

Our Columnists

United States: Trump's Opponents Aren't Arguing for "Open Borders"—But Maybe They Should

Monday 25 June 2018, by [GESSEN Masha](#) (Date first published: 22 June 2018).

Now seems like a good moment to admit that we don't know what we are talking about when it comes to immigration. President Trump has signed an executive order that is intended to stop the separation of families at the border, but not the policy of prosecuting and detaining everyone who is seen as crossing the border illegally. If the Administration has its way, asylum seekers will be warehoused together with their family members. The number of ice facilities will grow, as will the number of people whom this country incarcerates without a clear legal procedure, and without an end in sight [1]. And, if the recent history of the immigration debate is any indication, the opposition to Trump will have little to say about that.

During the weeks of controversy surrounding the policy of separating families at the border, the Trump Administration has succeeded in framing the debate as one between supporters of enforcing immigration law and supporters of open borders. When he cited the Bible [2] as justification for the family-separation policy, Attorney General Jeff Sessions also used it to attack his imaginary opponents: "I don't think there is a scriptural basis that justifies any idea that we must have open borders in the world today." At a rally in Minnesota on Wednesday [3], Trump declared, "The Democrats want open borders." Sadly, this is not true: no voice audible in the American political mainstream is making the argument for open borders. Since Trump's apparent concession on the issue of separating families, two prominent commentators on the right have argued for fortified border security [4], and even for the wall itself [5]; some pundits have encouraged Democrats to move further to the right on immigration [6]. No counterargument has emerged from the left. The existence of borders, and the need and right to police them, are among the unquestioned assumptions in the conversation. Other assumptions are that meaningful and necessary distinctions exist between refugees and asylum seekers on the one hand and economic migrants on the other, and between political and non-political persecution.

Earlier this month, Sessions reversed an Obama-era policy of granting asylum to victims of domestic and gang violence]. He explained that "the asylum statute does not provide redress for all misfortune." Government persecution might be grounds for seeking asylum, he wrote [7], which defined a refugee as a person possessing "a well-founded fear of being persecuted for reasons of race, religion, nationality, [or] membership of a particular social group or political opinion." Still, who can possibly proffer a meaningful way to distinguish between economic and political disenfranchisement? What about a well-founded fear of violence and death? Does a seriously ill girl from Honduras deserve to die more than does a gay man who could be executed in Iran? Does a taxi-driver from Brazil deserve to risk violence at the hands of a gang more than a Russian journalist deserves to risk it at the hands of the government? Does a woman deserve to face rape and beatings

at the hands of her husband more than a Syrian man deserves to be executed by ISIS? These questions are impossible to answer, and the comparisons, of course, are absurd. To avoid thinking about them, we fall back on the artificial distinctions between immigrants and refugees, or between public and private violence. Or, even more simply and cruelly, on the certainty that every state has a right to protect its borders against outsiders.

Outside the political mainstream, activists and academics have questioned the certainty that borders must be protected, or that those who live within the borders are automatically entitled to enforce them. In a recent academic collection [8], Kieran Oberman, a political theorist at the University of Edinburgh, makes the case for a human right to immigration. He argues that the right to enter a country and spend any amount of time there—though not necessarily the right to obtain citizenship—flows naturally from universally declared human rights to freedom of movement, freedom of association, and freedom of occupational choice. In an interconnected world, it is often necessary to cross borders for personal, professional, and political reasons. The last is the most interesting part of Oberman’s argument: the right to meaningfully participate in politics—to exercise the human right to freedom of assembly—increasingly requires individual action, and movement, across borders.

Sarah Fine, a political philosopher at King’s College, in London, who is working on a book on the “right to exclude,” or the right of states to keep people out, has raised another provocative argument [9]. If democracy is a system that guarantees the right of the governed to participate in the governing process, then democracy confined to protected national borders contains an internal contradiction. Those who are banned from entering a country are, in effect, governed—the Central American mother at the border whose child is ripped away from her by U.S. Border Patrol agents is being governed in the extreme—yet they have no say in the rules, or in the election of those who make them.

Neither Oberman’s nor Fine’s lines of thought are arguments for open borders, though perhaps they should be. And, contrary to official declarations, opposition to Trump’s war on immigrants does not rest on the defense of open borders. But thoughtful opposition should include at least questioning the facile dichotomies and the unchallenged premises that undergird the current immigration conversation.

Masha Gessen

P.S.

* The New Yorker, June 22, 2018:

<https://www.newyorker.com/news/our-columnists/trumps-opponents-arent-arguing-for-open-borders-but-maybe-they-should>

* Masha Gessen, a staff writer, has written several books, including, most recently, “The Future Is History: How Totalitarianism Reclaimed Russia,” which won the National Book Award in 2017.

Footnotes

[1] <https://www.newyorker.com/news/news-desk/the-new-border-crisis-following-trumps-executive>

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[2] <https://www.newyorker.com/news/daily-comment/what-the-bible-really-says-about-trumps-zero-tolerance-immigration-policy>

[3] <https://www.newyorker.com/news/our-columnists/never-mind-the-children-in-duluth-trump-celebrates-himself>

[4] <https://www.theatlantic.com/politics/archive/2018/06/need-for-immigration-control/563261/>

[5] http://nymag.com/consent.html?redirect_uri=%2Fdaily%2Fintelligencer%2F2018%2F06%2Fto-end-the-border-crisis-for-good-give-trump-his-wall.html%3Fvia%3Dgdp-consent&redirect_host=nymag.com&orig_qs=

[6] <https://www.theatlantic.com/international/archive/2018/06/emmanuel-macron-democrats-immigration/563378/>

[7] <https://www.nytimes.com/2018/06/11/us/politics/sessions-domestic-violence-asylum.html>], but “private violence” is not. Opponents of the decision argue that when governments fail to protect citizens from violence in the home or in the street, victims can be viewed as suffering from political persecution. But both sides of the argument assume that for a person to qualify for the right to seek refuge in another country, the persecution has to be political.

The logic of dividing refugees from other migrants took root in the aftermath of the Second World War and was enshrined in the 1951 United Nations Convention and Protocol Relating to the Status of Refugees [[<http://www.unhcr.org/en-us/3b66c2aa10>

[8] <https://global.oup.com/academic/product/migration-in-political-theory-9780199676606?cc=ca&lang=en&>

[9] <http://philosophybites.com/2018/02/sarah-fine-on-the-right-to-exclude.html>