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Author(s)	Palmer-Fernandez, Gabriel
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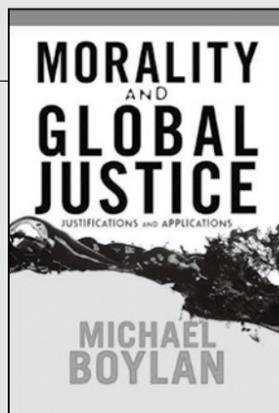
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# Author Meets the Critics: Michael Boylan's *Morality and Global Justice*

## Introductory Note

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## Boylan on Immigration

### Gabriel Palmer-Fernandez

Youngstown State University

My remarks<sup>1</sup> on Boylan's ideas on Immigration divide into four brief sections. First, I describe an exchange of ideas with Michael Boylan on his earlier book, *A Just Society*; second, I turn to his most recent work, *Morality and Global Justice*, and focus on his chapter on immigration; third, while I share the basic thesis of that chapter, I try to expand the analysis on immigration; finally, I briefly note harms of immigration caused by the globalization of production.

### 1. *A Just Society* and Its Critics

A few years ago I had the very good fortune to be part of a group of scholars who were invited to comment on Michael Boylan's work, *A Just Society*. Our contributions were published under the title *Morality and Justice: Reading Boylan's A Just Society*, edited by John-Stewart

<sup>1</sup> These remarks are on the occasion of a panel on Boylan's, *Morality and Global Justice: Justifications and Applications* (Boulder, CO: Westview, 2011) at the Association of Practical and Professional Ethics, March, 2012.

Gordon. A few of us challenged Boylan with what I will call the Cosmopolitan Challenge.

#### 1.1 The Text

In a number of places in *A Just Society*, Boylan identifies our fellow compatriots as the relevant population for our considerations of justice – i.e., citizens or members of our political community rather than persons, as such. For example, he writes: “I do hold that at this moment in history our first responsibilities are toward those in our own society,” basic goods (i.e., food, clothing, shelter, protection) “are to be distributed equally to all citizens” (Boylan 2004-a, 174, 245); and elsewhere he writes, “at this moment in history, it seems that the only way to execute duties is first through one's sovereign state and then remotely via ... international bodies” (Boylan 2004-b, xxxi, n 1). In giving priority to fellow compatriots, Boylan, I argued, limits the scope of justice. Others made a similar argument. For example, Christopher Lowry and Udo Schüklenk focused their discussion on justice and global health and noted the same matter, namely, the limitation on the scope of justice to domestic society – call it, conational priority.

The limitation on the scope of justice to the domestic scene is, of course, not unique to Boylan and it is a matter of important discussion among philosophers, political theorists, and others. Some argue that it is no longer possible or desirable to think of justice as tethered to a territorial state as there is very little regional or domestic economy left. Even my local farmer's market does not escape the reach of globalization. There are very strong empirical reasons for thinking that an image of the world as comprising self-sufficient national states is no longer valid. Others acknowledge this point and go on to claim there's an important practical reason for this limitation: although liberalism argues that all persons have equal moral status, the level of social unity needed to make egalitarian justice feasible requires a bounded political community. So we close discussions on justice at national borders, even when we agree that national states are neither self-sufficient nor self-contained.

#### 1.2 The Challenge

The challenge Christopher Lowry, Udo Schüklenk, Edward Spence, John-Stewart Gordon, and I put to Boylan was to expand the doctrine of justice, to remove territorial restrictions on the just distribution of goods and thereby transcend conational priority. After all he already had the foundation for a global, cosmopolitan doctrine of justice in what he calls the Table of Embeddedness, comprising a schedule of basic goods, universal in scope and absolutely necessary for human action. As I suggested in my essay, given the characterization of basic goods “one would reasonably assume that in a needs comparison between the hungry in Bangladesh, Congo, or the Philippines and those in New York City priority in needs satisfaction must go to the former” (Palmer-Fernandez 2009, 152). I wanted to move Boylan toward a cosmopolitan or global perspective. No borders or walls. So, too, did others.

#### 1.3 Boylan's Response

To say that Boylan limits justice to a world bounded by borders and walls does not capture his whole thought. Indeed it would be unfair and unkind. Unbeknownst to some of us – at least unbeknownst to me – Boylan had already moved in the desired direction: justice would no longer be territorialized to political communities but globalized to persons – independent of national or state membership there would be an equivalent schedule of rights for all. Following Saskia Sassen and Seyla Benhabib we can call this the “unbundling” or “disaggregation” of justice and territory (Sassen 1998, 92; Benhabib 2006) – a phenomenon of contemporary globalization that is in line with what Benhabib calls an “international human rights regime” (Benhabib 2006, 27-31).

To our challenge, Boylan responds thus:

[Their] essays concern themselves with cosmopolitanism [and raise the question] why I did not extend my conclusion in the argument for the moral status of basic goods to the whole world. Since I justify my argument not by institutions or nations, but rather by individuals viewed generically, it seems reasonable that national boundaries not be introduced. After all, as Palmer-Fernández suggests, there is no moral status for national boundaries... I am inclined to agree with the general thrust of these remarks. I am contracted to write a textbook on global ethics and plan a sequel to *A Just Society* entitled *A Just World*. But why did I limit myself to an individual state as the boundary conditions of *A Just Society*? ... I limit my conclusion to societies ... because ... I believe that most of the effective large-scale social action at this moment in history will occur *within* societies. (Boylan 2009, 208, 212).

It's an important empirical claim - “that most of the effective large-scale social action at this moment in history will occur *within* societies.” Some, including myself, believe otherwise: national states are at this moment in history neither self-sufficient nor self-contained. No hard shell surrounds most of them. The few exceptions prove the point. Bhutan and North Korea come to mind. If correct, large-scale social action will occur both *within and beyond* territorial states, for example, the International Day of Protest Against the War in Iraq in February 2003, protests against WTO, and the recent Occupy Movement from Tel Aviv, Israel to Barcelona, Spain and Youngstown, OH where I live.

At any event, so far as his published writings go, in 2011 Boylan was somewhere *within and beyond* the state. In his new book, Boylan goes *beyond* the state. I turn to that text next.

## 2. *Morality and Global Justice*

The book works from a basic cosmopolitan premise: “the world is structured nationally but moral rights exist ultra-nationally ... [t]his does not mean that the state becomes irrelevant, but merely that the horizons of moral applicability extend to people, as such – wherever they live” (Boylan 2011, ix, 203). The cosmopolitan premise is, I think, an important development that flows quite naturally from the earlier book's emphasis on basic goods. Here there is no parsing of justice's demands by states, their borders, and walls. It is not tethered to territory. Like capital, finance and labor, music and art, terror and pollution, narco-trafficking, information networks and social media, justice now has universal, i.e., global, reach.

### 2.1 Immigration in *Morality and Global Justice*

Chapter 14 of this book directs our attention to immigrants and refugees and on grounds of basic goods argues for open borders, at least as a prima facie right that, under some pressing conditions, can be restricted. The rights to flee and to enter a country are thereby secured. Together call them the right to free movement. Crucial to my analysis of this chapter are the causes or conditions that motivate people to migrate, that give rise to large-scale migrations. Of these Boylan lists four: violence, especially, intrastate violence; economic causes; political causes; and environmental degradation and natural disasters. These causes look to conditions of the sending state – the *push* factors in migrations. They are well documented in many international studies. But there are equally important causes of migration that Boylan misses.

### 3. Expanding the Analysis on Immigration

Migrations are usually understood as motivated by poverty, persecution, overpopulation or other facts about persons and the sending states. Brute facts – frequently horrible facts – *push* people out of their native land. There is truth in that. Most of us, after all, do not wish to leave home. It takes an ugly, bad scene to get us to do so. It's hard. That was certainly the case with my family and myself, as a very young boy. Facing serious threats of violence, the imprisonment of a family member, and execution of several close associates by a revolutionary government we migrated to the USA; and over the past several decades, so too have some 1.5 million of my fellow Cuban-Americans. But why did those 1.5 million migrate and not some others? And why the United States? After all, Puerto Rico, Venezuela, Mexico, Spain or any other Spanish-speaking country would have been a more natural destination state, making the cultural change less traumatic. Yet those did not *pull* most of us. In my family's particular situation, we came to the US because we had business interests here, in New Orleans. We were in some manner already established here, certainly sufficiently so to exert a strong pull on us. More generally, there were long-established business, military, political, and ideological relations between the two countries and these made our journey a sort of natural flow in a single transnational entity (Sassen 1988). The dynamic of being simultaneously pushed and pulled as part of an international process more adequately captures the reality of immigration than the usual notion.

From my immigration experience I think it is safe to say that large-scale migrations do not just happen. People do not just get up, leave home, and move to another place. Rather these migrations are produced. They are,

as Sassen observes, “patterned and bounded in duration and geography ... [and] transcend the brute facts of persecution, poverty, and overpopulation” (Sassen 1999, 2). They are produced, patterned, and bounded not only by the *push* of conditions in the sending nation, but also by the *pull* of existing “linkages” that serve as bridges to the receiving state. So there are at least bilateral – perhaps it would be more accurate to say historical or global - conditions that together produce migrations.

Sassen writes:

If migration is thought of as the result of the aggregation of individuals in search of a better life, immigration is, from the perspective of the receiving country, an exogenous process, one formed and shaped by conditions outside the receiving country ... [and its] experience is understood to be that of a passive bystander to processes outside its domain ... [But] if immigration is conditioned on the operation of the economic system in receiving countries ... [it] emerges as an integral part of the spaces and periods of growth of the receiving economy ... *The economic, political, and social conditions in the receiving country set the parameters for immigration flows* (Sassen 1999, 136-137—emphasis mine).

José Moya reaches a similar finding in his remarkable study of Spanish emigration to Buenos Aires, Argentina between 1850 and 1930 by. He writes:

Spanish emigration ... was not a national phenomenon but part of a global one ... Individual agency normally exists within the boundaries of, and interacts with larger historical forces ... [Mass emigration] results from ... the alloy of global trends and locally based networks (Moya 1998, 4, 5, 386; cf. Anderson 2005).

If Sassen and Moya are correct that large-scale migrations are “conditioned largely by the operation and organization of the receiving economies, politics, and societies” and result from the “alloy of global trends and locally based networks,” at least two important points follow. First, Boylan's description of the phenomenon of large-scale migrations is incomplete. He accounts for the *push* but not the *pull*. He is correct in the analysis of those conditions in life that motivate people to leave their homelands, but does not explain why they go to a particular destination – the patterns and trends that act upon individual agency over and above our wanting and doing. Second and more importantly, the incomplete analysis misses what I will call the double harm of immigrants in current large-scale migration flows to the US.

### 4. Double Harm of Immigrants

Current law in several of our states imposes significant privations on undocumented immigrants. Alabama makes it a misdemeanor crime for an undocumented immigrant to enroll in any postsecondary education institution or to apply for, solicit, or perform any work. It punishes United States citizens who hire or rent to them, or charitable organizations and religious institutions if they provide food, housing, or transportation to them and permits law enforcement officers to detain persons suspected of being in the country illegally. So important goods that are taken for granted by Alabamians – education, housing, work – are denied to undocumented immigrants. These are privations of rights that otherwise would not occur. These are preventable harms. Similar anti-immigration laws have been adopted or considered in Arizona, Mississippi, Georgia, Indiana, Oklahoma, South Carolina, Missouri, Tennessee, and Virginia. In the gubernatorial races in 2010 some 20 candidates, both Republicans and Democrats, supported anti-immigration laws.

Harms caused directly by current anti-immigration laws can be mitigated – for example, by opening our borders to the free movement of people or adopting different pathways to residency and citizenship. The Dream Act has some ameliorative properties in this regard. But large-scale migration to the US, with or without anti-immigration laws, is not very likely to decrease, as it is an integral part of the globalized economy. Again, Sassen:

The emergence of a global economy ... contributed both to the creation abroad of pools of potential emigrants and to the formation of linkages between industrialized and developing countries that subsequently were to serve as bridges for international migration. Paradoxically, the very measures commonly thought to deter immigration – foreign investment and the promotion of export-oriented growth in developing countries – seem to have had precisely the opposite effect. The clearest proof of this is the fact that the several newly industrializing countries with the highest growth rates in the world are simultaneously becoming the most important suppliers of immigrants to the United States (Sassen 1998, 34).

How foreign investments contribute to the creation of potential emigrants from developing nations is a long, complicated story. If Sassen is correct, some of the central elements of the story are these: the disruption and uprooting of traditional ways of life (for example, subsistence farming replaced by commercial agriculture

and recruitment of young women into industrial areas) give rise to the internal displacement of people and force their migration to cities, ultimately creating an urban reserve of cheap labor that potentially becomes a large-scale migration. In Mexico and the Caribbean Basin the wage laborer migrates to the United States, at once being *pushed* by the lack of work at home and *pulled* by the availability of low-wage jobs abroad. In Southeast Asia where Japan has been the major foreign investor the same pattern can be observed. In short, Sassen notes, foreign investment in export-production “transforms people into migrant workers and, potentially, into emigrants” (Sassen 1999, 41).

This transformation of people into emigrants involves a series of harms directly caused by the processes of globalization, particularly foreign investments and the internationalization of production. Even when there is rapid employment growth in the manufacturing sector, people are made worse-off, their rights to basic goods are violated, and then illegally entering their destination state they suffer further privations by anti-immigration laws. Many of us are beneficiaries of the undocumented immigrants' plight. And in so far as we are beneficiaries, we share responsibility for their harms.

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