

Borders, States, Freedom and Justice.

Dr Robert Sparrow
School of Philosophy and Bioethics
Faculty of Arts
Monash University
Victoria 3800
Australia

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Debate about policy on asylum seekers is a debate that most of those who are opposed to mandatory detention are never going to be comfortable in. It concedes the government's right to decide who is and is not welcome in Australia. It risks conceding that some of those who have arrived on Australia's shores by boat are not "real refugees" and therefore that all must be treated with suspicion until the "fakes" are weeded out (and presumably sent home).

The current processes for determining the status of asylum seekers are also woefully unjust and loaded against asylum seekers. Even if the government hadn't deliberately engineered the determination process so as to minimize the numbers of applicants who succeed in gaining refugee status, the definition of refugees under the UN convention is already extremely narrow and provides no recognition of the human rights of those who are forced to flee their homes, not because of a well founded fear of persecution on the basis of a membership of some social group, but because of war, civil unrest, environmental crisis, or famine. These are just as good grounds for a claim upon our obligations to other human beings as persecution from a government. Yet unless those who come to Australia can claim refugee status under the narrow UN definition we will turn them away. There is a real danger that in participating in the current debate on refugee policy our ambitions will be reduced to trying to get those who do meet the narrow UN definition, who are currently excluded, treated fairly, rather than the equally necessary task of expanding the definition of refugee to include the many others who are just as deserving of our welcome.

In response to these difficulties, a number of refugee activists have put forward the demand for "open borders" and the free movement of peoples. The call for open borders derives from a proud tradition of socialist internationalism, albeit one that has all too often been honored largely in the breach by the trade union movement and communist parties. The advantages of an open borders rhetoric are manifold and have been well articulated in the Australian context by a number of writers loosely associated with the activist group No One is Illegal. An open borders policy denies the power of governments to determine who is and is not welcome, and instead affirms our fundamental human duty of solidarity regardless of race or nationality. It utterly rejects racism and nationalist chauvinism. It insists on the priority of ethics above politics when human misery of the magnitude revealed in the plight and stories of asylum seekers is at stake

Perhaps most importantly, the demand for open borders highlights the class nature of

current immigration restrictions. Borders are maintained and enforced selectively, both in relation to who is allowed to cross them, and when, in order to defend privilege.

When people try to move to avoid the harsh economic consequences of years of colonialism, privatization and structural adjustment, they are met with barbed wire, bureaucracy and border patrols. But these same borders are already open to those who are sufficiently wealthy to buy their way in as “business migrants”. Nor do concerns about terrorism, disease, or alien values, prevent the government actively promoting and encouraging the regular passage of wealthy foreign tourists across Australia's borders in numbers far higher than the small number of unauthorised arrivals to this country. Similarly, the rest of the world is expected to give untrammelled passage to Australian tourism and investment. That the world is already effectively without borders for a wealthy minority suggests that borders exist primarily to control the movements of the poor.

The only circumstances in which the poor are allowed to cross borders in any number is when it is in interests of local business, because they're willing to work for less. In times of labour shortage, conservative concerns about national culture and refugees' supposed failure to assimilate are magically held in abeyance. But even here, while the poor might be allowed to cross borders, they will often not be granted the citizenship that would accord them formal equality in their new environment. Instead, they may be characterized as guest workers, temporary residents, resident aliens, or any of a number of bureaucratic categories that mean that they may work for our profits while enjoying only a limited range of our rights. Often those from the second or third world who work in the first world, slaving in its sweat shops, cleaning its houses, minding its children, are not even accorded this legal status, but are instead branded illegal immigrants, subject to imprisonment and deportation without notice. Rather than being a threat to society, in many places around the world illegal immigrants play a crucial economic role, performing jobs that others are unwilling to, because they are too horrible or too poorly paid, or both. Business profits from the existence of a large pool of illegal immigrants, who may be employed on cheap wages outside of the official economy, because they are unable to demand or organize to secure their rights because of the risk of deportation should they come to the attention of the authorities.

In this way borders also play a crucial role in maintaining inequality *within* nations. The last 20 years of tariff reduction and trade liberalization have rendered borders increasingly transparent to flows of money, goods and services. Capital's ability to move freely around the globe in search of cheap labor, and freedom from government regulation, while labour is prevented from following, has allowed corporations to bargain down labour movements and governments in order to depress wages and increase profits. The call to open the borders highlights the hypocritical nature of the current regime of freedom of movement for capital but not for labour and places defenders of immigration control in the awkward position of having to explain why justice requires that goods can travel freely while people cannot.

The denial of the normative significance of borders also highlights the arbitrary nature of the State's claims upon us. We do not choose where we are born. Yet mere accident of birth will determine whether we're subject to this set of laws or that, what

rights we are acknowledged to have, and wield great influence over our future life prospects. The normative foundations of such “arbitrary” differences in rights and political institutions remains one of the most difficult and unsettling questions for liberal political theory. Borders delineate and maintain these distinctions, which seem neither natural nor just. Envisioning the alternative, a world without borders, poses the real question as to why we are not all simply citizens of the world, with the same set of global and universal human rights.

Finally, the call to open the borders allows us to distance ourselves morally from the racism the government has mobilized around them and from the ugly reality of borders in today’s world. As long as there are borders, there will be governments deciding who may or may not cross them, preventing people from crossing them, and presumably incarcerating or otherwise punishing those who do so without the “proper authority”. Borders imply passports and citizenship papers, border patrols, border guards, deportations, and perhaps detention centres. When borders produce brutality and human rights abuses, of the sort that occur regularly in Australia’s border prison camps, a justified disgust may lead us to renounce the concept of borders *in toto*.

These are genuine advantages of the “open borders” position. I feel their appeal as well. But there are problems with this demand, both theoretically, as an account of how the competing demands of difference and universality should be negotiated, and politically, as a strategy to adopt in current debate about a just refugee policy.

The theoretical problems with the demand for open borders arise from the relation between this demand and a series of other traditional concerns of the Left. The ideals of national self-determination, land rights, bio-regionalism, democracy, federalism, and self government, all presuppose that a distinction can be made between the inside and the outside of a social group or geographical region. In some form or other, they require borders. In particular, the ideals and the realization of democracy and self government require the existence of a defined and distinct polis, whose affairs are governed by its citizens.

It is perhaps tempting to reply that one can have a citizenry without a border. But this is incoherent. Somewhere, somehow, there must be a process or institution that determines what are the limits of the polity and who is and is not a citizen. Without this, it is not possible to organise a vote, or to bind citizens to the results of a democratic process. There are good reasons to require that the majority of the persons within the territory over which a polity exercises authority should be citizens and this suggests that it will often be sensible to define borders geographically. Otherwise, we may be left with a situation in which a large number of persons are subject to the decision of a body into which they have no input.

Cynics may wonder what exactly would be new about that. But while formal equality and parliamentary democracy are clearly not enough, their absence is a serious injustice. The need for institutions for determining citizenship would be even more pronounced if democratic institutions were such as to grant genuine popular control over the state or economic activity within some enterprise or region. Importantly, the need for borders would remain even in a post-capitalist society, as long as such a society attempted to guarantee local or regional government, or to provide some institutional recognition of cultural difference. None of this is to imply that these

borders necessarily need to be marked out in barbed wire and accompanied by prison camps. But the mechanisms by which they are set out and maintained do need to be effective. Without some sort of defined boundaries to the polis, the idea of local or regional or economic democracy—alongside these other notions—is incoherent.

The effects, as well as the presuppositions, of regional self-government establish barriers to free movement of peoples. If the currency is different, if laws are different, if the language is different, if the customs are different, here rather than there, then these things all make it harder for those without resources to move from one place to another. As the proponents of the current round of free-trade agreements are very obviously aware, while informal, these barriers to the movement of goods can nonetheless be substantial. Their implications for the movement of people are even more significant. Difference, localism, culture, indigeneity, all these things establish barriers to movement of peoples in the form of costs, as well as being reasons to move. These costs are forms of borders themselves, effectively excluding those who cannot meet them.

Likewise, if a group of people govern themselves, then they make decisions which are intended to be binding only on members of that community. They may require things of fellow citizens that they do not of those who have not participated in the process of self-government. Similarly, they may offer solidarity, support and resources, to those who have participated alongside them in this process, that they would not to strangers. All of which is to say that citizenship is unlikely to be purely formal notion, something that can be taken up or shrugged off without cost or commitment.

Without citizenship—without local, or regional, or national, borders—the only political community possible is a global one. When we consider the ways in which economic and environmental problems, and political movements, cross national borders, this may seem like a sensible conclusion. Similarly, the idea that we should all be simply “citizens of the world” is an attractive one when we are currently surrounded by racism and national chauvinism dressed up in the language of sovereignty. However, if we stop to think what this would really mean, we have reason to question whether it’s an idea that we would seriously wish to embrace rather than a convenient rhetorical expression of the importance of solidarity. Global citizenship means global government. But what language(s) would the affairs of this government be conducted in? Whose values would it promote? Even in a post capitalist world, would we like affairs to be decided at this level? When we think about what it actually involves, a global citizenry and a global government loses much of its appeal. But any retreat from global government acknowledges the need for borders, in some form or other.

The idea that all people should be first and foremost “citizens of the world” sits firmly within the tradition of the Enlightenment. In this regard, the call for open borders is not as radical as its proponents suppose. Indeed, there is a danger that an open borders politics participates in the conservative and totalising aspect of the Enlightenment tradition. The call to open the borders seems to deny difference. It certainly denies that cultural or regional differences are of sufficient importance to justify institutional recognition. In some contexts, such a denial of difference itself may constitute a form of racism.

Although I have raised these questions about the viability of the open borders position as questions of social and political theory, they are not without their real world analogues. In many parts of the world, the right of local populations to veto the movement of people is an important and justifiable demand. What is wrong with transmigration in Indonesia and Tibet, and part of what is wrong with colonialism in general, is that demographic change is promoted without local consent. Cultures, institutions, and languages are transformed against the will of those who live in the area. Similarly, the demand for national self-determination is an urgent political demand in many places around the world where people are still resisting the legacy of colonialism or imperialism. Without invoking the concept of national sovereignty it is hard to accurately characterize the current actions of the U.S. in Iraq as imperialism, for instance. National self-determination often even requires creating new borders and acquiring the power to enforce them. As the example of the former Yugoslavia shows, questions of secession and self determination are far from theoretical. Opening the borders is not a solution when a national minority feels—and perhaps is—threatened and oppressed by a surrounding local majority of another nationality. There are thus many real problems around the world which seem to require different borders, or even stronger borders. In many of these contexts the call for open borders appears as merely a naive liberalism.

In Australia, the demand for open borders stands in a particularly uneasy relation to the Left's support for Aboriginal land rights and indigenous self-determination. Although they are seldom explicitly expressed as such, at their heart these demands are demands for the right to differentiate amongst persons and exclude some. The assertion of aboriginal sovereignty is empty without the presupposition that peoples have a right to self-determination and that this includes a right to control their own borders. In many parts of the world, indigenous peoples have correspondingly demanded, and occasionally been granted, control over who can travel through or settle on their traditional lands, in order to prevent themselves from becoming minorities in their own lands.

The slogan "We are all boat people" has unacknowledged resonances here. It rightly highlights the fact that the most recent wave of arrivals are no more or less illegitimate than earlier British invaders of the continent. In the context of the current debate about immigration the intended conclusion is presumably that new arrivals have just as much right to be here as "we" do and should be made welcome. But it might also be taken to imply that the British invaders should have been prevented from landing here in the first place.

These practical considerations lead us to the political difficulties with the open borders demand. The demand for open borders is a utopian one and this is not without its political costs. Most obviously, the demand for open borders is so far beyond the goals of any of the major political forces in Australian society that its open espousal makes participation in attempt to reform Australian refugee policy alongside these groups almost impossible. In itself, this is perhaps not a major objection to the demand. It would hardly be the first time that the Left has had to soft pedal its politics in order to gain influence. However, the open borders demand is also utopian in the stronger sense that it requires the world to be radically different to the circumstances we now face in order to function as a solution to the problem it purports to address. The lack of currency of the idea of open borders amongst refugee

advocates, and the community more generally, is because it is unworkable as a response to immigration flows in Australia's current circumstances.

Any attempt to publicly advocate the opening of borders quickly encounters the reply "But we can't let everyone in!". Although it is true both that not everyone who is a refugee is trying to reach Australia, and that we could clearly welcome everyone who has arrived by boat thus far and more, this remark states an obvious truth. While we could perhaps, at the cost of social and political chaos, accommodate the 20 million plus persons currently acknowledged by the United Nations to be refugees, we could not accommodate the much larger number who would move if borders were truly open.

It will not do in this context to argue that the vast majority of potential migrants will not be able to afford to travel to Australia, or will be discouraged by the difficulty of building a new life here, or that the formidable natural barriers to reaching Australia by boat are border protection enough. This would be to reject formal, state imposed, borders largely on the grounds that they are not necessary, and that Australia's lucky combination of economic injustice, geographical remoteness and cultural difference to likely sources of migration, will do just as well. If this were all the open borders position stood for, it is hardly worthy of the name.

Nor is it sufficient to point out that the reasons why so many people are on the move, and many more would be if they could afford to be, are the gross injustices in the international distribution of wealth and the resources required to lead a decent life. Most people do not want to leave their families and their homelands and only do so with great reluctance when these are wracked by poverty civil war or environmental catastrophe. This is clearly true, but merely opening the borders would not resolve the injustice of the current distribution of the prospects for living a decent human life. Although national borders reinforce this unjust distribution, dissolving them before the distributive issues are redressed is a poor way of redistributing resources. Opening Australia's borders unilaterally is a particularly poor way of resolving this problem.

The circumstances in which removing all the natural, cultural and economic barriers to movement of people to Australia would *not* lead to a migration flow that would be politically economically or environmentally unsustainable, presuppose a massive redistribution of resources on a global scale. The magnitude of this redistribution and the structural economic and political changes required to achieve it are such that they are unlikely to be achieved short of achieving democratic control over the use and distribution of productive resources globally. This is an urgent project, indeed probably the most urgent task facing humanity today. But until it is completed, or at least is under way, opening the borders will have very real consequences for any nation which does so unilaterally.

While significant economic inequality continues to exist, opening the borders will lead to large numbers of people moving across them. However one evaluates the consequences of this, they are unlikely to be insignificant. They are likely to include a radical transformation of local culture. This is at least part of what provokes the

public incredulity at the idea of opening the borders.¹ Advocates of open borders who wish to avoid this conclusion are in the embarrassing position of insisting that people should be free to move where they like, on the one hand, and on the other, insisting that they won't.

It may be that I have only been able to illustrate the problems with the open borders demand by exaggerating it beyond the intentions of those who put it forward. Their opposition, in the end may only be to State enforcement of borders, and not to other institutional, social or economic relations which divide people. But if I have extended the concept of a borderless society I have done so according to the logic of the position itself. Those who advance it do so with a palpable attitude of bravado, with the implication that they are the only ones with the courage to demand what should be demanded. They would, I think, be reluctant to admit that their enthusiasm for the demolishing of the borders imposed by states extended only so far as they were replaced by economic, cultural or natural barriers to the free movement of peoples.

In response to my argument at this point, dedicated proponents of open borders may insist that we should in fact embrace the consequences of the free movement of peoples. It shouldn't matter to us whether our culture is reshaped by immigration, what language our political affairs are conducted in, or whether this language can reach the majority of the polity. National culture is a myth, essentially a racist one that is perpetrated by politicians and business leaders in order to divide workers from each other. The only ethical response to the racism and chauvinism that so often flows from identification with culture is to assert a solidarity based on our most fundamental—class—identification.

The assertion that class is the only source of real differences in interests amongst persons is a bold one that is shared by Marxism and the Enlightenment. It is the subject of a much larger debate about Marxism and Enlightenment, and their relation to difference, then I can enter into in this context. I can only afford two brief remarks here.

Firstly, while the claim about the nature and role of national culture may well be true, it is much less clear that *any* identification with a cultural or subcultural grouping is a case of false consciousness. Consequently, it's unclear that it's always wrong to care about one's cultural identity or environment. It's clearly true that the repositories of culture need not be nation states as they have arisen historically. But if cultural differences can produce differences of interests, then these will be sufficient to establish the necessity of borders in some circumstances.

Secondly, regardless of whether or not culture should matter to people, the fact is that it does. Most people do feel deeply about their national and/or cultural identity, despite the fact that attempts to describe or define these almost inevitably founder. Any serious political response to migration issues must take account of this fact.

¹ Opposition to opening the borders may also reflect fears that new arrivals would harm the economy or “take our jobs”. If in so far as these fears are typically not in fact borne out by the history of migration, they do not support a case for national borders.

Advocates of open borders might respond to my criticisms here by proclaiming that they have never intended to offer opening the borders as a serious policy response to contemporary migration issues. It is a political demand, deployed for its rhetorical effects, rather than a goal that could actually be achieved short of radically transforming the world. As I conceded at the outset, the idea of opening the borders does have many advantages in that regard. There is undoubtedly a place for it within the spectrum of political responses to conservative attacks on refugees.

But the argument above is intended to show that the theoretical and practical problems with opening the borders are also limits on its value as a political demand. Opening the borders would be a sensible policy only once the world has been radically transformed. This means that only those who believe in the desirability and possibility of that world are likely to embrace it. Or to put it more bluntly, only those who are already committed to international socialism. Its usefulness as a political demand for bringing people to a socialist politics is therefore limited. If it provides opportunities to argue for the necessity of socialism, it does so in the context of a refusal to recognize cultural difference that is one of socialism's least convincing theoretical commitments.

The open borders demand also has the unfortunate effect of mitigating against any serious engagement with issues of culture and sovereignty amongst those elements of the Left where it holds sway. One of the rhetorical affects of the open borders claim is that it places those who are critical of it alongside Howard and Hanson and their ilk. Unless one supports open borders one is a nationalist and by implication a cultural chauvinist and therefore a racist. But a concern for locality and culture need not involve a commitment to race and nationalism. One need not buy into the myriad racist myths about refugees just because one admits the necessity of immigration controls of some sort.

None of this is intended to exonerate the government's policy of mandatory detention of those who arrive by boat, their demonising of refugees, the meanspiritedness of "temporary protection visas", or the madness of the so called "Pacific solution". Australia can and should grant refugee status to those who have risked everything to reach our shores in the last few years;

Nor is it to embrace the current definition of who is a real refugee. We must work to expand the definition of refugee so as to include those fleeing intolerable circumstances, no matter their cause. Australia must also do much much more to take on its fair share of the task of resettling refugees. Part of this commitment is a willingness to consider the claims of those who do arrive on Australian shores seeking asylum, whether they arrive by plane or by boat.

Most importantly, we must work towards a world in which people are not forced to move half way across the globe in search of a decent life, by tragedy in their own lands and communities. In particular, we must end our support for regimes which persecute and oppress their own populations and for structural adjustment programs and other economic policies of neoliberalism, which are major causes of international migration flows. Equally well we should cease to attack, or to support attacks on, those same regimes once they have ceased to serve our, or our allies, interests.

But all of these things are compatible with a recognition that borders are both a necessary consequence of the existence of political communities and a precondition of democracy, and that national borders are justified when removing them would threaten a people's culture, identity or way of life. None of these are currently threatened by immigration in Australia. Australian culture is likely to be enriched, rather than threatened, by the presence and activities of the latest group of arrivals. But if Australia's borders were opened, while existing injustices in international distribution of wealth remain, they might very well be. Until these injustices have been redressed, opening the borders would have consequences that are unacceptable to the majority of Australians. The demand that we should open the borders is thus neither practical, nor politically compelling. Its valuable contribution, however, is to remind us that the real "problem of immigration" is the injustice of the current distribution of the prospects for living a decent human life. If we are concerned about the possibility and effects of large scale movement of populations we must work to address the inequalities that produce them. Ultimately, this requires democratic control over the institutions and choices that govern the distribution of resources internationally. The idea of opening the borders has only a limited role to play in the effort to build a political movement to achieve this goal. In the meantime, the problem of formulating a just immigration policy remains.

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