

Peter W. Higgins
Immigration Justice
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In *Immigration Justice*, Peter W. Higgins argues that a state's immigration policies may not permissibly harm unjustly disadvantaged social groups within or outside of that state's borders when such harm is avoidable. Higgins calls this the Priority of Disadvantage Principle (PDP), which he posits as "a universally applicable necessary condition of the justice of nation-states' immigration policies" (110). He is strongly concerned with the ways in which migration, particularly by wealthy and "highly educated" people from the Global South to the Global North, can harm members of the most disadvantaged social groups in the Global South who are themselves unable to migrate to improve their economic situations. Like Thomas Pogge, Higgins warns against viewing the loosening of immigration restrictions as an uncontroversial "development strategy" via which the Global North may discharge its economic obligations to the Global South. He presents, instead, a justification of certain immigration restrictions on the basis of his PDP---thereby offering a circumscribed "closed borders" position.

In chapter 1, "The Philosophical and Empirical Context," Higgins argues for a social group-based analysis of immigration justice, arguing that "the way an immigration policy affects a person is not idiosyncratic, but rather is a function of that person's gender, race, economic class, sexuality, ability, age, and citizenship status, among other things" (1). This may seem intuitive, but we must bear in mind that the political philosophy of immigration has historically regarded immigration policy as affecting individuals almost entirely idiosyncratically (in fact, this vision remains dominant in much immigration philosophy today).

Higgins then makes three key claims that will ground his policy recommendations in the ensuing chapters: (1) states need to be attentive to the ways that their immigration policies affect those outside of their borders; (2) it is generally *not* the most unjustly disadvantaged who migrate to the Global North; and (3) those who are often most negatively affected by Global North immigration policies are nonmigrating foreigners who are the most disadvantaged in their countries of origin (and who therefore cannot afford to migrate).

In chapter 2, "Nationalist Approaches to Immigration Justice," Higgins makes a thorough and convincing argument against nationalist justifications for a range of immigration restrictions--- particularly those of Michael Walzer, David Miller, and Stephen Macedo. It is beyond the scope of this review to present the entirety of Higgins's careful arguments against these approaches; I offer here only a brief summary of what is in my view a successful chapter.

Higgins focuses primarily on *prescriptive nationalism*, or the claim that states ought to choose immigration policies that accord with their national interest. Both Walzer and Miller maintain, in different ways, that states ought to exclude because doing so is required for preserving national identity (which is in the national interest). But both thinkers err, argues Higgins, in confusing states with nations. States, which do the actual excluding, are mere "coercive apparatuses," whereas nations are the spaces where group-based identification and other features of national identity are developed. Another problem Higgins explores is the fact that Walzer, Miller, and Macedo all regard the duties of states toward foreigners as mere charity rather than the "circumstances of justice" that they in fact represent.

In chapter 3, "Cosmopolitan Approaches to Immigration Justice," Higgins argues--- controversially, I believe---that cosmopolitan defenses of open borders fail because "they are either internally inconsistent or . . . fail to justify their conclusions," while resting on "false empirical assumptions about immigration and global political and economic institutions" (60). Higgins offers a detailed presentation of leading cosmopolitan (or quasi-cosmopolitan) positions, including those of Joseph Carens, Phillip Cole, Michael Blake, Mathias Risse, and Shelley Wilcox. Chapters 2 and 3, read together, provide an excellent overview of contemporary immigration philosophy for the unacquainted reader; *Immigration Justice* would serve as a valuable text for an undergraduate or graduate seminar on immigration philosophy. For the purposes of this review, however, I will restrict my focus to those elements of chapter 3 that appear central to Higgins's own argument.

Perhaps the most prominent cosmopolitan argument for open borders comes from Joseph Carens, who equates our national borders of today with feudal birthright privilege of the past. Carens argues that given that opening borders will create greater economic opportunities for the global poor, just states are required to open their borders. However, as previously stated, Higgins rejects this claim. He argues that "the ability to migrate transnationally demands material means that, for the most part, only those who are relatively privileged, economically and educationally, possess" (63).

Not only is transnational migration an unavailable option for those who lack such privileges, argues Higgins, the transnational migration of *others* can actually harm the most disadvantaged groups in the Global South. It is well known that when wealthy and/or highly educated people migrate from the Global South to the Global North, this can create a "brain drain" that further marginalizes the worst-off. Furthermore, Higgins argues that migration can be harmful for women on a global scale, particularly when female migrants are systematically exploited as sex workers and underpaid, disrespected domestic workers. In sum, cosmopolitan arguments for open borders fail, Higgins says, because an open borders policy would fail to benefit, and would in fact harm, the world's most disadvantaged social groups.

The final chapters of *Immigration Justice* are devoted to developing and defending the Priority of Disadvantage Principle, which is a significant conceptual contribution to the philosophy of immigration. Once again, according to the PDP, a state's immigration policies may not permissibly harm unjustly disadvantaged social groups within or outside of that state's borders when such harm is avoidable. Higgins's defense of the PDP is characteristically careful, elaborate, and clear. His account of social groups engages the respective views of Ann Cudd and Iris Marion Young. Higgins then argues that a social group is disadvantaged "when its members (on average) experience a relative lack of central human capabilities, or positive freedoms," or when its members "are less able to do certain things or achieve certain ends . . . relative to some standard" (122). An immigration policy avoidably harms a disadvantaged social group when there is "a mutually exclusive immigration policy under which that group would be better off" (139).

What does all this mean for immigration policy? Higgins's answer is almost exclusively concerned with the question of immigration admissions. He argues that Global North states cannot exclude the absolute poor if granting them entry would render them better-off. However, states can exclude those whose threshold of poverty is merely relative, not absolute, for the reasons previously explored. I look forward to future work from Higgins on the other sorts of immigration policies that the PDP would generate.

Immigration Justice offers an innovative, though controversial, argument that productively engages both "mainstream" philosophy of immigration and feminist philosophy. Although its most noteworthy conceptual contribution is certainly the PDP, Higgins's project is also to be credited for conceiving of immigration policy as raising crucial concerns of *structural* justice. Though this strategy has been employed by a number of immigration philosophers working in feminist and/or Latina/o philosophy (important examples of such work come from José Jorge Mendoza and Shelley Wilcox), Higgins's particularly nuanced and sustained account of structural immigration justice is a significant contribution to this conversation.

One objection I wish to raise in response *Immigration Justice* pertains to Higgins's argument against cosmopolitan justifications of open borders. I do not think that argument succeeds. Recall the three claims Higgins makes to ground his argument for (circumscribed) closed borders: (1) states need to be attentive to the ways that their immigration policies affect those outside of their borders; (2) it is generally *not* the most unjustly disadvantaged who migrate to the Global North; and (3) those who are often most negatively affected by Global North immigration policies are nonmigrating foreigners who are the most disadvantaged in their countries of origin (and who therefore cannot afford to migrate).

I regard 1-3 as true and uncontroversial in the context of our current social world. However, these claims give us information only about migration patterns in the closed-borders world in which we now live. In order for Higgins's argument to work, it must hold true that even in the absence of national borders, the most disadvantaged groups in the Global South will still be unable to migrate. But we do not know if this is true, for we cannot unreflectively employ data about migration patterns in our *closed-borders* world to predict what they would look like in an *open-borders* world.

In other words, it is indeed true that the most disadvantaged generally *do not* migrate in our present world in which such migration is often illegal, and (as an example) practically the only way for highly socioeconomically marginalized Mexican citizens to enter the United States is through paying at least \$3,000 to a coyote and risking death and other forms of extreme violence in an unauthorized border crossing. But it is at least possible that the current *status quo* of migration patterns would be altered dramatically if open-borders policies were adopted on a global scale. Opening the borders might, in fact, give those who are most disadvantaged unprecedented opportunities to migrate. In this case, opening the borders would respect, and not violate, the PDP.

A bit of imaginative speculation shows why this could be the case. It is far easier to save money for a legally authorized bus ride across the US-Mexico border than to pay a coyote to help one engage in an unauthorized border crossing. It is far more difficult to send substantial remittances home to one's family, in hopes of taking them out of poverty, when one is constantly underpaid as an undocumented laborer. In an open-borders world, no one would be undocumented, and wages for migrants (and, in turn, the remittances they send home) might increase. It is far more difficult to migrate, and to stand up for your rights in a new country, when you simply lack legal means to do so. In sum, our closed-borders system sharply influences who is able to migrate, and the lived experiences of those who do migrate.

It is important to note that when Higgins speaks of the most disadvantaged social groups in the Global South, he is referring to the absolute poor who "are severely malnourished, are suffering from easily and cheaply preventable or treatable diseases, or do not have access to drinking water" (63). Perhaps the absolute poor would still be unable to migrate in a world without borders. Yet one can at least imagine a new strategy of humanitarian aid designed to help those facing absolute poverty to migrate to the Global North under an open-borders system. The absence of national borders could radically alter our understanding of humanitarian possibilities.

I am far from offering an argument that the most disadvantaged absolute poor would, in fact, be able to migrate in an open-borders world. I merely wish to suggest that Higgins's argument against open borders is less than successful because it rests on inadequate data; it assumes without justification that migration patterns from our closed-borders world would also hold in an open-borders world. I am therefore unconvinced that the PDP necessarily generates the sort of closed-borders policies advocated by Higgins.

To conclude, *Immigration Justice* contains an assortment of virtues. It offers a terrific overview of key positions in contemporary immigration philosophy. Higgins's picture of immigration justice is certainly innovative; he gives a circumscribed defense of closed borders that aims to respond to the needs of the most disadvantaged as opposed to the philosophically shaky claims of prescriptive nationalism. The PDP is not only philosophically rich but also potentially useful for crafting a range of forward-looking immigration policies. Even if I am correct that Higgins's argument against open borders is not entirely successful, the PDP is nevertheless an important conceptual tool for those seeking to articulate the structural injustices of our current immigration system. *Immigration Justice* may be the only book-length philosophical treatment of structural

immigration justice, which makes it, in my view, a must-read for immigration philosophers working from the subfields of Latina/o and feminist philosophy.