

# Inside or Outside: Asylum Seekers on the Periphery of Borders

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When we ask ourselves today what is an 'asylum seeker', a number of separate things come to mind. A person who has left their home. A person who may have been persecuted. A person who is now in my state. A person who is now near my home.

These facets essentially come from positive international law, namely Article 1 of the Convention relating to the Status of Refugees 1951. It defines a refugee as a person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

Hence, we have largely come to see the asylum seeker as a legal entity. This is not surprising given that our understanding of an asylum seeker is often conditioned by what we read in the papers or see on the television. These will, in the main, talk about how the state has developed a particular policy with respect to asylum seekers hence we will come to see it mainly as a political or legal issue.

Some may also comprehend that asylum seekers raise wider moral issues. For example, nearly all religious and social codes have some form of the 'golden rule' that says do unto others as we would like done unto ourselves. Such norms uphold universal values by which all people can live. If we know that a certain code of behaviour will apply in all cases we too can live our life according to it. It adds a measure of certainty or uniformity. Indeed, as Peter Singer says, universalisation is one of the fundamental bases of ethics: "Ethics requires us to go beyond the I and you to the universal law, the universalization judgement, the standpoint of the impartial spectator or the ideal observer, or whatever we choose to call it." <sup>2</sup>

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<sup>2</sup> Peter Singer, *Practical Ethics*, (Cambridge: University Press, 1979), pp.10-12

However, this paper will look at asylum seekers from another perspective, namely that of 'borders'. When we see them, we do not regard them as our own. We see them as different. That is not surprising given the legal definition of a refugee given above. They will have come from another country and will not be part of our state. But another reason we may see them as different is because they are 'outside a border'. Not just a territorial border as such. Nor a political border or institutional one. But a 'personal border'.

This requires, in the first place, a consideration of this notion of a border. A border generally arises whenever we wish to defend ourselves against something. For example, a person may put up a mental border in order to protect themselves against a trauma. If they fear something, they may seek to block it out in order to prevent it causing them upset.

A home owner may put up a fence in order to ensure that trespassers cannot enter their garden, In this way, he or she can protect their land against intruders.

One can go a step further and argue that words can also constitute a border. For example, when two people are having a heated argument, they will both put forward their views. While they may eventually compromise with each other, the settlement, wherever the line is drawn, will represent a border that defines that particular discussion. It will be their resolution.

Hence, to begin with, the essence of a border is security. It represents the point at which a person feels that they have some control.

But this simply points to the form of a border. It tells us what a border is, namely a means of security.

However, a border has another substantive facet that is linked to this, namely content. If we go back to the example given above about the traumatised person, while they will put up a barrier to defend themselves, in doing so they will identify things that they will let in and the harmful things they will not. While they will let in some things that enable them to lead their lives, the trauma will be kept out.

Similarly, with the home owner. Their fence will come with a number of rules. This is my garden. It belongs to me. You need my permission to enter it. If I don't give it, you are not allowed to enter. Hence, a border consists of both 'protection' and 'rules that define that protection'. The same will also be true of territorial borders. It will also enshrine many rules, such as legal and cultural ones.<sup>3</sup>

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<sup>3</sup> Jules L. Coleman and Sarah K. Harding, 'Citizenship, the demand of justice, and the moral relevance of political borders', in *Justice in Immigration*, ed Warren F. Schwartz, (Cambridge: University Press, 2007), p.40

It follows that anyone that does not come within those rules will be kept outside the borders. They will be different. They will raise curiosity. But they will not automatically be allowed in.

That is essentially what happens when people confront asylum seekers. They will be seen as atypical. They will not be perceived to be playing by the same rule as host and therefore will be kept on the outside of borders.

As mentioned, these borders will not necessarily be territorial. Of course, that is the usual connotation when it come to asylum seekers, The understanding will be that they are transgressing state borders so should be detained at the borders of a country. <sup>4</sup> But these will be personal borders. People will simply not let asylum seekers close because they will not be seen as conforming to the same norms as them. This can be generally related to what Howard S. Becker says: “All social groups make rules and attempt, at some time and under some circumstances to enforce them. Social rules define situations and the kinds of behaviour appropriate to them, specifying some actions as right and forbidding others as wrong. When a rule is enforced, the person who is supposed to have broken it may be seen as a special kind of person, one who cannot be trusted to live by the rules agreed on by the group. He is regarded as an outsider.” <sup>5</sup>

This may manifest itself in a number of ways. One way will be hostility. As asylum seekers will not be perceived as coming within personal borders, people will fear them. They will be seen as transgressors. As trespassers. And the way in which people will enforce their borders may involve hostility that can often turn into violence. As Amartya Sen says, for example, “And yet identity can also kill-and kill with abandon. A strong – and exclusive- sense of belonging to one group can in many cases carry with it the perception of distance and divergence from other groups. Within-group solidarity can help to feed between-group discord.” <sup>6</sup>

Another way will be turning down their asylum claim. Even though an asylum seeker may have a genuine claim for protection people will turn them down simply because they will not be regarded as coming within borders. This can have devastating consequences. Often as asylum seeker may be sent back to persecution simply because they will not be seen as coming within borders. The ironic thing will be that they will be sent to one mistreatment simply because of another.

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<sup>4</sup> See, for example, United Nations High Commission for Refugees, *The State of the World's Refugees: Fifty Years of Humanitarian Action*, (Oxford; University Press, 2000), p.161-162

<sup>5</sup> Howard S. Becker, *Outsiders: Studies in the Sociology of Deviance*, (New York: Free Press, 1966), p.1

<sup>6</sup> Amartya Sen, *Identity and Violence: The Illusion of Destiny*, (London: Penguin Books, 2006), pp.1-2

So what can we do? We need to understand that the rules that define are borders are not necessarily fixed. We are the one who set them. We regard asylum seekers as outsiders. We can change our borders. We can move the goal posts. This can be broadly related, for example, to what Andrew Linklater says about states in a global world: “Membership of a pluralist or solidarist international society rests upon a prior decision to widen the boundaries of the moral community in order to do justice to the interests of outsiders.”<sup>7</sup>

One way in which we can do this is not necessarily seeing asylum seekers as different to us. At the moment, the reason that we place them on the outside of our borders is because we do not regard them as according to the rules that define our borders. Sometimes these rules may be cultural. They may be linguistic. They may be ethnic. Hence, as the asylum seeker comes from a place with an entirely different cultural background they are seen to be outside the borders.

But what if we change the emphasis slightly? Now it should no longer be just about nationality, race, ethnicity, language etc, although these things are without doubt important. What if we say that our rules also include human dignity? Kindness. Humanity. Suddenly, the asylum seeker comes within our rules. They are human, just like us. They have dignity, like we do. Now they are in our borders and deserve to be treated with respect. This would broadly accord with the Kantian categorical imperative. “Act so that the maxim of thy will can always at the same time hold good as a principle of universal legislation.”<sup>8</sup>

All too often we forget the basic humanity that binds all people together. Others stop being part of our rules. They fall outside our borders. This may be for a number of reasons. Some may be psychological. As Herman C. Kelman, for example, says: ‘psychological factors are pervasive in international conflict and international relations generally. Psychological processes at the individual and collective levels constitute and mediate much of the behaviour of nations.’<sup>9</sup>

Some may be far more cultural. As Iris Marion Young puts it: “Cultural imperialism involves the universalisation of a dominant group’s experiences and culture, and its establishment as the norm. Some groups have exclusive or primary access to what Nancy Frazer calls the means of interpretation and

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<sup>7</sup> Andrew Linklater, *The Transformation of Political Community: Ethical Foundations of the Post-Westphalian Era*, (Cambridge: Polity Press, 1998), p.175

<sup>8</sup> Immanuel Kant, *Critique of Practical Reason*, (New York: Dover Publications, 1909), p.31

<sup>9</sup> Herman C Kelman, “Social-psychological dimensions in international conflict” in *Peacemaking in International Conflict – Methods and Techniques*, ed. I. William Zartman, J. Lewis Rasmussen, (Washington: United States Institute of Peace Press, 1997) , p.192

communication in society. As a consequence, the dominant cultural products of society, that is, those most widely disseminated, express the experience, values and goals and achievements of these groups. Often without noticing they do so, the dominant group projects their own experience as representative of humanity as such.”<sup>10</sup>

And suddenly people such as asylum seekers come outside.

It is fundamentally important to remember that humanity and dignity are also part of borders and as such asylum seekers are very much like us. This clearly resonates with what Michael Dummett says that: People denied the minimal conditions for a life free from terror and allowing them a basic dignity are entitled to call on others to grant them such a condition.”<sup>11</sup>

If we begin, as individuals, to change our personal rules by acknowledging that asylum seekers have a humanity then maybe this will manifest itself in state policy as well. Maybe asylum seekers will ultimately get the protection they deserve.

But it all begins with a change in our personal rules first. From the inside.

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<sup>10</sup> Iris Marion Young, *Justice and the Politics of Difference*, (Princeton: University Press, 1990), pp.59-60

<sup>11</sup> Michael Dummett, *On Immigration and Refugees*, (Abingdon an New York: Routledge, 2005), p.34