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University of Maryland • College Park, Maryland 20742 • Telephone: 301-454-4103

Exporting Hazards

To make its research easily available to a broad audience, the Center for Philosophy and Public Policy publishes a quarterly newsletter: *QQ—Report from the Center for Philosophy and Public Policy*. Named after the abbreviation for “questions,” *QQ* summarizes and supplements Center books and working papers and features other selected philosophical work on public policy questions. Articles in *QQ* are intended to advance philosophically informed debate on current policy choices; the views presented are not necessarily those of the Center or its sponsors.

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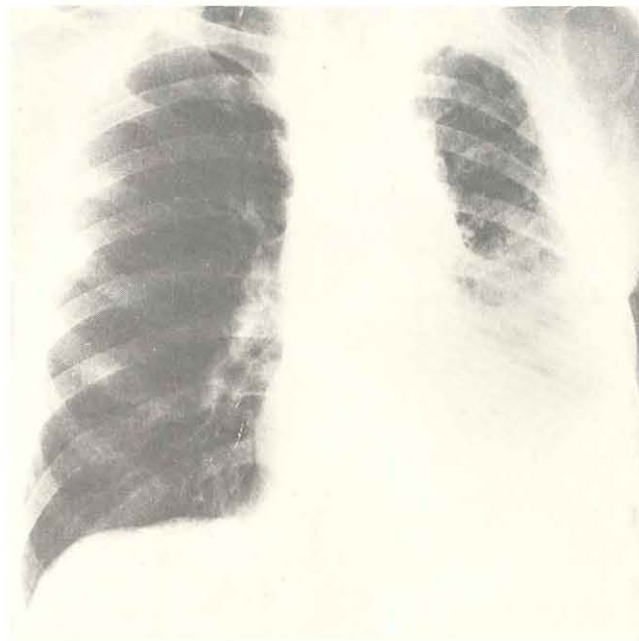
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It has been common practice for U.S. firms to market in the third world products and materials that have been banned or restricted in the United States. Pesticides and chemicals too dangerous for American use are shipped to developing countries, where regulatory standards are absent, weak, or poorly enforced. Such banned consumer goods as children's pajamas treated with cancer-causing chemicals have found their way into the cradles of third-world infants.

It has also been common practice for U.S.-based transnational firms to establish factories in third-world countries when minimum wage requirements and health and safety codes in the United States make the move economically attractive. A striking example is the processing of the pervasive product asbestos, long identified as a cause of asbestosis (cousin to “black lung” and “brown lung”) and various cancers. (The same number of Americans die each year from asbestos-related diseases as die in automobile accidents.) Standards covering asbestos processing have been issued by OSHA, and cleaner technologies have become available. But rather than installing the new technologies in U.S. facilities, some corporations are moving the more hazardous (but cheaper) methods into poorer countries, such as Mexico. Thus dangerous jobs are exported as well as dangerous products.

Such exports have been restricted and facilitated by differing U.S. government policies. Five days before leaving office, for example, President Jimmy Carter issued an executive order restricting the export of some U.S. products whose use is banned or severely restricted in this country. A month later, that order was revoked by President Ronald Reagan. Conflict is now brewing between the Commerce and State departments over further elimination of rules



Hazardous products and processes continue to be exported across national borders. The export of jobs involving asbestos may have resulted in fatal lung damage for countless foreign workers. Photos credit World Bank (left) and Environmental Sciences Laboratory.

that require manufacturers to notify foreign governments before shipping hazardous goods abroad. Current administration policy, then, appears to facilitate the export of hazards across our borders.

The result is that products and jobs deemed too dangerous for American consumers and workers are deemed acceptable for consumers and workers in other countries. Yet few would want to claim, straightaway, that the welfare of foreigners counts for less than the welfare of fellow citizens, that different moral standards govern how foreigners and citizens may be treated. Few would say that it doesn't matter, after all, if *foreign* workers are exposed to asbestosis, or if *foreign* children contract cancer from their sleepwear. Certainly few would say it out loud. How, then, can this clear application of lower standards to foreigners be justified?

It's Their Responsibility, Not Ours

A first justification of current practices goes like this. The reason certain substances or manufacturing processes are banned in the United States is because the United States government banned them. The reason they are not banned in the third world is because third-world governments haven't banned them. If our government permits the export of hazardous products or facilities, this doesn't show a disregard for foreign welfare on the part of *our* government. It's not our government's business to

look out for the interests of foreign workers and consumers. That is the business of foreign governments, and if they don't act to protect their own citizens, it is not for the U.S. government to intervene on their behalf—especially when such intervention puts American industry at a competitive disadvantage. An argument like this one seems to underlie recent shifts in executive policy.

This implicitly assumes, however, that governments in the underdeveloped and desperately poor third world are able to defend themselves against the powerful corporations of the advanced, industrial nations. *Ought* implies *can*, and to say that third-world governments ought to protect their workers and consumers is to assume that they are able to do so.

Thomas Biersteker, Associate Professor of Political Science at Yale University, casts doubt on this assumption. In "The Limits of State Power in the Contemporary World Economy" (appearing in *Boundaries: National Autonomy and Its Limits*, edited by Peter G. Brown and Henry Shue), he argues that the global balance of power remains heavily tilted toward affluent nations and their transnational corporations. Third-world governments have little political and economic autonomy in the face of international corporate might.

In the past decade nations of the third world have made significant efforts toward greater independence. Third-world governments have launched massive programs of indigenization and nationaliza-

tion or embarked on ambitious agendas of economic self-reliance. These developments have led political scholars to talk about a "resurgence of state power" among the world's poorest nations. On Biersteker's analysis, however, despite strides toward greater autonomy and self-sufficiency, "transnational corporations are still able to constrain the exercise of state power in the third world."

Can governments in the third world protect their citizens against exploitative practices by foreign corporations? Despite greater strides toward national autonomy, the global balance of power remains heavily tilted toward the multinationals.

Biersteker's point is well illustrated by nationalizations. The frequency and scope of nationalizations increased dramatically during the 1970s, as states sought to take control of foreign enterprises by acquiring the assets of industries operating within their territory. "In theory," Biersteker explains, "once national control has been attained, exploitative practices of the past can be halted, and an increase in the state's revenues can be anticipated." In practice, however, wealth and control have remained in the hands of the transnationals. "The defensive capabilities of transnational corporations and the structure of the world economy have constrained and effectively neutralized the assertion of state power through nationalization."

It may indeed be that American corporations are put at a competitive disadvantage if they are required to upgrade foreign factory safety or notify foreign governments of hazardous shipments. But foreign governments are at a far greater competitive disadvantage, struggling among themselves to attract, and then to control, some portion of international investment and trade. They are hardly in a position to dictate health and safety standards to the multinationals. Responsibility for imposing and enforcing standards must be borne by those better able to bear it.

We Can't Help Out the Whole World

It might seem, therefore, that the responsibility for protecting the interests of foreign workers and consumers should fall on the U.S. government. If foreign governments cannot effectively look after their own, let us look after them.

Unfortunately, however, the world is filled to overflowing with the hungry, destitute, repressed, and unprotected. It can't be up to us to take on all the manifold tragedies crowding every corner of the globe. We cannot legislate regulatory standards for

pesticide use in every field in Latin America. We cannot lay down codes of workplace safety for every factory in Africa. Our obligations cannot extend so far.

According to Judith Lichtenberg, Visiting Research Associate at the Center for Philosophy and Public Policy, it is a widely held view that nations do not have positive obligations to look out for the welfare of other nations or extranationals. Special treaties or agreements might generate such obligations, but, on the common view, one nation does not ordinarily have any duties actively to protect the citizens of another.

But this does not mean, Lichtenberg points out in her essay in *Boundaries*, that "nations and their members are thought to have no obligations to extranationals. The common view is rather that . . . such obligations are entirely negative: they are obligations to refrain from interference in extranationals' affairs." Citizens of one country certainly do have obligations not to harm foreign citizens; they are duty-bound to leave them alone.

The moral principle "It is wrong to inflict avoidable harm upon other people" is almost universally accepted. Few would assert that this "no-harm principle" makes an exception of foreigners. Yet Lichtenberg observes that the implications of this principle for international policy seem largely unrecognized. Even setting positive obligations aside, the no-harm principle itself requires that current practices be amended.

For corporations are bound by the no-harm principle, as well as individuals and nations. They have no special license to inflict harm upon foreign nationals. It would seem to follow that even if corporations have no direct responsibility to promote the interests of their workers or those who consume their products, they do have an obligation not to

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subject their employees to excessive workplace hazards or to market products that endanger the health and lives of those who use them. Whether or not the governments of third-world countries act to protect their citizens from corporate harm, the corporations ought not to inflict it. That foreign workers and consumers are unprotected does not serve as an excuse to place their safety and health in jeopardy.

Furthermore, even if our government has no duty actively to protect foreigners from harm, it has a duty not to facilitate the infliction of harm by corpo-

rations based within its jurisdiction. If it is wrong for corporations to export hazards, then it is wrong for any government to facilitate their export. Governments ought not serve as accomplices to corporate wrongdoing.

It is true that our government cannot solve the problems of the entire world. This follows as well from "ought implies can." But our government can avoid causing further problems, by doing what it can to prevent the infliction of harm by corporations that bear its name. And insofar as corporations and governments do inflict harm, they are bound by the no-harm principle to make appropriate restitution to those who suffer from their policies.

people in the form of new dangers to health and safety, but new benefits are also part of the same package. Banned pesticides exported to insect-infested nations may provide agricultural benefits that outweigh any other risks. In countries with severe unemployment, hazardous jobs may be preferable to no jobs at all. "Money for food, plus some asbestos fibers in the air," Shue notes, "can be better than clean air and an empty plate."

This defense, however, Shue emphatically rejects. It can sometimes be acceptable to impose upon others costs that are greatly outweighed by concomitant benefits. But the costs of the hazards exported are costs of a special kind. Consider the costs faced by



Courtesy National Archives

Do national boundaries set limits to our moral obligations?

Are Hazardous Exports Really So Bad?

A final attempt to justify these current practices suggests that the export of hazardous products and jobs does not really violate the no-harm principle. Henry Shue, Senior Research Associate at the Center for Philosophy and Public Policy, examines in *Boundaries* the plausibility of standard arguments for this position.

Hazardous exports do not violate the no-harm principle, it is argued, because they are not, on balance, *harmful*. There may be costs to third-world

asbestos workers in foreign plants using the banned technology. They involve physical damage that is serious and irreversible: lost lungs do not grow back; malignant tumors continue to spread. Furthermore, the health risk posed is undetectable and unpredictable for foreign workers without a level of medical knowledge and care to which they generally have no access. And this undetectability and unpredictability are avoidable at the choice of the firm's management: the damage can often be detected from a simple X-ray exam. Finally, the probability of the damage risked is very high. These central features are shared by

pesticide poisoning and chemically caused cancers as well. When all these conditions hold, Shue concludes, the cost in question is prohibited by the no-harm principle. Such costs are *harms*, if any costs are, and they cannot be imposed on other human beings without their free choice.

A second line of defense is therefore to claim that foreign nationals themselves consent to the new dangers—the harm is not inflicted on them, since they voluntarily accept it. But this defense is legitimate only if the workers and consumers are indeed fully informed of the severity and probability of the harm they face. Consent based on ignorance and false information will not provide any excuses. Yet the current administration dispute is precisely about whether or not manufacturers should be required to *notify* foreign governments of harmful shipments before proceeding with their export. It is the effective transmission of information that is under attack. Likewise, many firms with operations abroad have not informed their workers of health and safety hazards. Shue asks: “Why is informed consent not more appealing when it does in fact relieve a firm of the responsibility of having inflicted harm upon unsuspecting people? I believe that the real explanation . . . has a great deal to do with . . . the discounting of the welfare of people across national boundaries, especially when the boundaries also mark cultural, ethnic, or racial differences. Harm to foreigners is simply not taken as seriously.”

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Coming Full Circle

The question underlying the export of hazards is a question about the moral significance of national boundaries. The map of the globe is criss-crossed with dotted lines, sometimes seemingly arbitrary, changing with colonizations and rebellions and wars. Yet those lines determine the extent of national sovereignty and the limits of citizenship. Frequently they determine how poor or rich those living within them will be and how able their governments will be to protect their rights and interests.

At one time, when nations were far more isolated

and self-contained, national boundaries may have set limits to moral obligation. They do not limit our obligations today. According to Judith Lichtenberg, a person's, corporation's, or nation's obligations extend as far as the actual or potential effects of their actions. In an ever-increasingly interdependent world, the effects of actions are not easily contained. Our obligations no longer terminate at a nation's borders, because the effects and consequences of our actions do not cease there. Through technological progress, international trade, and codependence on dwindling natural resources, all nations have come to form one moral community. And so, Lichtenberg writes, “the limits of the planet are the limits of our [moral] world.”

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This interdependence provides self-interested as well as moral reasons to look after the welfare of other nations and their citizens. Lichtenberg suggests that by furthering the interests of other countries we may in the end further our own interests as well. “Recent world developments have begun to show the extent to which a nation's long-term self-interest may dictate much greater attention to the interests of other nations. Interdependence means that our wrongs come back to haunt us, and not just others.”

This may be especially true for the exporting of hazards. Advanced and developing nations are increasingly bound together in one interdependent world economy. The United States imports food from some of the same countries to which it exports poisonous pesticides. The Food and Drug Administration reports that “nearly half of the green coffee beans imported into the United States contain various levels of pesticides that have been banned in the United States.” The coffee we drink, therefore, may contain substances intended for consumption only by unprotected foreigners. Our wrongs may come back to haunt us rather sooner than we had expected.

Boundaries: National Autonomy and Its Limits, edited by Peter G. Brown and Henry Shue, *Maryland Studies in Public Philosophy* (Totowa, N.J.: Rowman and Littlefield, 1981), contains the following six essays: “The Distribution of Membership,” by Michael Walzer; “Migrant Workers and National Boundaries: The Basis for Rights and Protections,” by Elsa M. Chaney; “National Boundaries and Moral Boundaries: A Cosmopolitan View,” by Judith Lichtenberg; “Exporting Hazards,” by Henry Shue; “The Limits of State Power in the Contemporary World Economy,” by Thomas J. Biersteker; and “Democracy in Developing Societies,” by Charles R. Beitz. To order, see page 15.