

Soziale Orientierung

Band 28

Migration und Solidarität
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Herausgegeben von

Stefan Mückl



Duncker & Humblot · Berlin

Stefan Mückl (Hrsg.)

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herausgegeben von

Anton Rauscher · Stefan Mückl · Arnd Uhle

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Vorwort

Weltweit waren Ende 2018 knapp 71 Millionen Menschen auf der Flucht – niemals zuvor hatte die UNO-Flüchtlingshilfe eine höhere Zahl ermittelt. Von diesen 71 Millionen Menschen sind 60% (= 41,3 Millionen) sog. Binnenvertriebene (also Menschen, die in andere Regionen ihres Landes geflüchtet sind), während knapp 30 Millionen Menschen gänzlich ihre Heimat verlassen haben. Die einen hoffen, Schutz vor (Bürger-)Krieg oder Verfolgung (sei sie politischer, religiöser, ethnischer und sonstiger Art) zu finden – 3,5 Millionen Menschen suchen explizit Asyl in einem fremden Land. Andere sehen in ihrem eigenen Land keine Perspektive (mehr) für ihr Leben und wollen Armut, Hunger und Elend entkommen.

Naturgemäß finden die meisten Flüchtlinge Aufnahme in den Nachbarländern – was diese wiederum vor beträchtliche Herausforderungen stellt. Doch auch Länder weitab der Hauptkonfliktherde der Welt – wie Deutschland und die Vereinigten Staaten von Amerika – sind in erheblichem Ausmaß mit der Problematik der Fluchtbewegungen konfrontiert. Speziell die Flüchtlingskrise im Herbst 2015 hat die Zahlen in beiden Ländern auf neue Höchstzahlen ansteigen lassen. Vor diesem Hintergrund versteht sich das breite öffentliche Interesse an den damit verbundenen Fragestellungen, wie: Grund und Grenzen der Aufnahme von Flüchtlingen, Differenzierung nach dem Motiv der Flucht, Maßnahmen zur Bekämpfung von Fluchtursachen, Auswirkungen der Aufnahme von Flüchtlingen im schutzgewährenden Staat.

All diese tagesaktuell drängenden Fragestellungen verweisen indes noch auf eine tiefere Dimension der Problematik, welche ein zentrales Problem der katholischen Soziallehre berührt: Welchen Stellenwert gewinnt das Prinzip der Solidarität angesichts der Herausforderungen der weltweiten Migration? Lassen sich konkrete Handlungsmaximen daraus ableiten? Welche Reichweite kommt dem Prinzip im Zeitalter der Globalisierung zu, wie verhalten sich gegebenenfalls konkurrierende Solidaritätsanforderungen zueinander?

Vor diesem Hintergrund widmete sich das 15. Deutsch-Amerikanische Kolloquium, das vom 23. bis 28. Juli 2018 im Bildungszentrum Kloster Banz stattfand, dem Rahmenthema „Migration und Solidarität“. Wie bei den früheren, seit 1990 im zweijährigen Turnus wechselweise in Deutschland und in den Vereinigten Staaten stattfindenden, Kolloquien trafen sich Vertreter verschiedener Fachdisziplinen, um das Rahmenthema aus interdisziplinärer Perspektive zu untersuchen und zu diskutieren. Neben grundsätzlichen Fragen kamen die historischen wie aktuellen Perspektiven von Migration, ihre Herausforderungen für das Handeln von Staat wie Kirche und schließlich ihre Auswirkungen auf Wirtschaft und Gesellschaft zur Sprache.

Auch an dieser Stelle drängt es mich, herzlich zu danken: Herr Kollege William Frank (University of Dallas, Texas) hat in bewährter Weise die Teilnahme der englischsprachigen Teilnehmer koordiniert, Herr Kollege Michael Casey (Australian Catholic University, Sydney) besorgte zuverlässig die Durchsicht der englischsprachigen Beiträge. Die organisatorische Vorbereitung des 15. Deutsch-Amerikanischen Kolloquiums lag in den Händen von Herrn Kollegen Klaus Stüwe (Katholische Universität Eichstätt); dafür wie für die vorbereitenden Arbeiten an diesem Berichtsband sei ihm wie seinem Mitarbeiter, Herrn Sebastian Rajca M.A., vielmals gedankt. Besonders großzügig hat wiederum die Hanns-Seidel-Stiftung das Kolloquium gefördert, indem sie die Räumlichkeiten ihres Bildungszentrums in Kloster Banz zur Verfügung gestellt hat. Dafür gilt den Verantwortlichen ebenso herzlicher Dank wie dem Verlag Duncker&Humblot für die bewährt gute Zusammenarbeit bei der Herstellung dieses Berichtsbandes.

Rom, im Januar 2020

Stefan Mückl

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I. Grundlagen / Foundations

Political Theory, Christianity, and Immigration: The Role of Cosmopolitanism and Communitarianism

By Mark R. Amstutz

Immigration policy has become one of the most salient but contentious issues in the contemporary international system. The issue is especially important in Europe and the United States. Some observers claim that Donald Trump's electoral victory was due partly to his promise to halt unlawful migration. Recent survey data of EU countries suggest that citizens regard immigration as a most important public policy challenge, eclipsing unemployment and terrorism. In the United States, one of the major legislative concerns in recent years has been how to resolve the status of some eleven million irregular migrants.

In Europe, the refugee crisis, precipitated by the Syrian civil war, has posed special political challenges to the European Union. Ordinarily, individual sovereign states are responsible for deciding how many refugees will be admitted, but this responsibility is made more challenging in the EU because of the free mobility among signatory states of the Schengen Accord; and also because of the Dublin Convention, which specifies that the country in which refugees arrive is responsible for registering them. These policies were upended in 2015, however, when Chancellor Angela Merkel announced that Germany would welcome an unlimited number of refugees. Although a humane gesture, this unilateral action led to increased political tensions within Germany and among EU member states.

As of 2018, there are more than twenty million refugees – the largest number ever. A major reason for the explosion of people seeking safety in neighboring countries is the collapse of states. Syria alone is responsible for one fourth of the world's refugees. In addition to domestic violence, globalization has also contributed to increased international migration by making cross-border movement easier and less costly. Smugglers have developed highly sophisticated technics in evading governmental border controls. Additionally, the cell phone has become the indispensable tool for making perilous journeys to distant lands.

How should states respond to migrants who, in their quest for safety or for a better standard of living, bypass border controls or disregard the terms of their visa? How should developed democratic states respond to the plight of millions of refugees seeking security? Is immigration a basic right, or a privilege subject to the prerogatives of host states? More specifically, how should Christians conceive of immigration? Since addressing such questions presupposes beliefs about the nature and structure

of the international community, it is important to illuminate the underlying assumptions about global society.

In this essay I contrast two perspectives of world order – the communitarian worldview, which emphasizes the role of states and other political communities, and the cosmopolitan worldview, which emphasizes the moral cohesion of global society and gives precedence to individual rights. Since each perspective conceives the world in radically different ways, the implications for immigration policy are, not surprisingly, also radically distinct. A central claim of this essay is that the analysis of migration must be informed by the particular rules and institutions of states as well as by fundamental moral values that apply to all peoples and societies. Essentially, I shall argue that both communitarian and cosmopolitan perspectives are necessary to address migration concerns.

The paper has three parts: first, I describe how scholars and public officials view the contemporary global system. I present three distinct dimensions of world order – the political, the legal, and the moral. All three elements are manifested in the rules, institutions, and structures of the existing global system. Second, I present key features of the communitarian and cosmopolitan approaches to the international community and show how each views international migration. Finally, I examine how a Christian worldview relates to the challenge of migration.

I. Different Perspectives of the International Community

From a political perspective, the world is conceived as a global society of independent nation-states. This decentralized global system emerged in the mid-seventeenth century with the rise of sovereignty – the claim that government must have supreme power to control affairs within a state’s territorial boundaries. The decentralized character of the global order is expressed in the world’s constitution – the United Nations Charter – which acknowledges the fundamental role of member states in advancing global peace and prosperity. In particular, the Charter affirms the right of a state’s political autonomy and the corollary obligation of non-intervention in the internal affairs of other foreign states. Although sovereignty is not unlimited, it has remained the core principle of the contemporary nation-state. Politically, this means that a central government has the authority to regulate domestic affairs and to control goods and people entering the country’s territory. Since states have supreme authority over domestic affairs, they determine the policies and practices governing immigration.

From a legal perspective, the world is similarly conceived as a global society of nation-states, each entitled to legal rights and responsibilities. The customs and rules that states have accepted as binding in their international relations comprise the large body of international law, covering such areas as diplomacy, the rights and duties of states, human rights, outer space, the global environment, refugees, and war. Typically, legal conventions are binding on states only when they formally accept

them, either by ratifying treaties or by explicitly acknowledging their legitimacy. According to international law, people can emigrate from their homelands, but they do not have a right to immigrate to a foreign land. The International Covenant on Civil and Political Rights, for example, stipulates that people have a right to freedom of movement, including the right to move within their own country and to leave their homeland (article 12). There is no basic right, however, to enter a foreign country. Whether or not a person can visit, work, or live in a foreign land is determined by the government of the receiving state. The Covenant also recognizes the collective right of a people to pursue political self-determination (article 1). This right is important because it reinforces the decentralized, democratic structure of global society.

From a moral perspective, the world is conceived as a coherent ethical community – a global society of persons who are equal and entitled to dignity and respect. The fundamental premise of the moral perspective is that people have inherent rights that cannot be qualified by government or by other persons. Since people are entitled to basic rights, discrimination on the basis of gender, ethnicity, economic status, religion, nationality or political belief is inadmissible and contrary to universal morality. Although this perspective emphasizes the rights of persons, it also provides a foundation for all ethical reasoning about the quest for peace and justice within and among states. This means that policies about political, economic and social relations within and among states is subject to a universal ethic rooted in the dignity of persons. Such political morality has been expressed in a variety of doctrines and traditions. The tradition of just war, for example, is rooted in the conception of a global morality that seeks to minimize human suffering even in time of war¹. In the contemporary world, the language of human rights, expressed through multiple treaties and conventions, is arguably the principal pillar of the moral approach to international politics².

Each of these three perspectives contributes important insights about how to regard our contemporary world. The political view emphasizes the role of the state, the indispensable agent for securing and enhancing human rights. The legal perspective contributes to the pursuit of peace and justice in global society by providing international norms and rules that structure the behavior of states and non-state actors. Finally, the moral approach illuminates the fundamental values that contribute to the rights and responsibilities of persons, nations and transnational organizations.

Although scholars and political leaders rely on these three perspectives in conceptualizing global society, some emphasize the political or legal dimensions while min-

¹ The literature on just war is extensive. Two basic guides to this tradition are *Michael Walzer, Just and Unjust Wars: A Moral Argument with Historical Illustrations*, 5th ed., New York 2015; and *James Turner Johnson, Just War Tradition and the Restraint of War: A Moral and Historical Inquiry*, Princeton 1981.

² See for example, *R. J. Vincent, Human Rights and International Relations*, Cambridge 1986; and *Jack Donnelly, International Human Rights*, Boulder 1993.