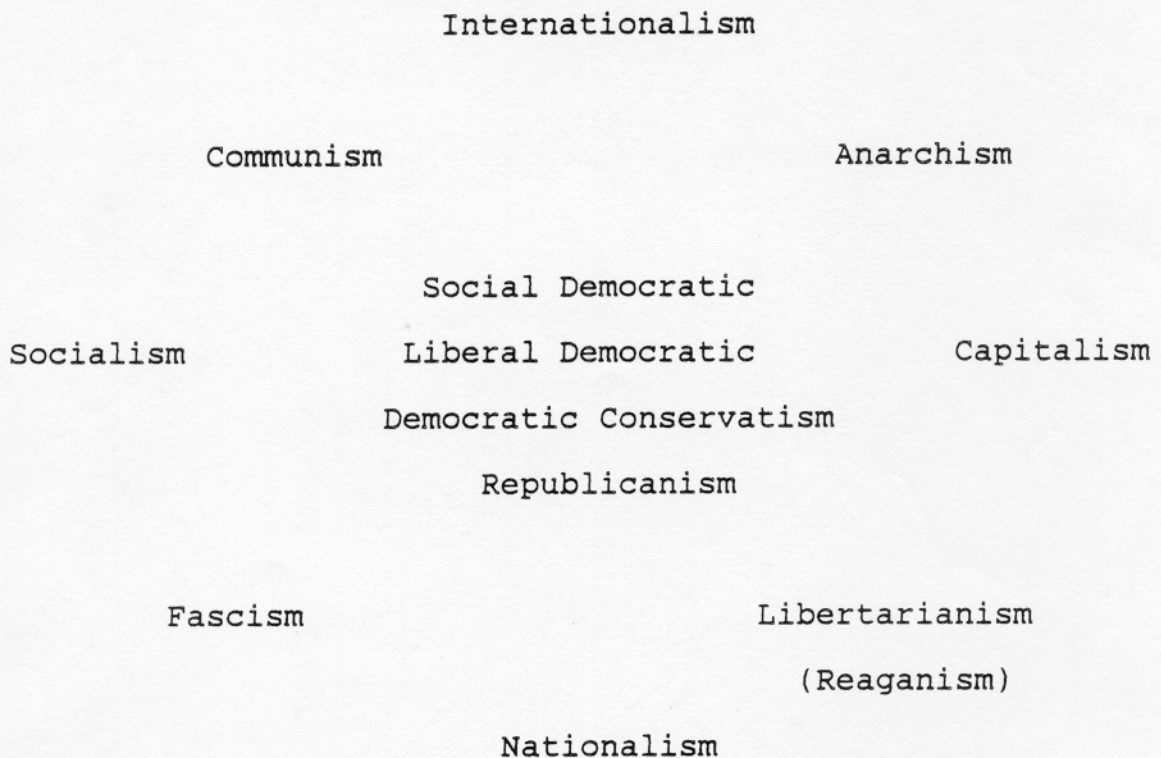
²Theodore Draper, "The Reagan Junta," New York Review of Books, xxxiv, 1 (January 29, 1987), pp. 5-13.

This also helps make clear the difference between a democratic political philosophy and authoritarian, fascist, communist and internationalist political philosophies, which vest power in reality in an individual leading a small oligarchy claiming to represent the popular will of the nation or of the proletariat, or of humanity as a whole (this is where an internationalist sees his responsibility primarily to humanity as a whole rather than to the states which make up the international community). For a democratic philosophy does not argue that the state or its leader represent the popular will or that they represent any will at all. Though the leaders of the state are responsible to the people for their actions, they are a responsible government and, therefore, it is the people and not they who must judge whether the actions they undertake conflict with or undermine the spiritual and materialist ideologies of its members. There is a collective will to be represented and it is democratic because the people are given an opportunity to judge periodically between rival groups who claim they will act more responsibly than the group and leader currently in power.

Now clearly some democratic political philosophies will be more social democratic because they lean towards the socialist end of the economic spectrum with some social-democrats being more attentive to separatist nationalist issues and others to humanitarian

internationalist issues. Some democratic political philosophers will be more conservative because they lean towards the libertarian end of the economic spectrum with some conservatives being more blue Tories or community conservatives and other conservatives being more red Tories or internationalist conservatives. Trying to maintain a balance between the four different ideologies will be the small "l" liberals.

The schema below summarizes the above outline of political ideologies and philosophies.



III. Ideologies and Principles of Justice

Each ideology above has its own principle of justice. Three are basically collectivist and two are basically individualist. The principle underlying a libertarian ideology is individual self-interest. According to this philosophical premise, each individual seeks to secure and, if possible, expand his own material welfare. C. B. Macpherson correctly labelled it a philosophy of possessive individualism. Each individual seeks, as a minimum, the security of a place to live where that individual can produce and consume that necessary to sustain his or her life. To overcome a war of all against all, the state was created so that individuals could pursue their own self-interests within legal non-violent bounds.

Walzer would extend the Hobbesian principle. When the world is totally divided up into territorial states, and the individual can no longer go outside the system of states to find a secure place to live where that individual can find what he or she needs to preserve life, then the obligation of a state to protect the lives of its own citizens extends to other stateless individuals.

This is not an extension of Hobbes but a distortion and imposition of a universalist norm with a concern for all humanity. In a libertarian ideology, the individual either

lives in a state which can provide protection for him or he lives in a potential or actual state of war with no security for his person or his property. The inability of the Lebanese to develop such a state means that its citizens and residents are constantly subject to arbitrary death, as was the case in the factious isle of Britain in the sixteenth and seventeenth centuries.

The fact is that a state based on a libertarian ideology has no obligation whatsoever to the protection of non-citizens, but every obligation to its own citizens to permit entry of the best and most talented who are cast adrift from other states, particularly from states advocating the very opposite ideology.

A socialist ideology is also based on materialistic self-interest. An individual takes the labour of his body and uses it to convert the natural world to artifacts. Only, in Marxist socialist theory, the surplus from that conversion is exploited by capitalists. The only way workers can prevent such exploitation is to unite to collectively resist such exploitation. Further, the union of workers should act to seize control of the state which is controlled by capitalists to serve themselves.

In the Leninist version of that ideology, only a small elite recognizes what the interests of the class as a whole are,

for given individual material natures reinforced by the indoctrination of capitalist societies, the insight into what is necessary to advance the collectivist cause of the proletariat and the capability of translating that insight into effective action belongs to a cadre of leaders. Those leaders must be ascertained to have the right consciousness. In turn they must insure that the correct consciousness and views are imposed on the total collectivity.

The premise of a socialist ideology is therefore self interest collectivized for all workers, and, in Leninism, the collective self interest of that class defined and disciplined by the communist party and its leaders. Obviously any individual dedicated to the interests of the proletariat who fled a capitalist state would be welcomed as a refugee.

Thus, the principles underlying both materialist ideologies are both based on self interest, only in the communist ideology, self interest, like property, must be collectivized, appropriated and controlled by the party, and then manipulated in the interests of the collectivity of workers as those interests are defined by party leaders. Thus, individual self interest must be sacrificed, if necessary, for the self interest of the proletariat as a whole as interpreted by the party.

In the spiritual ideologies, both the nationalist and internationalist ones, it is not self interest selflessness that is primary. The primary driving force is not the material welfare of the individual, but the spiritual well-being of the nation or, in the case of the internationalists, of all humanity. Thus, nationalism or humanitarianism, both based and dependent upon willingness of the individual to sacrifice him or herself for the well being of the whole, are based on philosophies of self-sacrifice in contrast to self interest. This is really the appeal of an individual like Ollie North.

If we analyze the various political philosophies combining materialist and spiritual ideologies, and therefore which must combine self interest with self-sacrifice, we find that in the communist ideology, self interest is, in effect, totally converted into self-sacrifice. One sacrifices one's own self interest for the good of the party and for the international proletariat. This is true of the extreme forms of fascism represented by the nationalist-socialism of Hitler's Germany -- the Nazis. Here, again, self interest became totally sacrificed to a philosophy of self-sacrifice to what the party (and Hitler) defined as the greater good of Germany. Internationalist libertarian philosophies of anarchism -- whether those who fought in traditional battles such as the Spanish Civil War or those who fight against the present predatory and warlike nature of states, such as the

members of Greenpeace, self-sacrifice also becomes a by-word for the internationalist causes for which they fight.

Ironically, this is also true of the libertarians who in the name of their economic self interest call on Americans to sacrifice their money and their lives in the defense of their leader, a national cause, a higher principle. And this seems to be typical. What the authoritarian totalitarian regimes do is call on the self-sacrifice of the citizens to serve causes which reflect the interests of the dictatorship.

IV. Ideologies and Obligations to Refugees

A libertarian argues that natural market forces determine the outcome of the distribution of goods and services which should not be interfered with by artificial, i.e., government decrees. In the allocation of memberships in political communities, the same market forces should apply. For if we treat the world as a common market with the free flow of human beings dictated by market forces apparent logical implication of a universal libertarian philosophy, then, is that there should be no immigration or refugee regulations or limitations created by states.

The argument is flawed because a libertarian ideology first makes the assumption that men have gathered together and

found a state to protect themselves from each other's avarice getting out of bounds and from other states and human beings who are not part of the social contract. Free flow of human beings within the state is a requirement of libertarian philosophy. The free flow of individuals into the state is not.

A communist ideology, however, can control the movements of people even within the state for the collective good of the proletariat. So can a purely nationalist ideology in the name of preserving and enhancing the language, history and culture of a people. In fact, the only ideology that seems to endorse a principle of the free flow of individuals are the universalists who celebrate the opportunity to break down particularist barriers in the name of an ideal of a world community, of humanity, men and women everywhere. Thus, it is no surprise that a main force pushing for laws which extend rights and guarantees to refugees would be universalist humanitarians who not only do not ascribe much value to a particularist nationalist spirit, but regard such particularist materialism as a danger and a threat to the ideal of peace. The effect of wide open doors would mean choosing homogeneity in the world rather than variety and pluralism.

The fact is that extremist nationalist forces concerned with enhancing and keeping the vital spirit of the language,

culture and character of the nation pure from external corruption will resist immigration and the granting of membership in the state to strangers because they are strangers or will impose severe restrictions on the process

Similarly, extremist libertarians will resist laws to assist refugees because the economic self interest of existing members is the prime concern. Workers who feel threatened by the market being flooded by the importation of cheap goods from abroad -- in this case, desperate human beings willing to work for much less than the current market rates for wages -- would resist opening the doors to refugees. But the libertarians, especially those with internationalist rather than nationalist leanings, would support assistance to refugees abroad.

This is but one option in fulfilling an obligation to refugees. There are four different options available. One option is to assist refugees to be repatriated to the countries from which they fled. However, as long as political communities are more dedicated to injustice rather than justice, repatriation will be ruled out, yet it is the one option which all ideologies would support if the regime from which people fled changed.

Unfortunately, repatriation is not always voluntary. It is sometimes forced. After World War II, in concurrence with

terms of the Potsdam Agreement, literally millions of Eastern Europeans were forced to return to the control of the Soviet system and to face death at the hands of Stalin and his henchmen. When nationalists and libertarians were caught up in their own nation's concerns and the restoration

their own economies and wanted to save their own youthful members from sacrifice in a new war -- particularly after so many lives were sacrificed in one so recently concluded they might have been quite willing to sacrifice the lives of others to whom they felt no obligation.

The other three options offer more hope as an expression of obligation towards refugees.

Political communities may offer a portion of the goods and services they produce to help settle the refugees in the first country of asylum, usually an adjacent country to which the victims have fled or, at least until conditions

ripe for voluntary repatriation. Alternatively, political communities committed to a principle of justice accept refugees as members. There are two alternative paths for carrying out the latter option. Refugees can be accepted for resettlement in a political community by selecting a quota of refugees as immigrants. Or, refugees

land on our doorsteps by airplane, boat, car or train, and at the border claim refugee status under the Geneva Convention for refugees and ask to be allowed to remain

Thus, even if it is accepted that political communities committed to a principle of justice have obligations to refugees, the question still leaves open how to adjudicate amongst the various avenues for fulfilling that obligation. And the choices are philosophically fundamental. For when we offer assistance to refugees abroad living near the borders of their homeland or even when we go to refugee camps abroad to select a portion of those refugees for resettlement in our own political community, we retain absolute control over the exercise of the decision over who can and who cannot become members of our political community while, at the same time, we fulfill our obligation to refugees.

But when we grant refugees the right to claim asylum once they land on our doorsteps, then we qualify that absolute sovereign control over membership. No club grants anyone a right to claim membership in a community, though clubs are under social pressure not to adopt criteria rooted in racism or sexism in selecting its members. Yet countries who have signed the Geneva Convention for Refugees and its subsequent Protocol and who have incorporated that obligation into domestic law have indeed accepted an obligation to grant membership by right to refugees who qualify under the Geneva Convention, provided they pose no security threat to the host country. However, some -- usually those of the libertarian persuasion -- interpret that obligation in a

negative sense in upholding non-refoulement only. That is, refugees must not be sent back to the state which persecuted them, but we have no obligation to accept them in our state.

Thus, the obligation and the granting of right are themselves qualified. In a modest qualification, we have no obligation to grant membership to an individual who, though he may be a refugee, would be a threat to the stability or security of our political community. Though the litmus test is an obligation to strangers who are without a political community which can guarantee their protection, the obligation does not extend to enemies of the political community. The ancient Hebrews distinguished between idolaters, the essential quality by which they characterized their enemies, including individuals who were already members of the political community, and strangers whom the bible enjoins again and again to extend a welcome and helping hand.

In a major qualification, we have no obligation to accept any refugee as a member of our state; our only obligation is not to compound the crime of persecution by returning the refugee to the state from which he fled. In other words, the obligation is so qualified as to effectively undercut it altogether as far as its essence is concerned. In the modest qualification, we need not focus on the means of distinguishing between enemies and strangers; we need only

recognize that any political community must make such a distinction, though the very necessity to make the distinction is too frequently used as a basis for persecuting members of one's own community -- the McCarthyite witch hunts, the forcible resettlement of citizens of Japanese descent during the Second World War in Canada and the United States, the persecution of dissidents and prisoners of conscience in the Soviet Union, the acts of terror of the current Khomeini regime against the Bahai's, for example, and the current efforts of Rabbi Meir Kahane to drive the Arabs out of Israel. Without going into detail, a liberal view restricts the definition of an enemy to those individuals who threaten the physical safety and security of other members of the community. Groups as a whole cannot be branded as enemies. Nor can individuals who question and challenge the inherited belief structures which give coherence to the political community. Only those individuals who pose a physical threat can be branded as enemies. Those who risk their material welfare for their abstract beliefs are not enemies; those who are willing to sacrifice the material security of others for their abstract allegiances are enemies.

In order to decide how to adjudicate amongst the three options open to us -- overseas aid, overseas selection for membership, and granting rights to claim refugee status to Convention refugees -- on the modest qualification, for the

major qualification grants the right with one hand and takes it away with the other -- in fulfilling our obligations to strangers who are refugees, we must review the influence of the possible principles underlying that obligation.

One possible principle is self interest, identified with the underlying premise of the civil society when applied to the state. It begins with the Hobbesian premise of the right of every individual to have the security of a place to live where that individual can produce and consume that necessary to sustain his or her life. The state was created to provide that security -- that is, to serve the self interest of the individuals who are members of that state. Some, however, would go further, when the world is totally divided up into territorial states and the individual can no longer go outside the system of states to find a secure place to live where that individual can find what he or she needs to preserve life, then an individual's state's obligations to its own citizens extends collectively with all other states to stateless individuals.

Further, since states will be divided into those that more or less do live up to protecting their own members and providing the security for them to earn the necessities of life, and those that do not provide such protection but abuse the rights of its individual citizens, those which attempt to live up to the principle of justice incumbent on

a state to protect its own members have a larger burden of obligation to exemplify that principle by ensuring that protection is accorded to those individuals who flee persecution and lack the protection of any state. The collective burden sharing in this respect is but an extension of the rights of individuals to protection and to earn the necessities of life for which the state was created as an instrument to that end.

The argument is often put in a complementary way. Unless the states who share and live up to the principle of justice that every individual is entitled to the protection of a state in a territory where he or she can earn the necessities of life collectively extend that principle to those who are the victims of states that do not live up to the principle, they are not accepting their principle as a universal obligation and would not be entitled to claim their belief as a principle of justice. It is precisely by making their particular beliefs a universal obligation of all and to all mankind that self interest is built into a principle of justice.

A different perspective on the same argument is that it is in the self interest of states who adopt the duty to protect their individual members to extend that protection to individuals outside the protection of any state lest these stateless individuals create disorder in the quest for the

necessities of life and their own protection and thereby threaten the international order. That is, unless states who claim to live up to the principle of justice of existing to protect their members, collectively share the burden of extending that principle to individuals outside the orbit of any state and lacking protection, the situation will tend to destabilize, particularly in those states most vulnerable in their commitment to protecting their own citizens. In sum, the libertarian premises are used combined with their logical extensions for the exemplification of beliefs, for the universalization of beliefs and in the application of the belief to the international sphere.

Counterposed to the argument that the obligation to refugees is an extension of the principle of self interest, is the principle of self-sacrifice. At its limit, self-sacrifice entails the sacrifice of the individual out of universal obligation to all mankind. Some call it charity when the self-sacrifice is limited to a limited portion of one's personal bounty. Rawls and Walzer call their principle mutual aid, since the principle of helping strangers who happen to cross your path is qualified even further by a minimal risk to oneself. Nevertheless, the principle of self-sacrifice, the principle of charity, and the principle of mutual aid all proceed from an opposite source than self interest -- even if self interest qualifies them to

different degrees -- the duty to sacrifice self for the benefit of others.

Self-sacrifice is based on a Kantian secular presumption or a Christian religious one as instances that men qua moral care and are motivated by good will as opposed to a selfish will. And that good will obligates us not to act out of self interest, but in service to a universal norm of duty to all men. We extend a helping hand to others in need, not because some day we might be in the same position or unless we do, those not helped may threaten our own security, or because it does not really cost us anything and it makes us feel good, so why not. We extend aid without any consideration of self benefit or cost to self, or with qualified consideration of self benefit and cost, because we are commanded to do so by a universal morality in contradistinction to one built up from the principle of self interest.

The difficulty with this as a principle of action is that logically it leads to the necessity of a universal coercive order to enforce the principle of justice. For even if individuals are or should be motivated by good will, the responsibility for providing access to membership in one's political community as a matter of right is not an individual choice but one for the state to make.

whether or not individuals are governed by this sense of morality, it is doubtful that states are.

Further, if a state were obligated to a duty to all mankind overriding self interest, then the primary duty would be to those most in need of protection, and those with the will, the ability, and the money to reach one's own borders are not necessarily those most in need.

Thus, the charitable principle is unlikely to determine the obligations of a state, but if it did, then the primary obligation and the litmus test of the justice of the state would not be the treatment of those landing on its borders requesting asylum, but those who are in much greater need and lack the means to ever reach one's borders. Further sending away the stranger seeking asylum in no way prevents you from sending him or her away with alms or offering to assist elsewhere. In fact, one could argue that in sending the stranger away, the monies spent on any settlement effort would go much further in helping those with greater needs abroad. In other words, the charitable principle could just as well dictate turning away the appeal of the stranger for membership in one's political community.

The self interest principle could do the same. For example, there is a belief that generous asylum laws create a pull factor that tends to increase the numbers seeking asylum as

well as lessen the pressure on those states which fail to protect or which actually persecute their citizens. Further, once strangers are given a right to claim membership in one's political community, no bureaucratic system, however cleverly devised, can prevent serious abuse by those with the will and resources to take advantage of such an opportunity and who are desperate to do so, even if it is only to improve their allocation of the goods and services available to them in their own communities. Thus on the principle of self interest one could argue that one is obligated to seriously restrict, if not eliminate altogether, any right of a stranger to claim membership in one's own political community.

We can approach the problem from the other end. We can try to understand the rationale given for why we should not extend protection to refugees at least as a matter of right and perhaps, even, as a matter of choice, as when we select refugees abroad for resettlement in our own country. Ironically, the rationale for offering alms or charity or aid complements rather than contradicts the rationale for not offering membership.

The first issue is one of visibility. As Walzer words the guideline, "Groups of people ought to help necessitous strangers whom they somehow discover in their midst or on

their path."³ If we help only those cases that are brought or somehow come to our attention, we do not help those whose cases do not. Protection is and should be accorded to those in need who become visible; protection is and should not be accorded to those in need who remain invisible.

On the self interest principle, it is in one's interest to minimize visibility and to maximize invisibility. Further, the recognition of one visible necessitous person in need of protection may bring out others. It is like the man who will not give a ride to a hitch hiker because he is sure that around the corner, behind the sign or in the ditch lurk numerous others for whom the visible hitch hiker is but a lure. Therefore, one should construct the laws of the state to ensure that as few refugees as possible become visible to one's populace, and if any do, to so act as to discourage the appearance of any others. Otherwise, as Good Samaritans we will be overwhelmed with claimants.

On the charitable principle, it is imperative that as a universal principle we give as much publicity as possible to the needs of refugees everywhere even if, for the benefit of our supersaturated T.V. audiences this requires going to remote areas to portray pictorially emaciated adults and

³Walzer, op. cit., p. 33.

infants with bloated bodies. This means that refugees from natural disasters exaggerated by political incompetence, abstract ideology, or war get the attention. For it is not possible, by the very nature of the deed, to put on camera the persecution of an individual within another state. We only see that individual when he or she has escaped.

Thus, though the self interest principle works to keep refugees invisible and the charitable principle to make them visible, both principles in effect conspire to make the refugee remote. The one who claims refugee status by right and lands on your doorstep does not appear necessitous and the one who appears necessitous does not and cannot arrive on your doorstep.

V. Conclusion

The analysis seems to leave us in a paradoxical situation. The self interest principle of the civil society when applied to the state and its obligation to refugees seems to support the obligation to grant refugees a right to claim membership in the state, yet, on the other hand, offers other arguments for limiting the application of that right. On the other hand, the principle of self-sacrifice which is at the basis of the nation as well as other spiritual belief systems, when applied to the state and its obligation to refugees, can be used to support and reinforce that

obligation, but, on the other hand, can be used to argue that the state has a greater obligation to help refugees abroad given the limited nature of the self-sacrifice in the form of charity that its citizens are willing to make.

One can conclude that the long philosophical excursion, in fact, provides no guidance as to the principles which we ought to use to determine our obligation to refugees. My point, however, in this exercise, is to indicate that the state, in undertaking its obligations to refugees -- or any other obligation for that matter -- has not pure principles to guide it. The state, and those governing the state, must use judgements, in which conflicting principles are at work, and even those different principles can determine opposite outcomes.

In the present circumstances, I would argue as a matter of judgement and not of deduction from abstract principles that both self-interest and self-sacrifice favour granting refugees the right to claim the protection of a country in which they find themselves on very fair administrative procedures. The details of this argument for practical, moral and political judgement depends on a much more elaborate discussion of current circumstances.