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SPS seminar autumn 2008

Migration in Normative Political Theory

Time: Monday, 15:00 – 17:00

Venue: seminar room 2, Badia

All liberal democracies guarantee fairly unqualified rights to freedom of internal movement and emigration but defend state powers to control immigration. Since the 1980s, the legitimacy of immigration control has been much discussed among political theorists. Old controversies between advocates of open borders and state rights to limit territorial admission have not been resolved, but recently debates have shifted towards more particular questions of special admission claims and constraints on state discretion.

The main goal of the seminar is to provide an overview of the debate. All participants are asked to read a few selected texts that have been particularly influential, that mark contrasting positions, or that provide good overviews.

The second goal is to become familiar with the style of argument in applied normative political theory and to learn to engage in a discussion by developing a systematic argument and defending a point of view against the opponents' strongest objections. Each participant will therefore prepare several interventions (depending on the number of participants) on particular questions and read some additional texts that relate to these.

The seminar consists of three parts. In part 1 we examine general arguments on immigration control and free movement; in part 2 we discuss different types of immigration and special claims to admission; in part 3 we consider how post-migration rights of immigrants and emigrants, and specifically their claims to citizenship, impact on migration control.

(1) Territorial movement and political boundaries

Monday, 6 October

This introductory unit will focus on basic conceptual and analytical distinctions, will provide a few empirical facts about global migration, outline the main explanatory approaches and list the most important international legal norms. Each of these topics would require a separate seminar, but the goal of this unit is merely to demonstrate that applied normative arguments need to engage with these bodies of knowledge.

1. Conceptual questions: Whether and how human geographic movement is perceived and categorized as migration depends on the crossing of political boundaries, the time spent at destination, the migrants' motivations, and their legal status. Taking these structuring variables into account, which types of migration



do we need to consider in normative debates? Is there a normative bias towards receiving state perspectives in these debates?

2. Empirical facts: How is contemporary migration different from territorial movement in earlier types of human society? What are the volumes and directions of contemporary migration flows?
3. Migration theory: How do economic and sociological theories explain migration flows?
4. International law: Which migration rights and rights of migrants are recognized in international public law? What is the impact of the most important conventions and international agreements?

Part I: The Debate on Freedom of Movement

(2) Exit rights and internal free movement

Monday, 13 October

International human rights conventions recognize the right of everyone to leave any country and the right of legal residents to freely move within a state territory, but reserve the right to admission for citizens of the country concerned. Can these asymmetries between emigration, immigration and internal migration be defended from normative perspectives?

1. Exit and loyalty: Is free emigration a condition for citizens' liberty and political obligations?
2. Exit and voice: the impact of emigration on democratic and authoritarian government
3. The brain drain debate: should emigration be restricted for the sake of economic development?
4. Does free emigration imply corresponding immigration rights? Are emigration and immigration morally asymmetric?
5. Can international free movement be defended as an extension of internal free movement?

Reading: (Walzer, 1983, chapter 2), (Carens, 1987)

(3) Liberty-based arguments for free immigration

Monday, 20 October

Open borders for immigration have been defended by libertarian arguments that states should have no powers to restrict the freedom both of potential immigrants and of domestic citizens (employers or land owners) who want to admit them to their property. A utilitarian argument proposes that the movement of people should be governed by the same rules of maximizing overall welfare as the movement of goods and capital. Some egalitarian liberal theorists have defended a general right to immigration on grounds of equality arguing that descent based-citizenship is a morally arbitrary criterion for deciding whom to admit.

1. The libertarian argument: minimizing state interference with individual autonomy and property rights
2. If people were like money: the analogy between free trade and free movement of people
3. Global liberal egalitarianism: Do liberal theories of justice imply rights to global free movement?
4. Liberal constitutionalism: restricting immigration for the sake of preserving a liberal constitution



Reading: (Kukathas, 2002), (Miller, 2007, chapter 8)

(4) Political community and cultural preservation

Monday, 27 October

Immigration control has been justified by arguing that political communities need a right of self-determination over whom they admit as members. Liberal nationalists link such self-determination to the preservation of a particular public culture; some authors emphasize instead that uncontrolled immigration would destabilize democracy or undermine the institutional conditions for domestic social justice.

1. National vs. cosmopolitan perspectives: What has changed since late 19th century liberalism?
2. The cultural argument: Is preserving a national culture a sufficient reason for immigration control?
3. The political self-determination argument: Would open borders endanger the integrity and continuity of the democratic process?
4. The domestic social justice argument: Is immigration control for the sake of domestic redistribution justifiable or merely a manifestation of welfare chauvinism?

Reading: (Bader, 2005), (Blake, 2005)

(5) Territorial claims and global justice

Monday, 3 November

Open borders can be defended on two different grounds: individual liberty or global social justice. Even those liberal theorists who reject both arguments generally do not claim that states do not have any responsibilities towards potential immigrants. Limited responsibilities may generate duties to admit at least some immigrants for non-self-interested reasons or to transfer some resources as a compensation for exclusion. Some authors defend only a minimal duty of assistance towards severely disadvantaged societies, while others argue from original common ownership of the earth or from increasing interdependence through globalization that wealthy democracies should admit contingents of poverty-driven immigrants.

1. The global justice debate: Must liberal states be committed to global equality of opportunities and a global difference principle? And would open borders improve the situation of the globally worst-off?
2. The argument from common ownership of the earth: Do states have to admit immigrants as a compensation for their claims to territorial sovereignty and their use of natural resources?
3. Migration and Development: Should immigration policy be determined by duties of assistance towards poor countries?

Reading: (Pogge, 1997), (Seglow, 2005)

Part II: Types of Immigration

(6) Economic migration, temporary migration and irregular migration

Monday, 10 November



Most normative theories consider only one-way immigration that leads to permanent settlement in destination countries. However, much contemporary migration is driven by short-term earning targets and economists have argued that temporary labour migration schemes may best satisfy the preferences of migrants, receiving and sending states. For liberal theorists this raises the question whether it is acceptable to block temporary immigrants' access to welfare benefits, long-term residence and eventually full citizenship. A second and related problem concerns undocumented economic migrants and the dilemmas of regularization.

1. Guest worker status: Is the rule of citizens over non-citizen workers a form of tyranny?
2. Temporary labour migration schemes: Should more migrants be admitted into insecure and unequal statuses to spread the benefits of immigration more widely?
3. Undocumented migration: Is it a legitimate response to illegitimate immigration control? Should the rights of migrants depend on legal status or territorial presence?
4. Regularization of irregular immigrants: Is it necessary in order to correct policy failures or does it reward jumping the queue and draw in more irregular migration?

Reading: (Bell, 2005), (Chang, 2009), (Carens, 2008)

(7) Refugees

Monday, 17 November

All liberal theorists assume that liberal states have humanitarian duties to admit refugees. There is, however, considerable disagreement over the scope and limits of such obligations, the allocation of duties to admit refugees to specific states and the criteria for distinguishing refugees from other migrants.

1. Who is a refugee: Should the definition of refugees be widened to include victims of war and civil war, environmental and poverty refugees?
2. Refugee admission: a humanitarian duty of states or an individual right to asylum?
3. Asylum, temporary protection or refugee resettlement: which responses to refugee emergencies?
4. The immigration channels dilemma: Should refugees always be given priority over other immigrants or is it necessary to keep legal immigration channels open in order to avoid abuse of the asylum system by economic migrants?
5. Limits of state obligations: burden sharing between states and democratic accountability towards citizen voters within states?

Reading: (Shacknov, 1985), (Gibney, 2004, chapters 7, 8),

(8) Family migration and ethnic preferences in immigration

Monday, 24 November

Liberal states grant special admission rights to family members of citizens and long-term resident foreign nationals. This policy is often criticized on two different grounds: as reducing the capacity of the receiving country to select desired immigrants based on their skills or financial means, and as crowding out more



needy refugees or poverty-driven migrants. A surprisingly large number of liberal democracies also grants special immigration preferences to immigrants whom they regard as co-ethnics or who share a linguistic and cultural background with the native majority population. How can family and ethnic preferences be justified?

1. Family reunification: a right of immigrants or of residents? Why should immigrants have a right to reunification in the destination country rather than in the country of origin?
2. Who should be included in a right to family migration: major children, siblings, parents of adult immigrants, future spouses?
3. Priority for family migrants over economic migrants and over refugees?
4. Ethnic preferences in immigration: Arguments from a) nation-building, b) protecting external kin minorities, c) facilitating immigrant integration through cultural affinity criteria in admission

Reading: (Honohan, forthcoming), (Gans, 2003, chapter 5)

Part III. Migrants' Membership, Rights and Duties

(9) Denizenship and the admission to citizenship

Monday, 1 December

What is the specific value of citizenship for immigrants? Is it a necessary status of equality in democratic societies or an instrument of exclusion of potential migrants? Is it still important to include migrants as full members of the political community or has increased mobility across borders made citizenship redundant and requires instead universal rights attached to residence or to personhood?

1. Citizenship and global migration opportunities: Is birthright citizenship from a global perspective like a feudal status?
2. Citizenship and immigrant integration: Should immigrants be encouraged to naturalize or should long-term foreign residents have the same rights and duties as native citizens?
3. Citizenship and self-determination: Do membership rules reflect the self-conceptions of political communities? What are appropriate rules for naturalization and acquisition of citizenship at birth in countries of immigration?
4. Citizenship and special rights to free movement: Can international freedom of movement be expanded through multiple and supranational citizenship?

Reading: (Shachar and Hirschl, 2007), (Rubio-Marín, 2000, chapter 2), (Bauböck, forthcoming-a)

(10) Transnational citizenship and sending country perspectives

Monday, 8 December

Normative theorists have rarely considered the legal rights and duties of migrants as citizens of their source countries and the social, cultural and political ties they retain with these societies of origin. But with the proliferation of multiple citizenships and absentee rights of citizens, now generally also including the

franchise, external citizenship is becoming much more important in structuring migrants' legal status and opportunities.

1. What are the duties of states towards expatriates? What are the limits of expatriates' rights to retain their citizenship of origin, to pass it on to their children and to return to that country?
2. Should absentee citizens have a right to participate politically in their countries of origin? Should sending states have a right to tax their citizens abroad and to draft them for military service?
3. What are general principles for determining membership and political participation rights in a globalized world with strongly interdependent societies: can democracies freely determine whom to admit as members, do they have to represent all who are subjected to their territorial jurisdiction, or must all externally affected interests be included in democratic decisions?

Special readings for this unit:

(López-Guerra, 2005), (Goodin, 2007), (Bauböck, forthcoming-b)

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