

The Jewish View of Immigration

Introduction

In this week's portion, *Vayera*, Abraham gives us a wonderful example of hospitality to strangers. He is recovering from his circumcision, but still finds the time to warmly welcome people he does not know.

The Lord appeared to [Abraham] by the terebinths of Mamre. He was sitting at the entrance of the tent as the day grew hot. Looking up, he saw three men standing near him. As soon as he saw them, he ran from the entrance of the tent to greet them and, bowing to the ground, he said, "Lord, if I have found favor in Your sight, please do not pass from Your servant. Let a little water be brought. Bathe your feet and recline under the tree. And let me fetch a morsel of bread that you may refresh yourselves, then go on..." They replied, "Do as you have said." [Gen. 18:1-5]

Let us discuss the natural extension of hospitality: Welcoming immigrants.

God commanded Abraham to become an immigrant:

Go to the land that I will show you. [Gen. 12:1]

The Talmud urges us to emigrate if need be:

If you experience bad luck in one place and don't move to another place, you have only yourself to blame if your fortunes do not improve. [Or HaChaim on Genesis 12:1, quoting Bava Metzia 75b]

The Bible tells us in 36 places [Bava Metzia 59b] to love the stranger in our midst:

וְאָהַבְתֶּם אֶת-הַגֵּר-- You shall love the stranger. [Deut. 10:19]

-The stranger who resides with you shall be considered by you as one of your own citizens. You shall love him as yourself, for you were strangers in the land of Egypt. I, the Lord, am your God. [Leviticus 19:34]

We must also treat him equally:

תּוֹרַה אֶחָת יִהְיֶה לְאִזְרָח וּלְגֵר הַגֵּר בְּתוֹכְכֶם:

There shall be one law for the citizen and for the stranger who dwells among you. [Ex. 12:49]

Question

As a nation, we Americans continue to struggle to craft a just policy on immigration:

- How do we respond to people who want to come to America from abroad, for a variety of reasons (more opportunity, more jobs, more freedom, more democracy, more education, better climate, family reunification, association with superpower, etc.)
- What if they are refugees or asylum seekers, fleeing war, intolerance or natural disasters?
- What if they have no skills, or are ill, and are likely to be a burden?
- What if they are already here illegally?
- How strongly should we protect our borders (walls, border patrols, life-threatening measures)?

Policies must not rely only on compassion. Concrete criteria are needed. Let us seek Jewish answers to these questions.

First, two quick questions:

- Do people have the right to move anywhere they want in the world?
No. It is up to the host country whether to accept them. Abimelech, king of the Philistines, welcomed Isaac at first, and then, when Isaac became rich and powerful and provoked envy, expelled him. Isaac left with his clan without protesting. [Gen. 26:16]
- Do immigrants have to follow the laws of their new country?
Yes. Talmud: The law of the land is the law – *Dina d'malchuta dina* (דִּמְלַכּוּתָא דִּינָא דִּינָא). [Nedarim 28a]

Countries and borders

The Torah allows the formation of nations with borders:

[Moses said:] When the Most High gave nations their lot, when He separated the sons of man, He set up the boundaries of peoples according to the number of the Children of Israel. [Deuteronomy 32:8]

Ibn Ezra (12th-century Spain) explains that when God decreed that the Land of Israel would belong to the Jews, He determined that it would be sufficient for their population.

Sforno (16th-century Italy) adds that before the Tower of Babel episode, all mankind lived in a single community; but God then separated them and established territorial boundaries for the various new nations.

The division into countries is beneficial to minorities. If persecuted in one country, they can move to another country. Not possible if whole world is united. Diversity of nations spurs competition and different views on resource allocation.

Fear for security of the country

The Torah says:

בְּרִזְלָה וּבְנְחָשֵׁת מְנַעֲלֶיךָ וּבְיָמֶיךָ דְּבִאָּה:

May your doorbolts be iron and copper, and may your security last all your days.

[Deuteronomy 33:25]

Rashi explains that the strongest men used to dwell in the border cities. They effectively locked the country so that the enemy would not be able to invade it, as if the country was closely shut by locks and bars of “iron and copper”.

Jewish law says that in a border city, even if the non-Jews try to enter ostensibly just to steal straw and hay, one must violate Shabbat and repel them, for fear they might take over the city and proceed from there conquer the entire land. [Shulchan Aruch, Orach Chaim 229:6] The Rema (16th-century Poland) adds that even if one only *suspects* that an enemy strike is imminent, war should be waged preemptively, even on Shabbat.

Fear of foreign influence

There is fear that foreign influence would corrupt the values of a country.

The Rambam (11th-century Egypt) writes:

It is forbidden for us to allow an idolater among us. Even a temporary resident or a merchant who travels from place to place should not be allowed to pass through our land until he accepts the seven universal laws commanded to Noah and his descendants, as the [Torah] verse states:

They shall not reside in your land. [Ex. 23:33]

A person who accepts these seven mitzvot is a *ger toshav*, a resident alien.

[Mishneh Torah, Laws Regarding Idol Worship 10:6]

The biggest sin in biblical and Talmudic view is idolatry. The Rambam says:

Whosoever denies idolatry admits the whole Torah, all of the prophets, and all in that which the prophets were instructed since Adam even till the end of time. Thus it is the outstanding commandment of them all. [Mishneh Torah, Foreign Worship and Customs of the Nations 1:4]

What is the American equivalent? During the Cold War it was: No communists. Today it is: No terrorists. Always: No criminals. That includes entire countries associated with these activities.

Does a country have the right to insist that its basic culture and character be preserved? Yes, to a large extent:

Every nation differs from every other nation absolutely in several aspects: Its land, its language, its clans and its peoples. [Lubavitcher Rebbe, Likkutei Sichot, v8, p 45]

This does not preclude diversity.

Fear of economic turmoil

Will immigrants lower wages for all and increase unemployment?

Talmud sets limits on competition: One town can prevent another town from competing with them in the same business, but it cannot if that town pays it taxes (and tariffs). But, within the same town, competition is permitted. [Bava Batra 21b]

What if they are refugees?

If refugees come fleeing fear and danger, the residents may not stop them from attaching themselves and making enough money to keep themselves alive and caring for their households until the fury abates. [Rabbi Mordechai ben Hillel (13th-century Germany), on Bava Batra 3:147]

Implies:

- (1) They must support themselves and
- (2) They must eventually go back.

Some say this ruling is motivated by fear of danger to the community because non-Jews are displeased with more Jews coming. [The Rema, responsum 52; the Maharik, responsum 191]

Others cite unwanted competition. [Mordechai on Bava Batra 22a]

Illegal immigration

Two relevant Talmudic principles:

-*En chotei niskar* (The sinner should not profit): Do not reward someone who refused to abide by the law. [Bava Kamma 38a]

-*Takkanat hashavim* (Decree for Penitents): Make it easy for sinners to repent.

Example: A person steals a beam to build a house. The Torah says:
Dismantle the house and give the beam back to its owner:

When one has sinned, he realizes his guilt and restores what he got through robbery or fraud. [Lev. 5:23]

Bet Shammai said: Follow Torah law. Bet Hillel said: The financial loss to the thief is so high it might impede his repentance, which is one purpose of justice, so financial compensation is enough.

Bet Hillel's ruling prevailed. [Gittin 55a, Tosefta Bava Kamma 10:5]

Equivalent: An illegal alien marries an American and has children by her in the US. Expecting him to turn himself in for deportation (alone) is unrealistic and few would do it. Leniency is sometimes called for. Yet we must "punish" him somehow. How?

Possibilities: Financial penalties, back-taxes, community service, permanent disqualification from citizenship, etc.

Would too much leniency affect deterrence? Perhaps. So, another Talmudic decree: We are commanded to redeem the captive (פְּדִיּוֹן שְׁבוּיִים), but must pay only up to his worth in the slave market. More might encourage more kidnappings. [Gittin 4:6, Ketubot 52b]

What about children brought over by their parents, who did not willfully break laws: Do we punish them too? Torah: We punish only those who have transgressed:

לֹא יוֹמְתוּ אָבוֹת עַל בָּנִים וּבָנִים לֹא יוֹמְתוּ עַל אָבוֹת אִישׁ בְּחַטָּאתוֹ יוֹמְתוּ

Parents shall not be put to death for [the sins of their] children, nor children be put to death for [the sins of their] parents. A person shall be put to death only for his own sin. [Deut. 24:16]

Personal comments

As a refugee and an immigrant myself, here are my thoughts:

-If we banned all immigration, we would miss out on a lot of very talented people at one end, and on a lot of people willing to take jobs Americans don't want at the other end.

- If we had open borders, we would be deluged by people our economy could not absorb. If half of India and half of Egypt came here, we would suffer and they would suffer and nobody would benefit.
- The answer is somewhere in between. If most immigrants find jobs, we are not taking in enough of them. If most immigrants do not find jobs, we are taking in too many.
- It's not clear physical barriers will help. True, 60% of illegal aliens come in from Mexico, but if a wall keeps them out, we can expect a lot of people with legal "tourist" visas to "forget" to return home.
- Immigrants from countries provably infested with a lot of terrorists or criminals should be very carefully vetted.
- Many refugees are from countries in a civil war, such as Syria today. In history, civil wars have not been accompanied by a *mass* exodus. People generally stay with their families, choose a side and fight. This was true of the US, of Spain, of France, of Russia, of China and many others, in spite of atrocities committed.
- The burden of welcoming refugees should be shared. Nobody is pressing Saudi Arabia, Qatar, Oman, the Emirates, Bahrain, Iran, and other oil-rich countries to welcome their Arab and Muslim brethren. They don't want them, period, and nobody is even pointing that out.

Conclusion

All the points mentioned above must be considered and there is no blanket solution. It is worth quoting 20th-century American Rabbi Joseph Soloveitchik, who reminds us that immigrants are frequently the most patriotic of citizens, because they, unlike the natives, have learned to value what they got:

When the need arises, the nomad stands up and fights for his freedom and many a time proves superior in battle to the settled king. [Rabbi Joseph Soloveitchik, *The Emergence of Ethical Man*, p153]

Shabbat shalom.