

Comments On Phillip Cole's *Philosophies Of Exclusion*¹

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This year's book award committee reviewed thirty nominated books. We identified seven finalists, each well worth our special attention: Milton Fisk's impressive *Towards a Healthy Society*, Gary Francione's feisty *Introduction to Animal Rights*, Timothy Gaffaney's engaging *Freedom for the Poor*, David Ingram's historically insightful *Group Rights*, Rachel Roth's poignant *Making Women Pay*, Karen Warren's finely articulated *Ecofeminist Philosophy*, and the eventual winning entry, Phillip Cole's *Philosophies of Exclusion: Liberal Political Theory and Immigration*. We're here today to discuss this important book.

Immigration is, of course, too complex a subject for any one discipline to cover adequately. This said, there is certainly room for philosophical input, especially if the contribution is as insightful and challenging as Phillip Cole's *Philosophies of Exclusion*. In this book, as hinted by its subtitle, the author examines the positions that liberal political theorists take toward immigration. He offers no guidance as to appropriate policies and procedures under any given set of circumstances, but focuses almost exclusively on theory. Finding that all liberal positions endorse exclusion of outsiders, Cole argues that they are accordingly inconsistent with the liberal principle of equal respect for persons. Holding up to criticism various liberal defenses of nationalistic constraints on freedom of movement, he contends that their narrow confinement of concern implies that what lies beyond one's own society is in a Hobbesian state of nature. Not willing to settle for such a biased dualism, he urges us to think beyond it to a more all-encompassing recognition of human rights, and this requires rethinking nationalism.

A nationalist typically justifies the governmental subordination of people to a nation-state by appealing, for example, to sovereignty or inherent superiority. But recent history and emerging geopolitical tendencies indicate that such justifications are vulnerable. Political and economic priorities are engendering regional and even global structures that relativize the significance of

national borders, notably in Europe. Moreover, juridical attention to human rights is beginning to cross national borders. Nationalism is, nonetheless, still widely claimed as a basis for self-determination. In principle this claim is available both to a dominant power and to minorities who reject its legitimacy; but in practice superior power usually prevails. Thus until recently the German government extended citizenship to extra-territorial ethnic Germans but not to others, and Israel still offers Jewish people a right of return which it denies to others. Such selective admittance is defended by appeals to the excessive numbers or the deficient qualities of those deemed undesirable. Either appeal, in turn, may even trump their right to life, as in Ruanda or in East Timor, or wherever mass murderers see fit to act out their self-righteousness.

Cole does not dwell on particular historical sins in this book; but his meticulous deconstruction of their pseudo-justifications stirs the sensitive imagination. In spite of all the iniquitous discrimination he exposes, however, any political theorist who is wedded to the way things are would likely dismiss his seemingly flawless appeal for a better world as unrealistic and misguided. I will therefore focus here on some of Cole's responses to this altogether appropriate criticism.

Liberal political theorists, says Cole, typically espouse an "asymmetrical" view of mobility rights, i.e., they endorse a person's right to leave any country but not to enter any other. This enables them to tolerate restrictive policies that, Cole argues, cannot be unqualifiedly defended without compromising respect for persons. For, on his view, there are only four positions one can take with regard to the asymmetry, namely, the following: (1) a common identity such as nationality is a non-arbitrary criterion for membership, so borders are justifiable; (2) nationality is arbitrary but there are other non-arbitrary criteria, so borders are justifiable; (3) there are no non-arbitrary criteria, but borders are necessary all the same; or (4) there are no non-arbitrary criteria of membership, so borders are theoretically indefensible. He then attempts to persuade us that only the last position is consistent with an unqualified principle of equal respect. Nuances aside, each of the other three positions involves or at least presupposes some common identity that entails a commitment to political sovereignty.

Like Will Kymlicka and others, Cole is concerned with the legitimacy of and/or limits on the rights of ethnically diverse people who are already in place inside a bounded territory. He traces the subordinate status of some, however, to selective immigration and naturalization policies that do not accord everyone on the outside an equal right (a) to enter and (b) to attain full citizenship rights. Actually, most liberal political theories adopt without argument the "asymmetrical" position that honors a right to leave one country but acknowledges no right to enter another. He argues, though, that no such constraint can be inserted into a liberal political theory without compromising the principle of equal respect. A

few liberal theorists—in particular, Michael Walzer and Yael Tamir—are sensitive to this problem and accordingly try to justify asymmetry. Cole finds their efforts well meaning but not persuasive. He is even less enamored of arguments that appeal either to the excessive numbers or to the inferior quality of those seeking admission. These contemporary mantras, he contends, are vestiges of the colonial mentality which assured Europeans, with their philosophers' approval, that they had every right to prioritize their appetites over others' lives and property.

Cole rests his case at this point, leaving it up to his readers to revisit liberal political theory with a view to transforming it into either a more explicitly exclusive (e.g., nationalist) or—probably his preference—“a genuinely inclusive and liberatory philosophy that includes all of humanity within the boundary of its own distribution.” To effect the latter in practice, as Cole himself suggests, would require our addressing the circumstances and root causes of people's seeking admission to places far (in terms of opportunity if not of distance) from their place of origin. This, in turn, would require our attention to alternative arrangements of the sort now being articulated by such philosophers as Amartya Sen and Martha Nussbaum. To justify these arrangements, one would need to take into account what ecologists call the carrying capacity of an ecosystem.

As Garrett Hardin and others argued a few decades ago, failure to regulate access to a finite good that is desirable in itself can lead to a “tragedy of the commons.” This possible outcome does not justify adopting a lifeboat ethic, as did Hardin; but it does support the goals of, if not always the means adopted by, the Green Revolution and, more recently, genetically engineered food. No Lockean proviso, however, can justify either colonial or neo-colonial exploitation of natural and human resources. So the most problematic asymmetry confronting liberal theory and practice is not just the exit/entry inconsistency which Cole so brilliantly criticizes, but the blatant and ever worsening maldistribution of wealth and resources between developed and developing countries. For, it is often because of this distributional asymmetry that people have to relocate merely to survive and that, accordingly, third-world economists reject the limits-to-growth model so favorable to the Northern Hemisphere.

As one alternative, then, earthlings need a Gandhi in every land to inspire them to gather their own salt, weave their own cloth, and, indeed, create their own machines and the software to make them run efficiently. As another alternative, telecommunications must reach into every heretofore bypassed part of the world so that opportunity can more easily transcend traditional boundaries. And as globalization becomes less asymmetrical, a North American or European citizen may have to go to India for software training and maybe even to Myanmar to learn needed skills available only there. To incorporate such multilateral human relationships into our worldview, though, we must look beyond *realpolitik* to a normative political theory that is open to interactions and arrangements of far

greater variety and complexity than any liberal theory of the nation-state era has dared to countenance. Call it universal human rights, regionalism, devolution, or an equal playing field; it is already a work in progress in the world.

From this perspective, Will Kymlicka's claim that "a policy of open borders...has virtually no public support" disregards the trend at work, say, in the European Union. Moreover, even he acknowledges that his exclusivity claim would be discredited in "a world without states, or with just one world government." What matters here, though, is that these are by no means the only strategies for a post-nation-state world. What Phillip Cole's groundbreaking book invites us to do is think beyond political pseudo-certainties to arrangements that will better instantiate in fact the principles many already honor in theory. But is it perhaps too theoretical for people who inhabit a world necessarily subject to pragmatic constraints?

Some people, after all, pose a risk to others wherever they may be, because they have a contagious disease, say, or have criminal or even malevolent proclivities. And even if not dangerous in any of these ways, some immigrants—even though they pay taxes—inevitably become the subject of difficult social, economic, and political questions which appropriate experts must assiduously address. Such concerns about too-open borders are indeed relevant but should not be determinative of immigration policy. The latter, ever responsive to practical concerns, should nonetheless be principled. Even though focused on theory, then, Cole's book adds a valuable dimension to the study of contemporary social and political philosophy, both by challenging prevalent theories and by demanding clarity with regard to such practical concerns as diversity and toleration. In particular, readers who are comfortable with the nation-state assumptions of recent contract theory would benefit from rethinking these in light of the issues he addresses.

There is, of course, a rapidly expanding literature having to do with migration and citizenship in a global context. Cole cites the best of these. Among books he does not mention, two recent philosophical works would help broaden the scope of his transnational outlook: John Rawls, *The Law of Peoples* (Harvard University Press, 1999), especially the titular article; and Amartya Sen, *Development as Freedom* (Anchor, 2000). Others to consider include Michael Dummett, *On Immigration and Refugees* (Taylor & Francis, 2001); and Stephen Castles and Alastair Davidson, eds., *Citizenship and Migration: Globalization and the Politics of Belonging* (Routledge, 2000).

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Notes

1. This review as here presented incorporates and modifies a revised version submitted to the journal *Teaching Philosophy* after September 11, 2001. Changes in the text as originally read serve primarily to emphasize Professor Cole's locus not on immigration policy but on liberal theory.
2. Phillip Cole, *Philosophies of Exclusion: Liberal Political Theory and Immigration* (Edinburgh: University of Edinburgh Press, 2000 (U.K.), 2001 (U.S.A.)).
3. See for example Cole, 18.
4. *Ibid.*, 202.
5. Will Kymlicka, *Politics in the Vernacular: Nationalism, Multiculturalism, and Citizenship* (New York: Oxford University Press, 2001), 73 n.9.