

## POSTSCRIPT

A Weak Case Against  
Open Borders:  
A Critique of JoshiDANNY FREDERICK  
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The moral status of national borders and the purported right of foreigners to cross them at will has recently drawn intense interest from libertarian and classical liberal theorists. We have contributed to the discussion ourselves (Frederick and Friedman 2020). Hrishikesh Joshi (forthcoming) is a useful introduction to the myriad of claims and supporting theories advanced by proponents of open or nearly open borders, and the counter-arguments asserted by those defending the right of liberal states to impose more extensive immigration controls. It does, however, have one striking and apparently culpable defect, namely, it fails to consider the strongest argument in favour of immigration control. That argument was propounded by us.

We argued (2020, pp. 29-31) that there are some societies, such as those in which Islamic fundamentalism is endemic, that resemble what Karl Popper (1945, pp. 173-175, 190) called 'closed societies,' in that they are intolerant, enforcing closed-mindedness and repressive norms by violence or threats of violence. People formed in such a culture often have difficulty adapting to western mores; in fact, they are often violently opposed to them. When they migrate to western liberal countries they tend to cluster together, which makes them less liable to assimilate and to shed their closed-society attitudes and behaviours. A consequence is that they sometimes commit acts of violence against people who conform to the western mores that the Islamists detest, such as people who are transgender or openly homosexual or women who dress in typical western style. Often, when they refrain from violence, they still engage in intimidation. The consequence for people in the host country is not just that they are subjected to violence and intimidation but also that they often curtail or modify their own behaviour to avoid being victims. They thereby suffer substantial inroads into their freedom. We argued that the prime obligation of a liberal state, or the libertarian's minimal state, is to safeguard the freedom of the persons within its jurisdiction. It is obligated to defend the freedom of those living outside its borders only to 'the extent that this is consistent with fulfilling its duty to secure the maximum equal freedom of the persons within its territory' (2020, pp. 26-27). To discharge its primary duty, it may need to control, but not necessarily eliminate, immigration from societies that strongly resemble closed societies.

We cited a number of academic studies, polls, and news accounts that strongly suggest that a majority (or in other cases, a substantial plurality) of the populations of major Muslim-majority states hold extremely illiberal attitudes, and that many migrants from such states to Germany, France, and the U.K. have carried this religiously-rooted be-

lief system with them (2020, pp. 29-30 and end notes 31-39). Therefore, we conjecture (2020, p. 30) that ‘a large and rapid influx of migrants from societies that resemble closed societies can lead to the development within a more-or-less liberal society of illiberal and intolerant enclaves.’ We conclude that ‘if our hypothesis survives testing by social-science research’ (2020, p. 31), liberal states should consider various options, consistent with their underlying principles, for immigration control.

What is perplexing about Joshi’s neglect of our paper is that he examines in some detail a couple of weaker arguments for immigration control which raise similar concerns for liberal societies. The first of those contends that an increase in immigration from some countries would cause an increase in crime. He says, first, that one’s conclusion will depend on the strength one attaches to a state’s obligations to its own citizens, as well as how much weight one puts on the supposed right to free movement; and, second, that blanket prohibitions of movement would seem to punish the many for the actions of a few, which grates against most plausible conceptions of justice (forthcoming, section 2). But, contra Joshi, it is not a matter of trading off the state’s obligations to its own citizens against immigrants’ supposed rights to free movement; it is a matter of a liberal state fulfilling its primary function. It is also misleading for Joshi to say that severely limiting the numbers of immigrants from societies that closely resemble closed societies punish the many for the actions of a few. There is no punishment; there is refusal to confer a benefit; and it is hardly the actions of just a few that are in question. In short, Joshi’s dismissal of the argument concerning an increase in crime, by neglecting to consider the strongest form of the argument, refuses to take the argument seriously.

The second argument for immigration control which Joshi considers that raises similar concerns to our argument, focuses on the degradation of a liberal state’s culture, broadly construed to encompass its ‘basic norms, values, and level of social trust.’ Joshi considers what response a liberal state is entitled to make if faced with large-scale influxes from countries ‘where policies like the death penalty for apostasy, the stoning of adulterers, mandatory clothing restrictions for women, etc. enjoy popular support?’ He worries that inaction under such circumstances would render liberalism ‘self-undermining,’ and that those taking an absolutist stance about freedom of movement are ‘committed to welcoming [liberalism’s] own eventual destruction’ (forthcoming, section 3). He cites his earlier paper, where he provided a more elaborate version of this argument, defending liberal societies as both intrinsically valuable, ‘given the relationships between coresidents that they embody,’ and instrumentally valuable, because the various freedoms guaranteed in liberal societies ‘promote certain kinds of cultural and scientific achievements’ (2018, p. 264). Furthermore, he argues that the goal ‘of maintaining and promoting the existence of liberal polities is a liberty-based aim’ (2018, p. 264), and is thus of sufficient gravity to override the right of free movement claimed by (illiberal) migrants.

We noted that, to the extent that Joshi’s defence of liberalism is based on the value of personal relationships, scientific achievements and the like, it is not ‘a strictly liberal defense of substantive immigration controls’ (2020, p. 34). That is, it is not grounded in the inherent value of freedom, which Joshi accepts as an overarching priority for purposes of his analysis. While the second prong of his argument does appeal to liberty itself, he does not link this, as we do, to the characteristic duties of a liberal state, but rather contends that the rights protected by liberal states in effect trump the freedom of would-be migrants. We observed that this argument, if successful, would at best constitute an ‘alternative way of showing that liberalism is compatible with substantive immigration controls’ (2020, p. 34).

It is worth noting that Joshi’s discussion of the threat to liberalism posed by migration from deeply illiberal populations in both his forthcoming and his 2018 is purely theoretical. In his 2018 paper he contemplates (pp. 262-263) the effect of large-scale migration from the nation of ‘Theocracy’ (characterized by blasphemy laws, the subjugation of women, and so on) to the country of ‘Liberal Democracy’ (which instantiates generally tolerant norms). In his subsequent work he worries about the same set of regressive, pre-Enlightenment beliefs referenced in his earlier paper, without assigning them to an imaginary country. In neither piece does he explicitly refer to political Islam or Muslim immigration, and he provides no empirical data regarding the nature and extent of this danger.

In contrast, our argument does not involve navigating what appear to be indeterminate trade-offs between the freedoms the liberal state confers on its residents and the supposed right of free movement. If the primary duty of a liberal state is, as we argue, to safeguard the freedom of the persons under its jurisdiction, and if it turns out that unrestricted inflows from deeply illiberal states imperil these liberties, then such facts seem to provide good reason for immigration control. We are open to the possibility that there are serious, even fatal flaws in our argument, but these would only be revealed by engaging with it.

Thus, while Joshi considers a number of arguments against open borders and considers how libertarians may respond to them, his paper is notably weak because he does not consider the strongest argument against open borders, namely, the argument that we develop in our 2020. Popper advised that, 'There is no point in discussing or criticizing a theory unless we try all the time to put it in its strongest form, and to argue against it only in that form' (1973, p. 266). Why does Joshi, in contravention of Popper's advice, state the case against open borders without considering the strongest form of the argument?

It seems unlikely that Joshi was simply unaware of our work. It was published in *Cosmos + Taxic*, in early April, 2020, a full eight months prior to the dissemination of Joshi's draft under discussion (dated December 2020); it was posted in draft form on the Academia.edu site (which is where we discovered Joshi's forthcoming chapter) for more than six months prior to being published; and that draft was discussed by the journalist Sam Kiss in his 2019. Joshi is an accomplished academic philosopher, so we must assume that he conscientiously searched the literature for relevant scholarship, especially any research that discussed his own writings, prior to submitting his final draft to the editors of this anthology. It seems that he made a deliberate decision to ignore our article. The effect is not just that his readers will be deprived of the opportunity to consider what we regard as a stronger, liberty-based argument for immigration control, but that they will also be deprived of data enabling them to make a more informed judgment regarding the imminence of the threat to liberal democracies posed by open borders. There are now major political parties pushing for restrictions on Muslim immigration across Europe, including in France ('National Rally'), Germany ('Alternative for Germany'), Italy ('Northern League'), Denmark ('Danish People's Party'), and Sweden ('Sweden Democrats'), among many others. As evidenced by the support President Trump received for his so-called 'Muslim Ban,' this sentiment is also present in the US. In short, this is one of those relatively rare instances where academic theorising has direct, real world implications.

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