**Why Migration Justice Still Requires Open Borders**

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**Abstract**

I revisit themes from *Against Borders: Why the World Needs Free Movement of People* (2020)in dialogue with Gillian Brock’s *Justice of People on the Move* (2020) and Sarah Song’s *Immigration and Democracy* (2019). We share the conviction that current border regimes are deeply unjust, but differ in what migration justice requires. Brock and Song continue to give states significant discretion to exclude people from entering and settling in their territories, whereas I contend that migration justice demands open borders. I reject the claim that state self-determination justifies migration restrictions. Central arguments for open borders highlight the role that restrictive border controls and the state category of “immigrant” play in upholding racialized hierarchies and exploitative economic relations, as well as in inflicting violence against mobile people.

I began writing this exchange in the summer of 2020 as the Department of Homeland Security (DHS), including U.S. Customs and Border Protection (CBP), deployed to my home of Portland, Oregon. Department of Homeland Security (DHS) violently attempted to suppress Black Lives Matter protests with tear gas, rubber bullets and stun grenades[[1]](#endnote-1). Agents without uniforms abducted protestors in unmarked vans[[2]](#endnote-2) and spied on journalists who reported on their activities.[[3]](#endnote-3) These tactics did not surprise anyone familiar with CBP and Immigration and Customs Enforcement (ICE).

Since its inception, DHS has applied these policing tactics against the Muslim, Latinx/Hispanic, and Black communities, as well against community leaders and activists.[[4]](#endnote-4) The United States is in no way unique in its treatment of migrants, refugees, and racialized people. The toxic mix of racism, authoritarianism, and violence around immigration infects much of the world.[[5]](#endnote-5) Practices of offshoring, intercepting boats, and detaining migrants have migrated from the US and Australia to the EU and beyond. Moreover, they only scratch the surface of injustice toward immigrants, many of whom serve as essential, yet disposable workers, kept in their positions by policies that render them perpetually vulnerable to abuse.

With this grim state of affairs in mind, I am grateful for this opportunity to engage with Gillian Brock and Sarah Song’s recent books. When I began working on my dissertation on the ethics of migration, there were two recent books in analytic political philosophy, Philip Cole’s *Philosophies of Exclusion* (2000) and Michael Dummett’s *On Immigration and Refugees* (2001).[[6]](#endnote-6) The debate largely revolved around Joseph Carens’ seminal article, “Aliens and Citizens: The Case for Open Borders” (1987) and Michael Walzer’s chapter on membership in *Spheres of Justice* (1983).[[7]](#endnote-7) In the last twenty years, the ethics of migration has blossomed into a major subfield of social and political philosophy, with dozens of monographs and hundreds of articles.[[8]](#endnote-8)

The growth in the subfield is partly a response to how the current state-centered migration regime fails millions of people seeking safety, family reunification, and opportunity, as well as to xenophobic political agendas around the world. But beyond the immediate consequences to people’s lives, migration is also at the core of all of the major topics in social and political philosophy, including legitimacy, authority, democracy, equality, territory, and identity. The different approaches of Gillian Brock’s *Justice of People on the Move* (2020), Sarah Song’s *Immigration and Democracy* (2019), and my *Against Borders* (2020) make our dialogue particularly fruitful.[[9]](#endnote-9)

Though I will focus on the broad areas of disagreement, we agree that the current immigration system is deeply unjust. If states were to meet the requirements set out by either Brock or Song, the world would be a significantly less awful place. Border guards would not tear children from their parents as they seek asylum. Refugees would have access to a fair and reliable process to move forward with their lives. People without legal residence would have the opportunity to regularize their status. Temporary migrants would have decent work conditions.

The three of us share many goals, but in Brock and Song’s vision of a just migration regime, states will continue to have the right to exclude, detain, and deport people who do not have the legal right to access the territory because of an accident of birth. In contrast, *Against Borders* advocates for eliminating the categories of immigrant and refugee all together. Territory and place will continue to be part of people’s identities and mobility will remain part of their lives, but legal and social categories will no longer be constructed around whether one has crossed a national border.

1. **Revisiting *Against Borders***

*Against Borders* is an effort to make my strongest philosophical case against state-imposed immigration restrictions. At its core are arguments based on freedom and the obligation not to create and uphold categories that impose hierarchies and unequal opportunities, as well as duties not to harm people and to justify the use of force. While I believe these philosophical arguments for open borders are decisive, I have never felt that they adequately capture the injustice of our systems of migration control. *Against Borders* emerges from my anger at state violence against immigrants.[[10]](#endnote-10) It is written with the conviction that migration’s colonial and imperialist legacies remain with us[[11]](#endnote-11) and that we cannot theorize immigration policy without reckoning with white supremacy.[[12]](#endnote-12)

 Disciplinary norms in philosophy encourage us to either eliminate or suppress our emotions, even – or perhaps especially – when the topic is domination, oppression, and cruelty. Professional norms of politeness and tact permit sharp disagreement about abstract principles, but caution when writing about imperialism, colonialism, and structural racism.[[13]](#endnote-13) While we must scrutinize our emotions, the fact that anger is not always apt does not mean that it never is.[[14]](#endnote-14) Numbness and exhaustion are more treacherous than anger.

Though I hope *Against Borders* will engage colleagues in philosophy and political theory, I also tried to engage a broader audience. Many activists and lawyers have little use for philosophical arguments, seeing philosophy as a distraction from the serious business of advocacy and legal defense. States imprison refugees, separate children from their parents, drive neighbors into church sanctuaries. People die in the sea and the desert. Activists and lawyers dismiss arguments about open borders as the rantings of irresponsible radicals or utopian interlopers, while social scientists roll their eyes at the invocation of moral principles divorced from policy and empirical (preferably quantitative!) research.

We live in a society that has little patience for theory[[15]](#endnote-15), but, to paraphrase Keynes, practical people who see themselves as exempt from any intellectual influence are usually unwitting dupes of some (allegedly) defunct theory.[[16]](#endnote-16) To ignore theory is to place oneself at the mercy of whatever implicit theories sustain the status quo. Philosophy provides tools for analyzing and contesting our categories. Arguments about open borders are in many respects arguments about how people should be categorized. One of my central arguments against immigration restrictions is that the category of “immigrant” unjustly imposes categorical inequalities.

 Before turning to the tensions and disagreements between our three books, I should clarify what I mean by open borders. My title *Against Borders* is intentionally provocative and should be read in tandem with the qualification *Why the World Needs Free Movement of People.* I do not argue for a borderless world (indeed, I cannot imagine what one would look like). Brock and I agree that we cannot achieve justice without borders and administrative structures.[[17]](#endnote-17) We differ regarding what kinds of borders create the conditions for achieving justice.

I follow critical border scholars in understanding borders as processes, created by the practices that bring them into reality.[[18]](#endnote-18) Borders are social constructions that emerge from our beliefs about them. They produce meaning, telling us about the nature of place (e.g., this side of the Rio Grande is the US, the other side Mexico) and identities (e.g., these people are citizens bearing certain mobility rights, these people are foreign and can be expelled). One of the central functions of state borders today is to produce illegality: without borders that mark people with illegal status, no one is illegal.[[19]](#endnote-19)

Borders cannot be separated from the practices and activities that bring them into their existence, including the legal and administrative infrastructure and the bureaucrats, judges, and officers who interpret and enforce rules. Unmaintained checkpoints, walls, detention complexes and electronic surveillance centers cease to be borders. We tend to take borders for granted and overlook how their very existence depends on the everyday actions of people sustaining and legitimizing them, often at a tremendous human cost.

An open borders world would be one in which everyone would have the same mobility rights. Another way of putting it is that under open borders there would not be groups of people identified as “immigrants” who have fewer rights than citizens (beyond a brief period during which newcomers establish residence).[[20]](#endnote-20) In an open border world, no one would be stigmatized as illegal. Under open borders, everyone would enjoy the same mobility rights that people generally enjoy within countries: they would be free to travel to and settle in jurisdictions around the world without having their choices policed and punished. Settlement would be easy and residence acquired rapidly. As they establish new homes, new residents would acquire the same rights (e.g., to vote, to social benefits) and responsibilities (e.g., to pay taxes, serve on juries, vote) as everyone else.[[21]](#endnote-21)

Much would remain the same in an open bordered world. In other work, I have questioned the adequacy of the state system for realizing migration justice.[[22]](#endnote-22) *Against Borders* is in a crucial sense a conservative work in that it assumes that the present system of sovereign states remains intact. People would retain citizenship and have responsibilities to particular communities. People would continue to have attachments to places and political communities would continue to rule over specific territories. Though political membership would be more fluid and transnational networks might become more robust, this would be nothing new: migration is very much part of today’s world.

Open borders are compatible with restrictions on human mobility. Migration can be open and managed. In an open bordered world, people will need to respect local zoning regulations and other mobility restrictions that apply to everyone (insofar as these are not discriminatory or otherwise unjust). They can be asked to travel through official ports of entry and to state whether their intention is to visit, study, or settle (keeping in mind under open borders it would be easy to adjust one’s status with one’s plans). There may even be cases where states can justly prevent people from travelling. Nonetheless, in an open bordered world everyone would be subject to the same restrictions. For example, if there are public health reasons for restricting travel across international borders, as may be the case under COVID-19, they would need to be justifiable to everybody, irrespective of citizenship.

A final point: it is important to distinguish between the justification for open borders and their implementation. Open borders are feasible, existing between jurisdictions in states and in regions such as the European Union and South America (with some caveats in each case).[[23]](#endnote-23) Nonetheless, they would need to be implemented with care and phased in over a period of years. Advocating for open borders does not mean opening the gates to everyone overnight. Freedom of movement is an important value, but communities also have legitimate interests in order and stability. While opening borders would be far less disruptive than often imagined, states would need time to prepare for a more open world.[[24]](#endnote-24)

1. **States, Self-Determination, and Exclusion**

I turn now to Brock and Song’s projects. The most obvious difference between our three books is that Brock and Song reject open borders.[[25]](#endnote-25) While they insist that people receive a justification for their exclusion[[26]](#endnote-26), states have broad rights to regulate immigration, which includes the right to deport migrants who are not authorized to be on the territory.[[27]](#endnote-27) Brock offers a “human rights oriented middle ground”[[28]](#endnote-28) in which states have the right to control immigration, subject to demanding conditions that they protect human rights and contribute to the maintenance of a just international system.[[29]](#endnote-29)

To be clear, Brock and Song place significant constraints on states’ rights to exclude. They agree that a just immigration policy must admit many refugees and family members, as well as provide temporary workers with significant rights, including a right to residence if their sojourn turns into *de facto* settlement. Justice requires giving long-term residents without legal status a path to regularize their status. Finally, they agree that exclusion based on race, ethnicity, and sexual orientation “are morally indefensible because they violate a basic norm of equality.”[[30]](#endnote-30)

Brock also embeds her account of immigration within a broader cosmopolitan account of justice in which moral agency and the capacity to meet our basic needs are fundamental.[[31]](#endnote-31) Moral agency can only occur when people enjoy “enough 1) physical and psychological health, 2) security, 3) understanding, 4) autonomy, and 5) sufficiently decent social relations.”[[32]](#endnote-32) Beyond these five basic needs, Brock adds context-dependent derivative needs, including needs for economic participation, for community, and for political self-determination.[[33]](#endnote-33) Place plays an important role in people’s life plans and this in turn requires “reasonably secure access to territory.”[[34]](#endnote-34)

For Brock, states have a right to restrict immigration when they 1) maintain internal legitimacy by protecting the human rights of people under their authority[[35]](#endnote-35); 2) are part of a legitimate state system; and 3) fulfill obligations by contributing to creating or sustaining a just state system.[[36]](#endnote-36) These conditions are demanding. As Brock observes, current states do not adequately protect the human rights of refugees, migrant workers, or undocumented migrants and fail to contribute sufficiently to a just state system.[[37]](#endnote-37)

Why do Brock and Song not go a step further and embrace open borders? The main reason is that they hold that states have rights to self-determination that permit them to regulate immigration, provided they meet conditions of justice. Song argues that states have *pro tanto* rights to control immigration based on collective self-determination.[[38]](#endnote-38) Though she rejects problematic analogies between individuals and states prevalent in Grotius and Vattel,[[39]](#endnote-39) Song identifies the self-determining agent as “‘a people’ engaged in the shared political project of collective self-governance.”[[40]](#endnote-40)

Collective self-determination “can be understood as the right of a people to significant independent control over their collective life without external interference.”[[41]](#endnote-41) While it is “an irreducibly collective right”, its value “derives from its importance for *individuals*.” [[42]](#endnote-42) [italics in original] Legitimate political rule is not necessarily democratic on Song’s account, but it “requires that binding collective decisions result from and be accountable to a political process that represents the diverse interests of those who are subject to the decisions.”[[43]](#endnote-43) In Song’s view, people authorize the state by supporting and participating in political institutions and processes, paying taxes, and obeying laws.[[44]](#endnote-44)

How does this connect to the right to exclude people? Song argues that states require territorial rights for people to exercise self-determination and that these rights include “the right to control the movement of people and goods across the territory’s borders.”[[45]](#endnote-45) Song has two types of arguments for why collective self-determination provides a right to immigration control. The first type of argument addresses the possible effects of immigration, including their economic consequences, cultural impact, and effect on social trust.[[46]](#endnote-46) Her survey of the empirical literature suggests that none of these considerations provides a strong case for restrictive immigration policies.

The effects of immigration are in many respects incidental to Song’s account because she places more weight on her second type of argument, a deontic argument for democratic self-determination.[[47]](#endnote-47) In her view, political communities have the right to regulate immigration regardless of its particular effects.[[48]](#endnote-48) She writes:

It is up to the members of the democratic political community to debate, contest, and pressure their representatives on the particulars of immigration policies they would like to see enacted. Abrogating this right of the demos fails to take democratic self-determination seriously.[[49]](#endnote-49)

For Brock, admissions procedures must meet a demanding human rights compliance test[[50]](#endnote-50) and states need to earn their right to self-determination by contributing to a legitimate state system.[[51]](#endnote-51) She draws inspiration from the Global Compact for Safe, Orderly and Regular Migration and Sustainable Development Goals[[52]](#endnote-52) to identify what is required. In many respects, Brock’s normative project is more ambitious than mine, requiring widespread institutional change to uphold universal rights. I question to what extent immigration would remain a salient issue if we were to have a legitimate state system in which everyone lived in a state where their human rights were protected. Arguments for restricting immigration based on the conviction that high levels of immigration would destabilize the state or prevent it from providing security and welfare would lose their force. Cosmopolitan justice might call for open borders as an afterthought, simply because there would be fewer reasons to restrict migration in a just world.

That aside, I part ways with Brock and Song’s defense of self-determination on three fronts. First, I do not think there is a straightforward argument from collective self-determination and territorial rights to immigration control. Song acknowledges that it is possible to separate immigration control from other territorial rights, but holds that even when immigration control is abrogated (e.g., under the Schengen Agreement), states nonetheless maintain the right to control immigration.[[53]](#endnote-53) If I understand her correctly, her claim is based on conceptual analysis: the meaning of territorial rights reveals that it includes immigration control.

 Instead of focusing on the meaning of territorial rights (which is the result of the particular political history that led to today’s conception of territory[[54]](#endnote-54)), I prefer to ask if states’ territorial rights ought to include the right to control immigration and, furthermore, if control should include the right to use violence to exclude people. In other words, it is not what we currently understand by territorial rights (assuming there is sufficient clarity and consensus to determine this), but what we want them to mean. It is not enough to invoke a people’s collective deontic right here. Rather, a system of coercive exclusion needs to be justified with reasons and evidence to those excluded. Unlike Song, I consider arguments about the effects of immigration more fundamental than deontic arguments about self-determination: if states have a right to exclude people, it is because legitimate policy goals cannot be achieved without this right.[[55]](#endnote-55) I argue in *Against Borders* that these arguments fail.[[56]](#endnote-56)

 Second, I have reservations about Song’s invocation of “peoples” as collective agents who realize their will through state institutions. Song tells us, “the state must serve as the political embodiment of a people that seeks to rule itself.”[[57]](#endnote-57) Peoples exercise their self-determination through institutions that allow for democratic participation or through nondemocratic institutions that protect people’s security and liberty and allow people to express their opinions.[[58]](#endnote-58) This idealization of a people authorizing immigration policy by exercising their collective self-determination obscures the backstage sausage-making of immigration policy.

The claim that a collective agent (in this case a “people”) authorizes a policy must meet certain epistemic conditions. In particular, a sufficient number of individuals involved in the authorization must understand the policy and intentionally act in ways to bring it about. The US immigration system is so complex and fluid that most people cannot navigate even routine applications without a lawyer. Moreover, public discourse about immigration is rife with misinformation and manufactured crises, fomented by authoritarian politicians and anti-immigrant groups. Public attitudes about immigration often rest on systemic misunderstandings[[59]](#endnote-59) and what people imagine about immigration rather than its reality.[[60]](#endnote-60) People have false beliefs about how many immigrants are in the country as well as about the economic and social effects.[[61]](#endnote-61) The connection between immigration policy to the collective will of a unified people is tenuous and frayed.

 Furthermore, a “people” is composed of diverse groups and individuals, riven by systemic inequalities and injustices. In the United States, an estimated 13.2 million lawful permanent residents are excluded from the franchise[[62]](#endnote-62), with an additional estimated 11.3 million immigrants without the legal right to reside, living precarious lives as family and community members and as essential workers.[[63]](#endnote-63) Two-thirds of these immigrants have lived in the United States for over ten years[[64]](#endnote-64); under any plausible definition, they should be considered part of the “people”. Nonetheless, they are systematically excluded from decision-making. I do not see these inequities as coincidental, but rather as integral to the nature of our societies and to nationalist projects in which citizens are defined in relation to excluded groups.

 To be sure, Song and Brock insist that justice requires that long-residing “unauthorized” (Song’s terminology) or “irregular” (Brock’s terminology) immigrants are able to regularize their status.[[65]](#endnote-65) Song suggests that “unauthorized immigrants’ violations of immigration law is overridden or superseded by countervailing moral considerations.”[[66]](#endnote-66) She invokes fair play, noting that illegalized immigrants work, pay taxes, participate in their communities, and social membership. She notes: “Participation in these cooperative schemes generates associative obligations among all the participants. To deport noncitizens after they have become integrated in these cooperative schemes is a breach of associative obligations.”[[67]](#endnote-67)

Brock sees deportation of long-settled immigrants as a violation of basic rights including right to family life and the right to maintain intimate relationships,[[68]](#endnote-68) as well as the requirement that states respect people’s legitimate life plans (which are usually place-dependent).[[69]](#endnote-69) She rightly notes the severity of banishment, raising questions about its proportionality,[[70]](#endnote-70) and identifies some of the wrongs that expelling people inflicts on other states.[[71]](#endnote-71) She also allows that people may be justified in migrating illegally in response to human rights violations[[72]](#endnote-72) or when they are tacitly welcomed by state authorities.[[73]](#endnote-73)

While Song and Brock’s accounts are welcome improvements on the status quo, they do not go far enough. This can be illustrated by Brock’s strategy of focusing on cases of blatant state injustice with the Windrush Generation in Britain and Temporary Protected Status and Deferred Action for Childhood Arrivals (DACA) in the United States. These are groups all clearly have an uncontroversial right to full membership in the states where they have made their home. The UK Home Office’s appalling treatment of racialized Commonwealth citizens who settled in Britain between 1948 and 1962 combined bureaucratic ineptitude and malice to deprive them of their basic rights. Similarly, there is no justification for the US to fail to provide a pathway to permanent residence and citizenship for people who have lived for over a decade on temporary visas and then threaten to exile them to unstable regions. Similarly, it is unjust to deprive people brought to a country as children of full legal status.

While I agree with Brock that these groups all have decisive moral claims to citizenship, I worry that focus on these groups reinforce problematic narratives of the “good” or deserving immigrant. Both Brock and Song’s arguments start from the assumption that states have a right to exclude, then raise countervailing considerations that override this right. In contrast to their discussion of “unauthorized,” “irregular,” or “undocumented” immigrants, I prefer the term “illegalized immigrant” and “illegalized immigration” which draws attention to how states use law to stigmatize groups of people so that they are vulnerable to exploitation and violence.[[74]](#endnote-74) States do not fail to authorize immigrants’ mobility or their presence; rather, they make legislative and administrative decisions that make some people’s presence illegal. The illegalization of human mobility is a policy choice. I deny that illegalized immigrants have committed a wrong or, at the least a wrong that justifies any sort of immigration enforcement.

 Instead, I see states’ decisions to illegalize groups of people not as the legitimate policy decisions of self-determination peoples, but rather as nation-building processes, often designed to uphold white supremacy. Song has a powerful discussion of the use of Emer de Vattel’s *The Law of Nations* (1758) in justifying the plenary power doctrine, through the notorious Chinese exclusion case *Chae Chan Ping v. the United States* (1889) as well as *Nishimura Ekiu v. United States* (1892) and *Fong Yue Ting* *v. United States* (1893).[[75]](#endnote-75) She is well aware that these cases established an explicitly racist, exclusionary immigration process and contributed to the construction of white supremacy in the United States. Similar remarks hold for the changes in the British immigration system built on the edifices of empire.[[76]](#endnote-76)

Song’s account depends on the possibility of overcoming the legacy of using immigration policy to uphold white supremacy. I deny this possibility and regard the category of the immigrant as inherently problematic, marking off a group of racialized people with fewer rights. Immigration policy’s racism is not incidental, but rather integral to nation-building and exploitative economic arrangements that create castes of people with fewer rights to uphold hierarchies. The fiction of a people exercising its self-determination to authorize immigration policy helps us overlook the injustice. Instead of creating a more just immigration system, we should abolish the category of immigrant altogether and move to a world of open borders.

1. Chris McGreal, ‘Federal agents show stronger force at Portland protests despite order to withdraw’ *The Guardian*, 30 July 2020 <<https://www.theguardian.com/us-news/2020/jul/30/federal-agents-portland-oregon-trump-troops>>. [↑](#endnote-ref-1)
2. Katie Shepherd and Mark Berman, ‘'It was like being preyed upon’: Portland protesters say federal officers in unmarked vans are detaining them’ *Washington Post*, 17 July 2020 <<https://www.washingtonpost.com/nation/2020/07/17/portland-protests-federal-arrests/>>. [↑](#endnote-ref-2)
3. Shane Harris, ‘DHS compiled “intelligence reports” on journalists who published leaked documents’ *Washington Post*, 30 July 2020 <<https://www.washingtonpost.com/national-security/dhs-compiled-intelligence-reports-on-journalists-who-published-leaked-documents/2020/07/30/5be5ec9e-d25b-11ea-9038-af089b63ac21_story.html?hpid=hp_hp-banner-main_dhs-740pm%3Ahomepage%2Fstory-ans>>. [↑](#endnote-ref-3)
4. Ken Klippenstein, ‘Homeland Security Is Quietly Tying Antifa to Foreign Powers’ *The Nation*, 3 August 2020 <<https://www.thenation.com/article/society/dhs-antifa-syria/>>; Elie Mystal, ‘Trump’s Secret Police Have Never Been a Secret to Brown People’ *The Nation*, 27 July 2020 <<https://www.thenation.com/article/activism/portland-dhs-abolish/>>. [↑](#endnote-ref-4)
5. Bridget Anderson, ‘Black Lives Matter – whatever their nationality’, *Migration Mobilities Bristol*, 2020 <<https://migration.blogs.bristol.ac.uk/2020/06/30/black-lives-matter-whatever-their-nationality/>>. [↑](#endnote-ref-5)
6. Phillip Cole, *Philosophies of Exclusion: Liberal Political Theory and Immigration* (Edinburgh: Edinburgh University Press, 2000); Michael Dummett, *On Immigration and Refugees* (London and New York: Routledge, 2001).

I have reservations about the term “analytic” philosophy. It is difficult to draw clear boundaries between “analytic” and “continental” approaches to philosophy, which in many respects have common origins and continue to benefit from fruitful exchanges. (See Michael Dummett, *Origins of Analytical Philosophy* [Cambridge, Mass.: Harvard University Press, 2006].) More significantly, giving undue weight to these labels deprives us of tools and intellectual resources for understanding and addressing human mobility.

Nonetheless, I have in mind a style of philosophy that privileges clarity and argumentation, exemplified in the philosophy of immigration by Joseph Carens’ work. (See Bernard Arthur Owen Williams, *Ethics and the Limits of Philosophy* [London New York: Routledge, 2011] and Joseph H. Carens, *The Ethics of Immigration* [New York: Oxford University Press, 2013].)

To describe my work as taking an analytic approach is not in any way an attempt to discredit other approaches, which illuminate my own thinking on mobility. [↑](#endnote-ref-6)
7. Joseph Carens, ‘Aliens and Citizens: The Case for Open Borders’, *Review of Politics* 49, 2 (1987): 251–73; Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York, NY: Basic Books, 1983). [↑](#endnote-ref-7)
8. The section in Philpapers on immigration included 1014 references on September 22, 2021: https://philpapers.org/browse/immigration. [↑](#endnote-ref-8)
9. Gillian Brock, *Justice for People on the Move: Migration in Challenging Times* (Cambridge, United Kingdom ; New York, NY: Cambridge University Press, 2020); Sarah Song, *Immigration and Democracy* (New York, NY: Oxford University Press, 2019); Alex Sager, *Against Borders: Why the World Needs Free Movement of People* (Lanham: Rowman & Littlefield International, 2020). [↑](#endnote-ref-9)
10. Reece Jones, *Violent Borders: Refugees and the Right to Move* (London New York: Verso, 2016); Cecilia Menjívar and Leisy J. Abrego, ‘Legal Violence: Immigration Law and the Lives of Central American Immigrants’, *American Journal of Sociology* 117, 5 (2012): 1380–421. [↑](#endnote-ref-10)
11. Nandita Rani Sharma, *Home Rule: National Sovereignty and the Separation of Natives and Migrants* (Durham: Duke University Press Books, 2020). [↑](#endnote-ref-11)
12. José Jorge Mendoza, *The Moral and Political Philosophy of Immigration: Liberty, Security, and Equality* (Lanham: Lexington Books, 2016). [↑](#endnote-ref-12)
13. The relative absence of sustained discussion in the philosophy of migration of the implications of colonialism and imperialism is noteworthy. An exception to this absence is the recent exchange between Alison Jaggar and Lorna Finlayson. See Alison M Jaggar, ‘Decolonizing Anglo-American Political Philosophy: The Case of Migration Justice’, *Aristotelian Society Supplementary Volume* 94, 1 (2020): 87–113 and Lorna Finlayson, ‘If This Isn’t Racism, What Is? The Politics of the Philosophy of Immigration’, *Aristotelian Society Supplementary Volume* 94, 1 (2020): 115–39. [↑](#endnote-ref-13)
14. Amia Srinivasan, ‘The Aptness of Anger’, *Journal of Political Philosophy* 26, 2 (2018): 123–44. [↑](#endnote-ref-14)
15. bell hooks, *Teaching to Transgress: Education as the Practice of Freedom* (New York: Routledge, 1994). [↑](#endnote-ref-15)
16. “Practical men who believe themselves to be quite exempt from any intellectual influence, are usually the slaves of some defunct economist. Madmen in authority, who hear voices in the air, are distilling their frenzy from some academic scribbler of a few years back” John Maynard Keynes, *General Theory of Employment, Interest, and Money* (London: Macmillan, 1936), pp.383-4. [↑](#endnote-ref-16)
17. Brock 2020, op cit. p.29. [↑](#endnote-ref-17)
18. Bridget Anderson, Nandita Sharma and Cynthia Wright, ‘Editorial: Why No Borders?’, *Refuge* 26, 2 (2009): 5–17; Noel Parker and Nick Vaughan-Williams, ‘Lines in the Sand? Towards an Agenda for Critical Border Studies’, *Geopolitics* 14, 3 (2009): 582–7; C. Rumford, ‘Theorizing Borders’, *European Journal of Social Theory* 9, 2 (2006): 155–69. [↑](#endnote-ref-18)
19. Catherine Dauvergne, *Making People Illegal: What Globalization Means for Migration and Law* (Cambridge ; New York: Cambridge University Press, 2008). [↑](#endnote-ref-19)
20. For example, tourists and other short-term visitors would not gain residency rights such as the right to participate in elections or to run for office. Similarly, they would not enjoy full entitlements to many public benefits through local institutions. In an open borders world, it would be a straightforward matter to adjust their status, similar to moving between districts within a nation-state today: if someone moves from Oregon to Washington State or from Albert to British Columbia, there is a brief period of transition before acquiring residency. My view is this transition should be as straightforward as possible, easy to verify and quasi-automatic. One of the tasks of moving to a world of open borders would be reaching agreements between districts to ease these transitions (e.g., accepting out-of-state healthcare until people become eligible for full benefits). [↑](#endnote-ref-20)
21. In a transnational world where people sometimes have more than one residence or at the least retain close contacts with other regions, rights and responsibilities may not be solely linked to residence. For example, there may be cases in which extraterritorial voting rights are merited or where people are required to pay taxes to areas outside of their residence. For discussions of these issues, see Bauböck and Faist 2010. [↑](#endnote-ref-21)
22. Alex Sager, *Toward a Cosmopolitan Ethics of Mobility: The Migrant’s-Eye View of the World* (New York, NY: Springer Science+Business Media, 2018). [↑](#endnote-ref-22)
23. Diego Acosta Arcarazo, ‘Is Free Movement in Europe an Anomaly? The New Open Borders Policy in South America’ *EU Law Analysis*, 2014 <<http://eulawanalysis.blogspot.co.uk/2014/11/is-free-movement-in-europe-anomaly-new.html>>. [↑](#endnote-ref-23)
24. Joel S. Fetzer, *Open Borders and International Migration Policy: The Effects of Unrestricted Immigration in the United States, France, and Ireland* (London: Palgrave Macmillan UK, 2016) <<http://link.springer.com/10.1057/9781137513922>>; Hein de Haas, Simona Vezzoli and María Villares-Varel, *Opening the Floodgates? European Migration under Restrictive and Liberal Border Regimes 1950-2010* (International Migration Institute Network, February 2019). [↑](#endnote-ref-24)
25. Song suggests that open borders is the dominant position among philosophers and political theorists (Song 2019: 75). While there are prominent defenses of open borders, my sense is that qualified defenses of border controls are more common. Moreover, political philosophers and theorists not writing explicitly on immigration usually take state rights to control immigration for granted. I would also add that support for open borders is a marginal position among other social scientists, who are often dismissive of those who advocate it. [↑](#endnote-ref-25)
26. Brock 2020, op. cit., p.214; Song 2019, op. cit., p.158 [↑](#endnote-ref-26)
27. Song 2019, op. cit., p.188. The right to deport migrants is independent of the question of open borders. A less radical conclusion is that immigration should be decriminalized. States could regulate immigration without the right to deport people. One can oppose open borders, but support decriminalizing immigration because the use of deportation to enforce immigration laws inherently involves unacceptable levels of violence proportional to the (alleged) wrong of crossing a border without authorization or overstaying a visa. Decriminalization differs from legalization and states could regulate immigration through incentives rather than punishment, taking advantages of most people’s interest in complying with fair administrative rules. [↑](#endnote-ref-27)
28. Brock 2020, op. cit., p.190. [↑](#endnote-ref-28)
29. Ibid., op. cit., pp. 215-8. [↑](#endnote-ref-29)
30. Song 2019, op. cit., p.158; Brock 2020, op.cit., pp.211-13. [↑](#endnote-ref-30)
31. Brock 2020, op.cit., p.21. [↑](#endnote-ref-31)
32. Ibid., op. cit., p.22. [↑](#endnote-ref-32)
33. Ibid., op. cit., pp. 23-4. [↑](#endnote-ref-33)
34. Ibid., op. cit., p.25. [↑](#endnote-ref-34)
35. Ibid., op. cit., pp.52-6. Brock’s phrase is that states must protect “their own *citizen’s* human rights” [my italics] (p.38). Since much of her discussion in *Justice for People on the Move* concerns state obligations to people who do not have formal citizenship, I believe it is fair to interpret her as holding that states have obligations to all people under their authority, including those without the legal right to reside in the territory. [↑](#endnote-ref-35)
36. Ibid., op. cit., pp. 38, 56-8. [↑](#endnote-ref-36)
37. Ibid., op. cit., p.59. [↑](#endnote-ref-37)
38. Song 2019, op. cit., p.51 [↑](#endnote-ref-38)
39. Ibid., op. cit., p.28. [↑](#endnote-ref-39)
40. Ibid., op. cit., p.53. [↑](#endnote-ref-40)
41. Ibid., op. cit., p.52. [↑](#endnote-ref-41)
42. Ibid., op. cit., p.56 [↑](#endnote-ref-42)
43. Ibid., op. cit., p.55 [↑](#endnote-ref-43)
44. Ibid., op. cit., p.60 [↑](#endnote-ref-44)
45. Ibid., op. cit., p.61 [↑](#endnote-ref-45)
46. Ibid., op. cit., p.65. I address objections to open borders invoking economics, culture and social trust in *Against Borders,* Sager 2020, op. cit., pp.42-5; 75-83. [↑](#endnote-ref-46)
47. My understanding is that in Song’s account self-determining peoples can take into account the effects of immigration in making their decisions, but they are not bound by them. After learning about immigrants’ net positive economic contributions or dispelling pernicious myths about criminal immigrants (both findings robustly supported by the empirical literature), people could still choose to restrict immigration (within the constraints required by justice). I find this independence between the reasons and evidence for restricting immigration and the right to restrict immigration troubling. [↑](#endnote-ref-47)
48. Song 2019, op. cit., p.73 [↑](#endnote-ref-48)
49. Ibid., op. cit., p.68. Song admits that self-determination need not be democratic (55), but in many places her arguments assume that self-determination is democratic. [↑](#endnote-ref-49)
50. Brock 2020, op. cit., pp.213. [↑](#endnote-ref-50)
51. Ibid., op. cit., p.193. [↑](#endnote-ref-51)
52. Ibid., op . cit., pp.196-202. [↑](#endnote-ref-52)
53. Song 2019, op. cit., p.61. [↑](#endnote-ref-53)
54. Stuart Elden, *The Birth of Territory* (Chicago ; London: The University of Chicago Press, 2013). [↑](#endnote-ref-54)
55. Brock also places less weight on deontic arguments, instead focusing on the extent to which states meet their human rights obligations. [↑](#endnote-ref-55)
56. Sager 2020, op. cit., pp.60-90. [↑](#endnote-ref-56)
57. Song 2019, op. cit, p.61. [↑](#endnote-ref-57)
58. Ibid. 2019, op. cit., pp.61-2. [↑](#endnote-ref-58)
59. Natalia Banulescu-Bogdan, *Facts Don’t Matter: How to Communicate More Effectively about Immigration’s Costs and Benefits* (Migration Policy Institute/Transatlantic Council on Migration, 2018) <[file:///C:/Users/msager/AppData/Local/Temp/TCM-WhenFactsDontMatter\_Final.pdf](https://doi.org/file%3A/C%3A/Users/msager/AppData/Local/Temp/TCM-WhenFactsDontMatter_Final.pdf)>. [↑](#endnote-ref-59)
60. Scott Blinder, ‘Imagined Immigration: The Impact of Different Meanings of “Immigrants” in Public Opinion and Policy Debates in Britain’, *Political Studies* 63, 1 (2015): 80–100. [↑](#endnote-ref-60)
61. Alexis Grigorieff, Christopher Roth and Diego Ubfal, *Does Information Change Attitudes Towards Immigrants? Representative Evidence from Survey Experiments* (IZA Institute of Labour Economics, December 2016) <<http://ftp.iza.org/dp10419.pdf>>. [↑](#endnote-ref-61)
62. James Lee and Bryan Baker, *Estimates of the Lawful Permanent Resident Population in the United States* (Department of Homeland Security: Office of Immigrant Statistics, January 2014) <<https://www.dhs.gov/sites/default/files/publications/LPR%20Population%20Estimates%20January%202014.pdf>>. [↑](#endnote-ref-62)
63. Julia Gelatt and Jie Zong, *Settling In: A Profile of the Unauthorized Immigrant Population in the United States* (Migration Policy Institute, November 2018) <<https://www.migrationpolicy.org/research/profile-unauthorized-immigrant-population-united-states>>. [↑](#endnote-ref-63)
64. Passel, Jeffrey S. and D’Vera Cohn, *U.S. Unauthorized Immigrant Total Dips to Lowest Level in a Decade* (Pew Research Center, 27 November 2018) <<https://www.pewresearch.org/hispanic/2018/11/27/u-s-unauthorized-immigrant-total-dips-to-lowest-level-in-a-decade/>>. [↑](#endnote-ref-64)
65. Brock also sometimes uses the expression “undocumented immigrants” (Brock 2020, op. cit., p.59). [↑](#endnote-ref-65)
66. Song 2019, op. cit., p.182. [↑](#endnote-ref-66)
67. Ibid., op. cit., p. 187. [↑](#endnote-ref-67)
68. Brock 2020, op. cit., p. 101. [↑](#endnote-ref-68)
69. Ibid., op. cit., p. 103 [↑](#endnote-ref-69)
70. Ibid., op. cit., p. 105. [↑](#endnote-ref-70)
71. Ibid., op. cit., p. 93. [↑](#endnote-ref-71)
72. Ibid., op. cit., pp. 97-8 [↑](#endnote-ref-72)
73. Ibid., op. cit., pp. 96-7. [↑](#endnote-ref-73)
74. H. Bauder, ‘Why We Should Use the Term “Illegalized” Refugee or Immigrant: A Commentary’, *International Journal of Refugee Law* 26, 3 (2014): 327–32; Dauvergne 2008, op. cit. [↑](#endnote-ref-74)
75. Song 2019, op. cit., pp.17-29. [↑](#endnote-ref-75)
76. Nadine El-Enany, *(B)Ordering Britain: Law, Race and Empire*, 2020. [↑](#endnote-ref-76)