

## Immigration: Some Arguments for Limits Hrishikesh Joshi

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**ABSTRACT:** This entry surveys a few of the key arguments in favor of open borders. It then explores some responses, by looking at the interests protected within a system of reasonable border controls. *Inter alia*, the institutions we live under matter greatly for our life prospects, and these institutions themselves might be sensitive to immigration policy, as brought out in recent empirical work on the topic. Given that we readily accept limits to freedom of movement as essential in a range of other domains—private property, bodily integrity, airport security, and so on—there’s no special reason to assume their illegitimacy in the case of international borders. I then consider and address the “cantilever” strategy as a response to these points.

### 1. Introduction

Over the past few decades, several philosophers, political theorists, and economists have defended a presumptive case for open borders. They have then argued that this presumptive case is undefeated by the purported countervailing considerations. Further, some contend that the reasons given for immigration restrictions, if successful, would also justify *internal* movement restrictions as well as limits on other important freedoms we take for granted within liberal democracy.

With a few exceptions, the open borders view seems to enjoy a privileged position in the literature. Ryan Pevnick (2011, 79), for instance, writes: “it is no exaggeration to describe open borders as the dominant position among academics writing about justice and immigration. Indeed, here it is any non-open borders position that is seen as so much fanciful provocation.” The purpose of this essay is to discuss some arguments against this orthodoxy on two broad fronts. First, once we take a broader view of the costs and benefits of unrestricted migration, it is not obvious that the open borders considerations robustly win out. Second, given what we consider to be the proper function of liberal democratic governments in other, non-migration related domains it’s not obvious why such governments may not legitimately control their borders in most ordinary circumstances.

In what follows, I will first outline the presumptive case for open borders on both rights-based and utility-based fronts (§2). Then, I will suggest some reasons to think that the rights-based argument is not decisive, once we take a broader picture of the relevant rights involved (§3). In §4, I draw on some of the new literature on migration and institutional change to offer reasons to think that the utility calculus for unrestricted migration is not obviously in the positive. §5 concludes.

### 2. The Presumptive Case for Open Borders

As a resident of the state of Arizona in the United States, I am free to travel to California or Maine. I am also free to move there permanently if I want and seek employment, no questions asked. Not so if I wanted to move to Turkey or Japan. Visiting is one thing, but permanently settling there will involve many bureaucratic obstacles. In general, moving to a new country usually means meeting very specific requirements—one must be employed in specific sectors, or have immediate family, or demonstrate that one meets the conditions required for refugee status. Further, mere travel across

certain borders, even for the purpose of temporary visiting, requires visas. Open borders theorists find these asymmetries troublesome. In their ideal regime, people would be able to move across countries just as they are able to move across states (perhaps with exceptions for fugitives or terrorists).

The issue then, is this: there are many people who, if given the opportunity, would move across international borders to seek a better life, as they see it, elsewhere. However, they are stopped from doing so by a coercive system of border controls. This, as many writers have rightly noted, cries out for justification. “Borders have guards and the guards have guns,” writes Joseph Carens (1987, 251). And most prospective immigrants are not armed invaders or the like. Rather, “they are ordinary, peaceful people, seeking only the opportunity to build decent, secure lives for themselves and their families. On what moral grounds can these sorts of people be kept out? What gives anyone the right to point guns at *them*?”

In a similar vein, Michael Huemer (2010) presents us with a hypothetical scenario. Marvin, who is out of food, seeks to go to the marketplace to trade something he has for some bread. However, Sam, who is armed, stops Marvin from entering, with a threat of force. This seems, *prima facie*, like a rights violation—a severe one at that. The analogies are then straightforward: Marvin is like the prospective immigrant who would like to trade his labor for material goods and opportunities, while Sam is like the government and its authorized agents who prevent this trade from taking place. Kieran Oberman (2016) argues that people have a deep interest in making personal decisions about where to live and work, as well as how, when, and where to engage politically. These interests ground the right to free movement—and this right is infringed by most border control policies.

Some writers have emphasized that it’s not only the prospective immigrants whose rights are violated. Chandran Kukathas (2021) has recently argued that immigration restrictions limit the freedom of natives as well—they limit who current residents can employ, befriend, rent to, and so on. Carens (1987) likewise notes that a prospective employer, who would like to, say, employ foreigners to work on his farm, is restricted in his actions by immigration policy. From a libertarian perspective especially, this looks like a rights violation—namely of the right to invite people onto one’s property as one sees fit and to exchange in ways consented to by both parties.

Besides the rights-based presumptive case for open borders there is also the welfarist case. The thought here is that free movement across borders would substantially increase global welfare. Free movement would allow people to seek employment where their skills and talents are best used. Imagine first a within-country case. Suppose an individual has the desire and talent to become a neurosurgeon. But she happens to be born in a small rural town, where the constraints on the division of labor mean that she cannot specialize to that extent. At most, she can go to the local nursing school and become a general-purpose nurse. Forbidding her to move to the city would be a great loss on two fronts. First, her desire to become a neurosurgeon (and we might add, her desire to live and work in a big city) would be frustrated. Second, given her drive and talents, she could help many people who need brain surgery—but if she is not allowed to relocate to train and practice, this potential welfare gain is forgone.

Of course, this sort of reasoning applies across borders as well. While the advent of remote work has allowed many people to cooperate across international borders, many jobs require physical presence. Some have argued that the free movement of people would dramatically increase world GDP (Clemens 2011; Kennan 2013; Caplan and Weinersmith 2019). The basic idea is that countries

differ drastically in the amount of productivity they facilitate. Countries with good infrastructure, rule of law, robust markets, and stable political institutions facilitate much more productivity than countries where these features are lacking. Under a regime of open borders, individuals would generally move to places where they would be more productive and thereby enjoy a higher standard of living. This would benefit not only the people who move, but also the world at large, given that the size of the economic “pie” would increase.

Of course, there might be some people who “lose out” in this process. Particularly, it might be the case that workers in some industries within the developed world (fast food, factory work, etc.) would see their wages depressed (Borjas 2016). Nonetheless, the thought is, that given the enormous aggregate gains in global productivity, these workers could be compensated such that open borders would be a win for all parties. In other words, an open-borders regime would be *Kaldor-Hicks superior* even if not *Pareto superior* to the status quo.<sup>1</sup>

### 3. Reconsidering the Rights-Based Argument

Freedom of movement is limited by international border controls. This, as noted above, is considered a rights violation by many theorists. However, freedom of movement is limited in all sorts of ways within modern liberal democracies and typically we don’t consider these to be rights violations (Joshi 2018; 2020; Steinhoff 2022). Most obviously, our property rights limit the rights of others to move freely. But it’s not only private property that sets these limits. We are typically not free to enter a boarding area within an airport without proper documentation and security checks. Certain areas of government buildings or military facilities are also off bounds to those without specific privileges and documents. National parks and wilderness areas likewise place limits and restrictions on where we may move or live.

These types of restrictions will strike most readers as justified. What justifies such limits? If we like the methodology of tying rights to important interests, we can ask: what interests of ours are protected by certain limits on others’ movement? When you own a house or rent an apartment, others are not permitted to enter without your consent. Even agents of the government must typically obtain a warrant before they can legally enter. In the case of one’s living quarters, it is easy to see the (very weighty) interests that are protected by these rules. First, there is the interest in privacy. We have a strong interest in having a sphere of our lives that is not easily accessible to others. Second, there is an interest in a sort of self-determination within a specific sphere. We want to be able to arrange our furniture as we see fit, sleep without disturbance after a specific time, and so on. Third, there are reasons of safety—knowing that others must obtain our consent before entering puts us at some peace (though not perfect peace) about our security. Likewise in the case of airports, military facilities, and so on, restrictions are justified on grounds of public safety. Limits on who can stay in which parts of a national park in what season can be justified on the basis of a collective interest we have in natural preservation. An even more obvious case is that of our interest in bodily integrity. If rights to such integrity are to mean anything they must set limits to others’ freedom of movement, given that we are physical, materially extended creatures. And finally, property rights can be defended on the grounds that we have an interest in securing the fruits of our

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<sup>1</sup> A distribution  $D_2$  is Pareto superior to  $D_1$  if at least one person is better off in  $D_2$  and nobody is worse off. A distribution  $D_3$  is Kaldor-Hicks superior to  $D_1$  if transfers could be made relative to  $D_3$  so as to achieve a Pareto superior outcome,  $D_2$ . See Gaus and Thrasher (2021) for further illustration.

labor, or alternatively, operating within a system that makes positive sum games possible via division of labor and trade (Smith 1776; Schmitz 1994).

The point is not that these specific rationales will carry over to justifying border controls. Rather, these cases are illustrative of a more general point: if we can identify important interests that hinge on our ability to set limits on others' movement, then that can go some way in justifying those limits—as we see in these other, presumably less controversial, cases of property, airports, and the like.

What might these interests be in the case of political associations like countries? We can get some traction on this question by looking at other sorts of associations (cf. Wellman 2008). Consider for example one's housemates. We often have a significant interest in determining who our fellow housemates will be—for, who is part of this association will determine in large part what the norms around the house will look like. Will there be frequent parties, or will it be a quiet house? Will people cook together or separately? And so on. Similar points can be made about a host of other associations. Anyone who has been part of a co-op will recognize that it matters quite a bit who the other members are, where their priorities lie, what norms they accept, and so on.

Of course, one might say that the relation of compatriot is much less intimate than that of a housemate. But though it is less intimate, in other ways it is more significant. Within a democratic society, our fellow citizens have *coercive control* over us.<sup>2</sup> And so, their perspectives, their moral viewpoints, and the norms they accept can have a deep influence on the structure of our lives and the opportunities we enjoy. Within constitutional limits, our fellow citizens decide (albeit indirectly in a representative democracy) what is criminally punishable, how much taxes we ought to pay, where those taxes ought to go, and so on. And constitutional matters themselves are often open to interpretation. Because the judges who are tasked with such interpretation are in turn appointed by democratically elected officials, even the constitutional rules of the game are sensitive to the composition of the demos. Furthermore, admission is often permanent or indefinite. If you don't like your roommates, it's relatively easy to move out. But once you and I are co-citizens, we're usually stuck with each other (for better or for worse) indefinitely.

The Nobel Prize-winning economist James Buchanan emphasized that this power that comes with joining the demos complicates the immigration debate in underappreciated ways. He wrote:

The entry of an immigrant into an ongoing social-political-legal-economic order, with a defined membership, an experienced history, and a set of informal conventions, necessarily modifies the structure of "the game itself"... Membership involves more than a joining of the economic exchange network. Membership carries with it the power and authority, even if small, to modify the political-legal-constitutional parameters within which the economic game is played (Buchanan 2007, 62).

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<sup>2</sup> In a similar vein Michael Blake (2020) defends the right to exclude on the basis that newcomers impose weighty *obligations* on existing members. Those obligations entail working to support institutions that secure the moral rights of the newcomer within the jurisdiction. For Blake, the imposition of a new obligation of this sort impinges on one's freedom in an important sense, such that one is (often) within one's rights to refuse to take on the obligation. Blake's claim about obligations is distinct from the above point about coercion, but it serves to highlight in a different way why we are often right to care about policies for admission into the jurisdiction where we live.

In the abstract, at least, it is plain to see why we might have an interest in who else is admitted into the demos—given the coercive power that is granted upon entry. I say in the abstract because this interest might turn out to be, for all practical purposes, unaffected by immigration policy if it turns out either that cultures do not differ significantly enough or that assimilation occurs at a fast enough rate. In other words, if it turns out, as an empirical matter, that the “game” Buchanan refers to would not be substantially altered due to an open immigration policy, then limits on entry would not in fact protect our interest in maintaining and living within a particular set of laws, norms, and institutions—though they might in distant possible worlds.

The relevant empirical question then becomes: (to what extent) are social and political institutions (construed broadly) robust to significant inflows of people? Another Nobel Prize-winning economist, Elinor Ostrom, known for her work on the commons problems, noted that the sorts of informal rules and norms that enable cooperation are *fragile*. They can be destroyed in a number of ways, including external imposition of rules not endorsed by the community and the growth of corruption, among other things. Most importantly for our purposes, Ostrom (2000, 153) writes:

All economic and political organizations are vulnerable to threats, and self-organized resource-governance regimes are no exception. Both exogenous and endogenous factors challenge their long-term viability. Major migration (out of or into an area) is always a threat that may or may not be countered effectively...In-migration may bring new participants who do not trust others and do not rapidly learn social norms that have been established over a long period of time. Since collective action is largely based on mutual trust, some self-organized resource regimes that are in areas of rapid settlement have disintegrated within relatively short times.

The deep point here is that institutions should not be treated as an *exogenous* variable when it comes to immigration policy—rather, they are *endogenous*. That is, immigration policy can change the institutions we live under (whether for better or for worse).

A wide range of empirical work supports the claim that institutions change due to the movement of peoples. This is by no means an exhaustive survey, but I want to briefly note some of the relevant findings.<sup>3</sup> To begin, a recent article examines how southern whites changed the political and cultural landscape as they moved to other states during the 20<sup>th</sup> century (Bazzi et al. 2023). Among other things, they influenced their neighbors to adopt more conservative religious norms and increased the national partisan realignment by supporting a “New Right” coalition. Assimilation, this would suggest, is a two-way street. Another relevant question is whether norms of corruption tend to migrate as people do—an important factor to consider given that corruption levels can greatly affect government efficacy and living standards. Dimant et. al. (2015) find that movement from countries with high levels of corruption tends to robustly increase corruption within receiving OECD countries. That said, the finding is perhaps inconclusive, as Bologna Pavlik et. al. (2019) have recently disputed this effect.

One potential upshot of the Dimant et. al. (2015) paper is that the cultural norms of the countries of origin of would-be immigrants can matter for the potential consequences of immigration policy. A

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<sup>3</sup> For a much more comprehensive discussion of the literature and its potential upshots see Jones’s (2024) contribution to this volume.

related recent finding by Berggren et. al. (2023) is that immigrants whose countries of origin have more tolerant cultures tend to integrate more into European societies. They write: “Our main finding is that tolerance plays a positive role for integration. The more tolerant the background culture, the higher the individual degree of economic, civic-political and cultural integration” (Berggren, Ljunge, and Nilsson 2023, 1096). According to the authors, this relationship is quite robust. Building on a wide-ranging survey of the literature on the topic, the economist Garrett Jones (2023) defends the thesis that, in general, immigration from country A to country B tends to change the institutions of country B in the direction of those of country A. Relatedly, Alesina and Giuliano (2015, 938) conclude, based on their survey of the extant literature on the topic, that “[c]ulture and institutions interact and evolve in a complementary way, with mutual feedback effects. Thus, the same institutions may function differently in different cultures, but culture may evolve in differing ways depending on the type of institutions.”

If we think of culture in a deeper sense, as involving complex norms, expectations, and normative perspectives, (as opposed to shallower differences in, say, food or dress conventions) it is plausible that people have an interest in the preservation of culture (De Clercq 2017). But could this interest ground a *right* to limit immigration? Some philosophers will doubt this based on a “cantilever” argument. Thus Carens (2014, 237) contends that “treating the freedom to move across state borders as a human right is a logical extension of the well-established democratic practice of treating freedom of movement within state borders as a human right.” The thought then is that if considerations of cultural change were legitimate grounds on which to restrict movement, then they could also be grounds to restrict *internal* movement—say from Arizona to Maine. But it would be illegitimate and illiberal for the government to allow such internal restrictions; therefore it is also illegitimate and illiberal for the government to restrict movement across its borders (cf. Freiman and Hidalgo 2016).

While more needs to be said to defend the point in detail, I want to briefly note one problem with this approach. The problem is that such arguments would overgeneralize in implausible ways to other domains. Thus, suppose a couple owns a house jointly. Given this, it would be wrong (barring unusual circumstances) for one partner to prevent the other from moving from the kitchen to the living room. But it does not follow that it would be wrong for either of them to try to prevent an uninvited stranger from entering their house. The very same grounds that would be sufficient for either of them to take this action against the stranger (say, that they do not want company at the moment), would not be sufficient for either of them to take that very action against the other partner.

Furthermore, it is possible to suggest different grounds on which internal freedom of movement is justified that do not carry over to the international case. Sarah Song (2019) has recently argued that the former is necessary to promote social cohesion, and that this justification does not extend to movement across international borders. Besides, she argues, it is implausible that internal cultural distance is likely to be as great as cross-border cultural distance in most cases. The cultural distance between the average resident of Georgia and New York is plausibly much smaller than that between, say, the median residents of Japan and Ethiopia or Mexico and Egypt.

Some have argued that liberalism itself is committed to open borders (Freiman and Hidalgo 2016). In a previous article (Joshi 2018), I noted that this putative commitment would put liberalism in a troubling dilemma, depending on the empirical facts of the matter. Thus suppose Country A in general has liberal norms, endorsed by most of the population. Country B, however, is an illiberal

theocracy—most residents support strictly different rules for men and women, death penalties for apostasy, persecution of religious minorities or atheists, and so on. But suppose that due to its economic success, Country A is an attractive destination. Suppose further that the norms held by people in Country B are “sticky”—they take a long time to change if they do at all. Country B in addition has a much larger population than Country A. What is liberalism committed to in this case? Should Country A adopt open borders, even if, foreseeably, this would mean the eventual end of liberalism in Country A?

Perhaps from a particular sort of anarcho-libertarian premise, coupled with strict deontic, or rights-based, constraints, one might say that despite the potential consequences, limits to free movement (unless excluded by private property rights) are simply wrong. Kant (1996) famously thought that it is wrong to lie even if doing so would foreseeably prevent a murder. Thus, one might think, border controls are wrong irrespective of the forecasted consequences. However, this move would saddle the open borders position with commitments that many do not share. To illustrate, Huemer thinks that it’s wrong for Sam to prevent Marvin from entering the marketplace. But he also also thinks that governments act wrongly in collecting taxes, because they lack the authority to do so (Huemer 2012). Most readers, I assume, would reject this view. In a recent paper, Freiman and Hidalgo (2022) accept the consequence that a robust open borders position requires specific libertarian assumptions—but that means, for the non-libertarians among us, where we end up on the issue might depend on a complex weighing of a range of different considerations. And it’s not clear that the open borders position will win out.

#### 4. Consequentialist Considerations

As noted in §2, the economic case for open borders relies on the productivity differential across countries. Global free movement of labor, the thought goes, would allow people to move to places where they could be more productive, and hence dramatically increase global GDP. This increase of the economic pie then would come with an increase in average welfare.

However, the case is less clear-cut if the institutions that enable productivity could themselves change significantly as a result of migration. As Buchanan brings out in the quote from §3, migration of people is different from trade of commodities—for the simple reason that people are not commodities. Thus, the economic arguments for free trade of goods—so as to allow commodities to find the most efficient uses and to allow for more division of labor—are of limited applicability in the case of migration. That is because, as discussed in the previous section, the institutions that allow for high levels of productivity are themselves sensitive to the composition of the demos.

In his new book, Jones (2023) argues, using a range of case studies and data, that as people move, so do economic institutions—in general, for the most part.<sup>4</sup> Jones further argues that this has been the historical norm for centuries. Relatedly, there is a recent literature on the “deep roots” of economic development. Spolaore and Wacziarg (2013, 325) write that in this area, the “evidence suggests that economic development is affected by traits that have been transmitted across generations over the very long run.”<sup>5</sup> That said, however, it’s not immediately obvious still that open borders would not increase aggregate welfare. For, even if it turns out that developed countries would lose some

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<sup>4</sup> For a shorter summary of some of the main relevant points from the book, see Jones’s essay in this collection.

<sup>5</sup> See also Comin, Easterly, and Gong (2010) and Ang (2013).

institutional quality, that may well be outweighed by the welfare gains accrued to individuals who would be free to move. The utilitarian cost-benefit calculus might thus still favor open borders, even granting the endogeneity assumption regarding economic institutions.

However, Jones contends, the entire world has a strong interest in preserving the institutional quality of the developed countries that produce the most scientific innovation. It is common to point out the negative externalities that developed countries have imposed on the rest of the world—particularly, pollution and the resulting climate change. It is less common to note the *positive* externalities. Jones notes that much of the world’s technological, medical, and scientific innovations—vaccines, aircraft, electronics, surgical treatments, solar panels, and so on—originate from just seven countries he calls the I-7. These are: South Korea, Japan, China, the U.K., France, Germany, and the U.S. Given how much scientific innovation promotes welfare—think of the lives saved by vaccines or the vastly increased food supply enabled by fertilizers—the entire world has an interest in the economic institutions of these seven countries. Jones then argues that even a small decline in the institutional quality of these countries would have a dramatic negative impact on the welfare of the rest of the world. It is therefore not clear, even from a purely utilitarian or effective altruist perspective, that open borders policies would be best.

This debate is by no means settled. Some economists have contested the idea that institutions would be negatively affected by migration in the way discussed above (Nowrasteh and Powell 2020). But even uncertainty in this regard might plausibly trigger a precautionary principle. Insofar as innovation is important for humanity’s future flourishing, as a whole (including, for example, innovation aimed at reducing climate related risks), the burden of proof might shift towards the defenders of open borders.

## 5. Conclusion

Nothing I’ve said in this essay supports a policy of total restriction. Surely there are many cases where immigration benefits everyone. In the U.S., for example, a large proportion of innovators have immigrant backgrounds (Bernstein et al. 2022). But a lot more work needs to be done to defend a *right* to migrate across any international border. Insofar as the initial arguments made by philosophers like Carens and Huemer offer a *prima facie* case for open borders, the arguments discussed in this essay might be seen as attempts to meet the burden on the other side. Importantly, while freedom of movement is an important right, we readily acknowledge limits to this right in a range of domains. These limits are indispensable for human flourishing in a range of ways. There is no reason to think the case of immigration is any different.<sup>6</sup>

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<sup>6</sup> Thanks to Sahar Akhtar for helpful comments on an earlier version of this essay.

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