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Family Separation and the Triumph of Cruelty

The Moral Cost of the Immigration Crisis

By Richard Primus

Sometime in 1940, an 11-year-old refugee named [Yudita Nisse](#) reached the United States on a boat from Japan. Her Latvian-Jewish family had fled Nazi Germany east across the Soviet Union; the trip to North America was to have completed their escape. But the family had no legal authorization to enter the United States, so on arrival in Seattle they were locked up as illegal immigrants. They were eventually released, and Yudita later Anglicized her first name, becoming Judith. A second name change when she married made her Judith Shklar, and by that name she became the first woman ever to receive tenure in Harvard's government department and one of the most formidable political theorists of her generation.

Shklar's work focused on cruelty. Her ideas offer a window onto the morality of the [current crisis at the U.S.-Mexican border](#). Cruelty, in Shklar's conception, is the deliberate infliction of pain or humiliation by a strong party on a powerless one in order to cause anguish or fear. The policy of separating children crossing the border from their parents seems to qualify. The immigrants are in a powerless position—the children especially so. Given that the Trump administration has defended the policy as a deterrent—a warning to other would-be immigrants—it is safe to conclude that the families' anguish is a deliberate goal of the policy, rather than merely a byproduct. And although Shklar focused on the infliction of physical pain, her analysis extends to the profound emotional and psychological pain that the forced family separations impose.

THE COSTS OF CRUELTY

Shklar saw cruelty as not just a matter of personal immorality but also as a leading threat to liberal democratic government. A precondition for liberalism, in her view, was the ability of citizens to live free from fear and humiliation. Fear is the condition of the person subject to arbitrary power, the refugee on the run from violence, the parent with no food for his or her child. People in these circumstances cannot function as the citizens that liberal government requires. Heroic exceptions aside, they cannot plan, trust, deliberate, or give due attention to the rights of others at the expense of their own immediate needs. A government that keeps people in fear governs a country where liberalism is impossible. So Shklar's form of liberalism—what she called the liberalism of fear—insists that governments deploy and limit their power so as to prevent fear and humiliation. Shklar did not seek a world without cruelty: she knew that government enables people to exercise power and that, given human nature, officials with power will sometimes exercise it cruelly. (She also knew that humans cannot do without government.) But cruelty's tendency to undermine the foundations of liberal citizenship marked it as a vice to be constantly guarded against.

Some political theorists have taken the contrary view that government must sometimes act cruelly by choice. Niccolò Machiavelli counseled that cruelty is sometimes indispensable and perhaps even virtuous, when properly applied. In a more utilitarian vein, many thinkers have believed that cruelty is, in the end, just another sort of egg-breaking that making omelets sometimes requires. To see the difference between these perspectives and Shklar's, it is profitable to think about both the costs of cruelty and the expected benefits of cruel policies.

On the benefit side, a politician who saw himself as a master of events might feel certain about the results that a chosen policy would bring. Taking bold steps, he would reason, can bring about great results. A politician with greater humility and an awareness of the complexities of the world might be less certain that the aimed-for good will materialize. And the less confident one is that one's policies will bring about the desired ends, the more hesitant one should be to conclude that causing fear and anguish will prove worth it in the end. Politicians may wind up causing fear and anguish for nothing, or at least for less than they thought they were getting.

On the cost side, an illiberal politician does not worry about destroying the conditions for liberal citizenship. But beyond that, a political theorist of a more aristocratic or less humanitarian bent might value the well-being of victims less than a liberal or a humanitarian theorist would, especially if those victims were ordinary people. And to the extent that such a framework valorizes strength, power, and glory, the fear and pain of the victims is all the more tolerable—precisely because they are weak.

Cruelty was the first political vice in Shklar's thought because of its effects on its victims, but a full account of cruelty also takes into account the emotions of the perpetrators. In its strongest forms, cruelty is gleeful. One of the most important moments in the public narrative of the abuse of the captives at Abu Ghraib prison was the emergence of a photograph of Lynndie England, an American soldier, grinning with positive enjoyment at the humiliation of Iraqi prisoners. Not all instances of cruelty are gleeful: a bureaucracy can be cruel. What matters is that the victim is powerless and that the perpetrator does not see the victim's fear or humiliation as a reason to change his or her actions.

As applied to current U.S. policy at the border, this perspective on cruelty raises at least four points. The first is the cruelty of some parts of the policy. Forcibly separating parents and children puts both in a state of

fear, and many of the officials behind the policy of separation have done little to suggest that they wish it weren't so. The second concerns the danger of justifying cruelty as a necessary aspect of deterrence, as some U.S. officials have done. All governments need to deter law-breaking, and even harsh policies are sometimes necessary deterrents. But if one does not empathize with the pain of the victim, it is only too easy to believe that unnecessary cruelties are, in fact, necessary ones. (The murder of Astyanax, Hector's infant son, was justified by the Greek warriors who killed him as prudential.) If one despises the weak—as President Donald Trump manifestly does—one will set little value on their suffering, so a policy that causes such suffering can be justified even if it produces only moderate benefits. The problem is all the greater if policymakers also overestimate the simplicity of the world and their power to change it, because they will think that the pain they cause really will bring about the greater good that is supposed to justify it. Third, cruel behavior affects the perspective of the perpetrator. Once one starts behaving cruelly, it is only a short distance to thinking of the victims as fundamentally different from oneself, either in their moral status as human beings or in their capacity to feel pain. It might be hard to continue with the policy otherwise. Once a politician starts thinking that way, the thought might be hard to limit.

Finally, as Shklar argued, cruelty destroys the basis for liberal government. This might not seem to matter to a government that behaves cruelly only toward people who are not citizens, and who it hopes never will be. Why should Americans care if foreigners are treated in a way that destroys their capacity to exercise American citizenship? But cruelty is not only a political vice: it is also a vice of character. Politicians who readily deploy cruelty in one arena risk deploying it elsewhere too. It is not clear that the Trump administration is so full of empathy toward the weak among its own citizens, or so free of the cowardice and aristocratic assurance that often nurtures cruelty, that it will be disciplined about behaving cruelly only toward would-be immigrants and sparing Americans.