**Introduction essay: migration justice in a cruel Covid-19 world**

Gillian Brock

Philosophy, School of Humanities, University of Auckland, Auckland, New Zealand

**ABSTRACT**

This is an introductory essay for a special symposium on Gillian Brock’s recent book, *Justice for People on the Move: Migration in Challenging Times* (Cambridge: Cambridge University Press, 2000).

While migration has dominated contemporary political discourse for some years, around 2016, the situation escalated dramatically. Suddenly migration ‘crises’ were everywhere. The large-scale exodus from Syria prompted a vast population of desperate people to undertake increasingly dangerous journeys. Migrants were literally washing up on European beaches. Keeping foreigners out became something of a global obsession among affluent states. Presidential candidate Donald Trump promised to build a wall and get Mexico to pay for it. In January 2017, President Trump issued his notorious executive order prohibiting Syrian refugees from entering the US, and placing a travel ban on people from seven nations that have large Muslim majorities. He also promised to deport undocumented residents in the US as never before. The successful campaign for Britain to leave the European Union invoked much fear concerning rising numbers of immigrants. Canada and New Zealand passed legislation aiming to restrict foreign ownership of property. Australia stepped up naval patrols ensuring any potential unauthorized boat arrivals were turned back long before they reached the country’s shores, holding so-called boat people in offshore detention centres in which mental illness and self-harm became common.

According to recent global Pew Research Centre studies, about 45% of the people around the world believe migration levels to their country should be reduced (Connor and Krogstad 2018). Immigrants are a popular scapegoat for all manner of perceived ills, including job losses, increased terrorism threats, rising housing costs, or deteriorating provision of social services. Anti-migrant candidates riding this prorestrictionist tide have been successfully elected to political office in surprisingly high numbers. And, alarmingly, even in places, such as Brazil and Germany, that had recently prided themselves on promoting inclusive, welcoming environments for migrants.

**CONTACT** Gillian Brock  
© 2021 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group.
This is an Open Access article distributed under the terms of the Creative Commons Attribution License (http://creativecommons.org/licenses/by/4.0/), which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.
I found these trends deeply disturbing and they are in the background of why I wrote *Justice for People on the Move*. The book hopes to engage those who are interested in questions of migration justice and in answers that can also help assess current policy. So, the book is for those who wish to engage in reflection on questions that underlie immigration debates, such as: May each state decide its immigration policy as it sees fit? Are there any robust normative constraints on the policy states may permissibly adopt? What responsibilities do we have in relation to migrants? And in answering those kinds of questions, I aim to offer answers and tools that assist in evaluating current migration policy, that can help us determine which policies may be permissible and which are normatively indefensible.

Early chapters review some salient history concerning human migration, in order to place new migration challenges in some context. I then begin to develop a normative framework that allows us to address contemporary challenges. A central question we must address is as follows: How can any current occupants of the territory justifiably prevent anyone from migrating into their space, given our knowledge of how most settlements came into being? What case can be made that states and the boundaries they vigilantly guard are justified?

Chapter 3 seeks a justification for states’ claims to have rights to self-determination that entail the right to control admission to their territory. Today we live in states that assume they have certain rights (such as rights to admit and exclude from their territory) and that agents of the state may act in certain ways that privilege the interests of their citizens. What justification can be offered for these arrangements? And, importantly, what compelling justification can be offered to ‘outsiders’, those who currently find themselves beyond those borders and who might like to cross them? In seeking a justification, we discover that in order for states to have robust rights to self-determination within a state system, they will also have many responsibilities. A state’s ability to exercise political power legitimately depends on its respecting human rights adequately and co-operating in a host of trans-border activities, programmes, and institutions that have as their aim securing robust arrangements capable of effective human rights protection. Performance in both of these dimensions affects whether we have a legitimate state system, along with whether there are adequate contingency arrangements in place to deal with important shortfalls.

Successive chapters focus on specific contemporary issues such as Trump’s series of Muslim bans and the challenges presented by new threats to deport long-settled members of communities who do not formally enjoy the legal status of citizens, but rather are classed as ‘undocumented’, ‘irregular’ or ‘illegal’ migrants. I also cover some reasonably new challenges associated with massive refugee populations, focusing on forms of assistance that promote multiple stakeholders’ interests in working towards durable arrangements that can underwrite peace-sustaining post-conflict societies. Other focused chapters include ones on justice for temporary labour migrants and another discusses how to deal with alleged new terrorism and security threats posed by migration. We see important concerns that arise about the measures we should take to protect against the perceived threat when they violate other demands for justice. For instance, excessive public expenditure in one domain when further outcome gains are insignificant and other important basic rights remain unaddressed, is relevant to assessing how well justice is achieved in particular societies.
Chapter 9 addresses two important questions: How open should states be to more migrants? What responsibilities do states and citizens have in connection with reducing migration injustices? It also addresses key objections to the account of migration justice and its core recommendations. A legitimate state system must include rights to a fair process for determining migrants’ rights, especially concerning rights to admission and to remain. While this would generally lead to an opening of borders, important constraints on such opening would still remain, such as those that are relevant to respecting, protecting, and fulfilling the human rights of those already residing in the territory. The position might be characterized as a human-rights oriented middle ground between the positions of those who argue for open borders and their critics. The final part of the chapter returns to the issue of whether our state system can currently be regarded as legitimate. As matters stand, the state system cannot yet pass a basic legitimacy test, but there are some important corrective mechanisms in view. I highlight the direction we must take if we aspire to a legitimate state system capable of supporting justice for people on the move.

In the essays that follow, Desiree Lim engages primarily with the chapter on Muslim bans and interrogates whether the reasoning offered for the indefensibility of Muslim bans carries over to other contemporary bans such as those associated with Covid-19. Like Lim, I believe that travel prohibition to prevent the spread of a pandemic can be justified. Examining several contextual features surrounding travel bans is important for assessing whether apparently similar migration policies can be justified.

Tyler Paytas focuses his article in a similar space. He marshals an argument that defends the permissibility of certain bans on religions when they might threaten liberal democracies. This might be the case when (for example) a large portion of the population from those countries reject core liberal values like the equal rights of women. While I appreciate his motivating concerns, one line of argument I use in response is that we must consider each case on its merits, weighing the reason why migrants wish to gain admission carefully, along with other individual characteristics, before we can make overall judgements. Blanket ban policies do not give due consideration to individuals and this affects the plausibility of the claim that they pose a threat to liberal institutions in some general way.

Shelley Wilcox extends the analysis offered in the case of refugees to see how well it applies to climate refugees. As she notes, there are considerable resources in my account that can assist. Those members of environmentally displaced states are vulnerable to unique losses such as their political autonomy. They have strong interests in resettling together so they can continue their shared ways of life on a new territory, as a self-determining community. We agree that the international community has important duties to such communities to support continued political self-determination and access to new territory. I discuss several creative possibilities for discharging such duties.

David Owen also critically engages with my analysis of how to assist refugees arguing, for instance, that its focus on economic rights and its neglect of political rights is a mistake. I show why my strategy of aiming to secure more rights for refugees by seeking mutually beneficial policies, especially in the economic domain, is a defensible strategy that can yield real improvements for migrants and position us well for additional future gains. I also argue that political rights are valuable because of the way they
underwrite the right to have rights. But if we can secure a wider set of rights more robustly, we should consider such strategies valuable too. And it is this alternative strategy that I champion, especially in so far as we hold each other to account well for the expansive rights framework we jointly uphold.

Lukas Schmid engages with my account of why deportation is frequently impermissible, arguing that a harm-based rather than a rights-based account is superior. I show why it is reasonable to make assumptions about human beings and how they standardly behave when they have formed located life plans over many years. Such assumptions underlie my human rights approach. Human rights do some of the valuable work needed to make justice-relevant judgements. We can make adequate provisions for the variations that concern Schmid.

In my response essay to these stimulating challenges, I further develop my model for migration justice, showing how it can help provide important scaffolding for seeking justice with the contemporary migration challenges we face. We see how a human rights framework has the potential to bring about important progressive change. We should harness some of the real-world policy instruments available to reduce migration injustice.

Disclosure statement

No potential conflict of interest was reported by the author(s).

ORCID

Gillian Brock http://orcid.org/0000-0003-1430-5449

Reference

Connor, P., and J. Krogstad. December 10, 2018. “Many Worldwide Oppose More Migration – Both into and Out of Their Countries.” Pew Research Center. https://www.pewresearch.org/fact-tank/2018/12/10/many-worldwide-oppose-more-migration-both-into-and-out-of-their-countries/