

# Reviews

*Unjust Borders: Individuals and the Ethics of Immigration*, Javier S. Hidalgo (New York: Routledge, 2019), 214 pp., \$140 cloth, \$54.95 eBook.

doi:10.1017/S0892679419000534

The phrase “the ethics of immigration” appears in the title of a number of books, articles, and conferences in philosophy and political theory. However, most scholars whose research concerns the normative aspects of transnational migration write about the *political* morality of immigration policies, while almost none of these philosophers and political theorists write on the ethics of immigration per se. This fact makes Javier Hidalgo’s *Unjust Borders: Individuals and the Ethics of Immigration* a truly unique contribution to the philosophy of immigration. The book does include an examination of the political morality of immigration policies (the author argues for open borders), but it does so for the purpose of setting up its central question: How should individuals respond to unjust immigration policies? Hidalgo’s answers to this question are tantalizing and provocative. In short, he argues that individuals are not morally obligated to comply with unjust immigration laws, and that in many cases individuals are morally obligated to resist them.

*Unjust Borders* has two substantive parts. In the first, Hidalgo seeks to establish that the immigration policies of wealthy liberal democracies are, at least for the most part, unjust. In support of this, he argues in

chapter 1 that respect for fundamental liberal freedoms is incompatible with most formal barriers to immigration. His defense of open borders is a familiar one; like Joseph Carens and others, he argues that if restrictions on freedom of domestic movement are contrary to liberal values, then restrictions on transnational movement are unjust for the same reasons. In chapter 2, he briefly considers the primary cosmopolitan objection to open borders (that it would exacerbate the harms of brain drain in the world’s poorest countries), but devotes most of his attention to the common grounds of nationalist resistance to open borders, responding compellingly and in largely original ways. Hidalgo allows that immigration restrictions can be justified in principle (when they prevent serious harm that cannot be prevented by other means). However, he argues in chapter 3 that because majorities in countries of immigration harbor ethnocentric biases against immigrants and are generally misinformed about the effects of immigration, states tend to adopt policies that restrict immigration to an extent far greater than is necessary to prevent serious harm.

Having debunked a variety of claims about harms to receiving countries that immigration restrictions are alleged to

*Ethics & International Affairs*, 33, no. 4 (2019), pp. 511–519.  
© 2019 Carnegie Council for Ethics in International Affairs

prevent, Hidalgo concludes that most actual immigration policies are unjust. Minimally, justice requires that liberal states permit increasingly larger numbers of immigrants to enter each year until serious harm occurs or until borders are effectively open.

The book's first three chapters serve as a sort of prelude to its main purpose and primary contribution to the literature. Chapter 4 argues that immigration restrictions, like slavery in the ancient world and in the United States prior to the Civil War, are an "entrenched injustice" because "(1) observers are capable of recognizing that this practice is seriously unjust and yet (2) this practice is reliably resistant to reform or rectification" (p. 102). In view of this, migrants may permissibly evade, deceive, and use (necessary and proportionate) defensive force against state officials who enforce unjust immigration restrictions, just as one may permissibly evade, deceive, and use force to defend oneself against an unprovoked attacker. In chapter 5, Hidalgo notes that none of the standard reasons for which individuals have a moral obligation to obey the law apply in the case of foreigners excluded by unjust immigration laws. Since, in cases in which one may permissibly defend oneself, others may defend one as well, he argues in chapter 6 that smuggling migrants is morally permissible in principle, and even morally obligatory in some cases. In his final chapter, Hidalgo argues that ordinary citizens and state officials contribute to an unjust social order by complying with immigration restrictions (for example, by monitoring, reporting, or denying employment to unauthorized immigrants), and therefore morally must refuse to do so, even in the event of significant cost to themselves.

Hidalgo's conclusions are generally well defended, but it is their controversial nature

and the originality of the questions he asks that make for what is perhaps the most exciting book in the philosophy of immigration in quite some time. Nevertheless, a gap in his argument calls into question some of his conclusions about the permissibility of resistance: namely, the fact that a law or practice is an entrenched injustice (as he conceives of it) seems insufficient to make resistance morally permissible.

Hidalgo argues that immigration restrictions are an entrenched injustice because their injustice "is accessible to people. That is, most people can understand, evaluate, and appreciate the argument for open borders. *If these arguments are sound*, then people should be able to recognize that broadly open borders are morally mandatory" (p. 102, emphasis added). However, the permissibility of resistance seems also to require that it is a sufficiently established moral judgment that the law or practice is unjust.

I cannot give an account here of what it would mean for a moral judgment to be sufficiently established, but the claim that open borders are morally mandatory would probably not satisfy the criteria of even the most permissive accounts. As evidence, note that among those who specialize in the study of the normative aspects of global migration and immigration policy, the notion that justice requires open borders is highly controversial; the majority of philosophers and political theorists of immigration believe that some nontrivial restrictions are just—and not only on the morally suspect nationalist grounds on which Hidalgo focuses his critical attention.

In contrast, there are some moral judgments on which nearly all philosophers and political theorists of immigration agree: for example, that the practices by which most liberal democracies not only deny territorial access to people seeking

asylum but also withhold refugee status for those who arrive within their borders are unjust; that it is unjust to deny a path to citizenship to people who were brought into a country without authorization as children; and that unconditional restrictions on emigration are unjust. This suggests that even if Hidalgo's argument that justice requires open borders is in fact sound, there is a reasonable basis for doubt that this is so.

A plausible account of what constitutes a sufficiently established moral judgment must be sensitive to historical cases of resistance to injustice. As Hidalgo notes, through most of human history, slavery was widely regarded as just, and for this reason I cannot say that I am confident that he is wrong about the permissibility of resistance to the immigration laws of liberal democracies. Nevertheless, his account of entrenched injustice seems incomplete. A compelling (arguably sound) argument for open borders warrants the belief that immigration restrictions are unjust, but morally permissible resistance to immigration restrictions that one regards as unjust

probably requires a greater basis for epistemic confidence.

Hidalgo explains that the value of considering how individuals ought to respond to unjust immigration laws is that a person's conduct is under their own control. This exploration of the personal ethics of immigration gives *Unjust Borders* a significance that is rare in the existing literature. Most philosophers and political theorists of immigration write on policies we have little hope of influencing. Hidalgo provides a set of recommendations on which individuals can act; and while his recommendations in many cases border on scandalous, they make *Unjust Borders* philosophically exhilarating. I question whether Hidalgo has established the moral permissibility of resistance to the immigration laws of liberal democracies wholesale, but for those laws whose injustice is sufficiently established, he has made a very strong case.

—PETER W. HIGGINS

*Peter W. Higgins is professor of philosophy and women's and gender studies at Eastern Michigan University. He is the author of Immigration Justice (Edinburgh University Press, 2013).*

***The New Rules of War: Victory in the Age of Durable Disorder***, Sean McFate (New York: William Morrow, 2019), 336 pp., \$29.99 cloth, \$17.99 paper, \$12.99 eBook.

doi:10.1017/S0892679419000510

If marking up the margins of a book with notes and queries is a sign of the reader's interest, then *The New Rules of War* engaged me as have few other books in years. With this book, Sean McFate has written an important and, I suspect, deliberately provocative piece of work. He brings unusual and impressive credentials to the debate over national security and the future of warfare. A former officer

in the 82nd Eighty-Second Airborne Division who has also trained local troops and conducted operations for an international security firm, McFate now teaches at the National Defense University and the School of Foreign Service at Georgetown University. McFate challenges much conventional wisdom and his "rules" point the way to a strategy for twenty-first century defense and security.