

## IMMIGRATION INTO A FREE SOCIETY

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**W**hat should be a free country's policy toward foreigners who would wish to live there? This may appear to be a fairly simple question, but it involves many complications. To start with, what exactly is a free country? What is a policy? What precisely are foreigners? In this discussion, I will construe a "free country" to be a contiguous geographical region the rightful occupants of which have chosen, individually and mutually, to be governed by a common system of laws and their administrators. There would be full consent of the governed to the basic principles of the government, its constitution, and everyone would have the right to take part in the selection of the administrators, whose authority would be fully circumscribed by the provisions of the constitution—no special authority for administrators that the citizens cannot possess.

A "policy" of such a country would be the legal guidelines that would prescribe how to deal with certain public concerns. To join such a country would be to some extent a public concern, applying to all who are not but wish to become members of the citizenry. People who are not citizens of the country are "foreigners" relative to the citizens of the country. To immigrate into a country would amount to having abided by the policy that should guide the process of becoming a citizen of a country, and we are here interested in immigration into a free society. How would that be done?

### PROPER IMMIGRATION

The right immigration policy for a free country, to put it bluntly at first, should be this: those who can demonstrate that they aren't under indictment for any kind of violent crime and have the economic means—a job and/or property in the free country they choose to join—should be accepted as citizens.

In a free country, this would mean that they are self-supporting, not dependent upon obtaining funds from others in order to

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survive. Now this is not what one might call a recklessly “open door” policy on immigration, but one that is open in a prudent, responsible fashion. Not just anyone could become a citizen, true enough. There is, however, no basic right for one to be accepted as a neighbor in any society—one needs to earn admission.

What reasons can be given for accepting the above? The argument goes like this: to acquire property, one needs to find and develop valued items, or obtain them voluntarily from others who have done the same. This applies to acquiring a residence and livelihood. If those acquisitions are made properly, without coercion or fraud, one becomes a fellow citizen, a neighbor.

### MODELING IMMIGRATION

Consider, as a possible model for immigration, joining a so-called gated community. People often seek entry there either to visit folks who live there or to explore the possibility of eventually purchasing or leasing a home. In such cases, they may enter only if given permission by those who own the place—an occupied home or one that is for lease or sale. They would have to leave if those owners withdrew permission. However, once they meet their terms and become lessees or owners, they can live in the community.

A free society may well be modeled on such a gated community. Immigration would be predicated on the permission to either visit someone (an employer or friend) or to purchase a residence. The general precondition, then, of immigration into a free society is self-sufficiency and voluntary relationship with those who are already there.

### DOWN TO SOME CURRENT CONCERNS

Of course, many questions have arisen in connection with immigration policies in the United States and elsewhere, and it will be useful to address at least some of them based on the general position sketched above.

#### ***Is Cultural Identity Necessary?***

To start with, does an ongoing viable political community require a sense of “identity,” based on more or less common cultural attributes? Will not the stability and orderliness of a country be in jeopardy if it becomes inundated with citizens who are culturally and ethnically, even racially, different? Such an issue has been raised by, among others, Patrick Buchanan, one of the Republican presidential aspirants in 1996.

Is this kind of “anti-immigration” argument essentially collectivist? Not necessarily. If by “identity” we have in mind some unifying set of values that bear on public policy and human interaction in general, there is reason to believe that the anti-immigration argument tied to this concern has some merit. If those who aspire to immigrate to a country hail from communities in which corrupt community values prevail, and if the prospective immigrants haven’t seen fit to be rid of them, there is a serious issue afoot. But if it is a matter of bringing in people whose personal habits or religion or style of play tend to make the existing citizens uncomfortable, this cannot be cause for exclusion. One has no entitlement in life to be surrounded by folks who are in every way pleasing to oneself. Multiplying this by millions does not change the moral dimensions involved: majorities have no entitlement to find themselves comfortable with those living nearby, their neighbors. The matter of lacking civilized values, however, is fully manageable by reference to the criminal record or lack thereof of the prospective immigrant, as well as his willingness to swear to uphold the law in the country to which he aims to immigrate.

Consider, for example, that one may wish to immigrate to the United States while remaining a committed Muslim or Roman Catholic or even, to use a more exotic example, a serious bull fighter. If, as it should be, there are no laws prohibiting religious affiliations in a free society, nor any prohibition of the use of animals for sport, then there will be no problem with someone with such commitments coming to that free country. The constitution of such a country makes ample room for those who are economically self-sufficient continuing following their faith or sporting habits.

Should, however, a prospective immigrant believe in, say, the Ghanaian practice of sacrificing a ten-year-old virgin to a local priest because her father sinned (for which the young girl needs to pay), or should someone aspire to join a free society with the objective of coercing others into refraining from eating meat because cows are sacred, such a person could not honestly swear to live by the laws of the country, and could not, then, immigrate and become a citizen. If he were to take the oath, and it later turned out to have been fraudulent, then he could be promptly deported.

We might put it this way: a minimalist identity of fundamental beliefs in individual rights is required of prospective immigrants. The precise philosophical or religious source of such a

belief, however, is not relevant. Nor need such prospective immigrants become committed practitioners of the religious and cultural customs and rituals of the bulk of the existing population. A free society respects individuality and cultural variety, provided that these operate within the framework of a system of laws that protect individual rights to life, liberty and property.

### ***Immigration and Democracy***

What effect, however, does today's mass democracy have on the issue of immigration? Nowadays, whoever is in control of the state apparatus, through elections, can dispose of the wealth of all citizens. Is this an argument for limiting immigration?

We, of course, live in what I have dubbed a democratic fascist state, one wherein the majority of voters can have their way with the law with nearly no restraint at all. The U.S. Supreme Court is no longer a bulwark against this, after decades of deconstruction of the U.S. federal and many state constitutions. What, if anything, can be done to set immigration aright in this context?

There is reason to think that limiting immigration will not help at all; indeed, it would be hypocritical to have a welfare state, which is supposedly dedicated to assisting those in dire straits, and exclude people outside of the country from benefiting from its wealth distribution. But, in any case, the welfare state is such a confusing mess of contradictions that one cannot derive from its tenets any consistent policy about anything, including immigration.

### ***Are Europeans to be Preferred?***

Is it, furthermore, conceivable that immigration should be limited, for contingent political reasons, to Europeans, plus others who have certain skills and background?

As discussed in the previous paragraphs, the only matter that should concern present citizens about prospective citizens is whether they can sustain themselves without becoming uninvited burdens on others and whether they are committed to living in accordance with the laws of a free society. Provisions to ascertain such matters would be appropriate, but to demand any further declarations or loyalties would be a violation of the rights of those prospective immigrants. This does, of course, tend to favor Europeans in the tradition of classical liberal ideals and ideas, although that, too, is just a loose association that has innumerable exceptions. It is the substance of commitments, not the origin of those committed, that matters in this as in many other areas of social life.

I should add here that the suggestion that ethnicity should count for much is confused: it is unclear what ethnicity is in an age of widespread inter-marriage among people of a great variety of ethnic origins, not to mention the inter-marriage and procreation of those who already come from mixed parentage. (I, for example, have a German mother and a father who came either from Scotland or Slovakia.)

Nearly everyone in Europe, and even more so in the United States, is now of mixed parentage—in relatively free societies, the dreams of Pat Buchanan and his many enthusiastic supporters are impossible to implement. What one can do is to apply the test of loyalty to legal principles, which is what taking an oath in support of the U.S. Constitution approximates. The trouble is, then, with the current content of that document, and how courts interpret it, not with immigration policy as such. The ethnic cleansing implicit in the Buchanan doctrine is not only in violation of cherished and true American principles of justice—whereby individuals are judged on the content of their character, not by the color of their skin or the purity of their blood—but is also totally impracticable.

***Does an Open Door Policy Favor One American Political Party?***

We can finally address a concern of Peter Brimelow's, in an article in *National Review*, that the current immigration situation will make the election of a Republican president “impossible” in the future. Is that how these issues should be decided?

Certainly there may be something to this, given the propensity of governments to wrest their power by means of wealth redistribution. First, such a policy violates the tenets of a bona fide free society. Second, once those tenets are systematically violated—i.e., their violation is embodied in the legal system—there is what might be called a “deuces wild” situation in the country. This follows from a well-known principle of formal logic: once a contradiction enters a line of argument or reasoning or an action-guiding system—e. g., a legal order—nothing can be excluded from it on principle. This means that while one group may be favored in immigration for a period, another might be favored for another period; so that, yes, Republicans might not meet with the approval of those who wish to enter for the sake of gaining material wealth from the taxes of others. But if the country's policies, because of popular sentiment to which politicians yield, change in the direction, say, of militarism or religious fundamentalism, that may favor Republicans. There is, then, some short-term validity to Brimelow's fears, but this could easily change

with the winds of popular opinion.

#### **CONCLUDING THOUGHTS ON IMMIGRATION**

If one holds that a certain system of laws is required to establish, protect, and maintain justice in a human community, then one will also hold that once there are serious, systemic compromises in that system of laws, matters will go haywire and a situation of “anything goes” will eventually develop, on any front of social life. Tyrannies beget tyrannies, small ones beget greater ones, and the only way to resist this is a vigilant insistence on the re-establishment of—or at least approximation to—the system of laws that serves justice. The libertarian idea is that a consistent system of law—guided by the principles of individual rights—serves justice best, including in the area of immigration policy. Once that system is abandoned, there is not much one can do except strive to get back, closer to it.

We might add here that immigration policies that stress the issues touched upon above—striving for criteria of self-sufficiency and absence of criminal intent—should sustain an optimal approach even in the midst of the widespread confusions engendered by the welfare state that is our current reality in most western countries, including the United States.