

Open Borders and the COVID-19 Pandemic

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Abstract: This paper considers the implications of COVID for open borders. It notes that while COVID concerns do not directly challenge arguments for open borders, the pandemic has revealed two more general phenomena that are salient for such arguments. The first concerns the increasing unmooring of legal borders from physical spaces and the interaction of surveillance and identification technologies with this process. The second addresses the issue of interdependency and the potentially negative implications of open borders if not underpinned by a global basic structure.

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As of April 22, 2020, the United Nations High Commissioner for Refugees (UNHCR) estimates that 167 countries have so far fully or partially closed their borders to contain the spread of the virus (UNHCR 2020). Free movement in the Schengen zone is suspended with EU member states re-establishing national border controls. States, more generally, have defaulted to prioritizing bringing citizens who are transient absentees back “home.” The response to COVID-19 has seen a governmental re-assertion of the fundamental form of the statist imaginary according to which “the state” is pictured as an answer to the question of who is responsible to, and for, whom in the modern world, where states see themselves as responsible to, and for, their own citizens. This statist reflex to close borders not only runs against World Health Organization (WHO) advice under current International Health Regulations but is having serious effects on the ability to deliver medical (and other) aid and technical support to address the coronavirus. Currently, *The Lancet* reports, “extraordinary steps are now having to be taken to mitigate the unintended effects of the travel restrictions” (Devi 2020).

Many of those individuals whose situations do not fit neatly within this statist picture have found themselves abandoned or neglected. National border closures in 57 states make no exception for refugees seeking asylum. The 2,000 Syrian refugees who crossed the border from



Turkey to Syria to celebrate the holy month of Ramadan with family have been trapped in Syria by Turkey's border closure (Erturk 2020). In Europe, asylum seekers remain stuck at Hungarian borders, in overcrowded and unsanitary camps in Greece, or sleeping rough under French bridges (Beirens 2020), while rescue boats in the Mediterranean are denied access to Italian and Maltese ports, and refugee settlement programs have been suspended (Lenard 2020). Within borders that have become instruments of quarantine, migrant workers in many states (e.g., Singapore [Lenard 2020], Gulf States [Amnesty International 2020]) face cramped living conditions amid which, as in refugee camps or detention centers, the virus can easily spread, while undocumented migrants are likely not only to be living or working under conditions that make safe distancing impossible but to resist going to hospital if they contract the virus for fear of being reported to border agencies or police (ETUC 2020). The plight of these figures is one indicator of the political failure of the statist imaginary in an increasingly interdependent world requiring cooperation across borders.

What implications does the COVID-19 pandemic have for arguments concerning open borders? Consider two initial responses.

The first, operating within the statist frame, simply argues that the act of territorial quarantining as an exceptional act for public health reasons does not pose any challenge to an ideal of open borders. If a city within a state goes into quarantine and prevents people entering or leaving, this does not mean that the state has abandoned the policy of a right to free movement within its borders, merely that the exercise of that right has been limited on the basis of over-riding public health considerations. Similarly, state closure of borders to international travel and migration as an act of quarantining can be viewed as an exceptional act in a world in which states see their primary obligation as to ensure the safety of their citizens. Such a view would note, however, that there is, even under these circumstances, an important moral limit on the state's emergency closure of borders, namely, that borders should not be completely closed because to do so is to violate the right to seek asylum of persons fleeing persecution or other violations of basic rights (Lenard 2020).

The second response points out that the global spread of the coronavirus was not a product of open borders because we don't live in such a world; on the contrary, we inhabit a world of highly regulated borders. Rather it was a product of global travel and trade, and unless we are willing to embrace quite radical forms of national autarky, we have little reason to think that actually having open borders would make a significant difference to our exposure to pandemics.¹ Indeed, increased global mobility might help reduce our exposure to some potential pandemics (Thompson et al. 2019).

Appeals by political commentators to the COVID-19 pandemic as grounding a critique of open borders are, on this view, simply otiose.

Both of these responses thus claim that the case for open borders is untouched by the coronavirus outbreak – and each of these arguments may be true as far as they go, but that is not very far. The issues that COVID-19 makes visible for arguments concerning open borders are deeper than this but also less direct. Here I want to focus on two such issues and the futures that they may point toward.

The “Shifting” Border

The first issue is the ongoing unmooring of “the border” from any fixed geographical location, to which Ayelet Shachar’s recent work has directed us (Shachar 2020a). In this work, Shachar highlights the phenomenon of the “shifting border” noting that the regulating of mobility and access to states has seen “a strategy that strives . . . to ‘push the border out’ as far away from the actual territorial border as possible” (Shachar 2020b). This practice means “screening people ‘at the source’ or origin of their journey – *not* the destination – and then again at every possible checkpoint along the way” (Shachar 2020b). This development has accelerated further under the conditions of the pandemic – as has its flipside, the extension of the border zone inward into the territory of the state to create zones in which immigration authorities can exercise powers without proper legal oversight. The border, in sum, “has become a mobile, agile, sophisticated, and ever-transforming legal construct – a *shifting border*, which can be planted and replanted in myriad locations, with dramatic implications for the rights and protections of those falling under its remit” (Shachar 2020b).

Under the emergency conditions of the current pandemic, further impetus is given not just to these measures but also to the use of digital surveillance and biometrics in technologies of algorithmic governance that individualize border controls: “As megacities become ghost towns, and once-bustling airports grind to a halt, the virus has generated a puzzling new enigma of a globalized world harbouring barricaded nations, all under the pervasive gaze of ‘all-seeing’ eyes” (Shachar 2020b).

These developments should be seen as posing significant ethical challenges for a world of open borders precisely because so much of this apparatus of governance is, in principle, compatible with such a world. A human right to freedom of movement is not an unconditional right and it is easy enough to see how data-driven biometric profiles of those seeking to move could become a central part of “open borders,” as they are

already part of the security governance of the global travel regime. Ironically, in an age of surveillance capitalism, the “securitization” of mobile borders at an individualized level could become one of the conditions for the practical realization of a world of “open borders” (and arguably there was already something of this in the operation of the Schengen zone). This issue requires advocates of, and arguments for, open borders to engage much more seriously in reflection on what the character of “borders” in a world of “open borders” would be – and what forms of constitutional and democratic control over “shifting borders” are needed to secure mobility rights without the loss of other freedoms.

Global Interdependency

The second issue that the current corona-crisis makes visible is that of interdependency within and across territorial jurisdictions, and the significance of “human rights infrastructures” within states.

Consider, first, examples such as the resurgence of the virus in Singapore as a product of the neglect of migrant workers, or the many deaths of immigrant medical and social care staff in the UK on the frontline of patient care that illustrate the dependency of the National Health Service on foreign-born workers. A virus that poses particular risks for the elderly and those with underlying health conditions has highlighted the presence across an ageing Europe of an invisible taskforce of poorly paid immigrant care-workers. (The irony of this situation in which the practitioners of “low-skilled” jobs are reframed as “key workers” is particularly acute in the Brexiting UK in the light of a proposed “skills-based” immigration policy that would refuse entry to the majority of the immigrant workers risking their lives to sustain the health-and-care infrastructure of the UK.)

Now note, second, that the ability to defeat the threat posed by this coronavirus (as well as others to come) is dependent not only on the healthcare infrastructure of your own state, but also on that of other states: we are, to a very significant degree, mutually dependent for our health security. Nor is this simply a matter of health, global supply chains are central to any plausible economic recovery. More generally, as Solberg and Akufo-Addo argue:

The pandemic has exposed fundamental weaknesses in our global system. It has shown how the prevalence of poverty, weak health systems, lack of education, and a lack of global cooperation exacerbate the crisis. If there was any doubt that our world faces common challenges, this

pandemic should categorically put that to rest. The crisis has re-enforced the interdependence of our world. It has brought to the fore the urgent need for global action to meet people's basic needs, to save our planet and to build a fairer and resilient world. We face common, global challenges that we must solve through common, global solutions. *After all, in a crisis like this we are only as strong as the weakest link.* (Solberg and Akufo-Addo 2020; my italics)

Here the pandemic discloses an issue that advocates of open borders have, for the most part, failed adequately to address. Freedom of movement within states is perfectly compatible with “wealthy enclaves” and “deprived ghettos,” and given current levels of global inequality, there is little reason to think that this phenomenon would not persist at the global level.

In terms of healthcare, to stick with this example, it is notable that while the revised International Health Regulations (2005) central to the new global health security regime expects states to develop a core set of public health competencies for detecting and containing outbreaks at their source. The Ebola crisis “revealed the weakness of affected countries’ health systems and, indeed, their neglect”:

This neglect is, in part, a consequence of the lack of international priority given to strengthening low- and middle- income countries’ capacities to manage outbreak events, and a reflection of a global health regime that privileged disease containment and control measures over those of prevention. (de Bengy Puyvallee and Kittelsen 2019)

This lack of priority can be seen as continuous with a more general lack of concern with respect to the health systems of such states, that is manifest in the continuing recruitment of medical staff from low- and middle-income states to serve to the ageing populations in high-income states. Thus, for example:

Ethiopia, Kenya, Malawi, Nigeria, South Africa, Uganda, Tanzania, Zambia, and Zimbabwe have lost more than \$2bn from training doctors who then migrated to one of the four developed countries: Australia, Canada, United Kingdom, United States. Medical education is typically highly subsidised by the public sector in African nations, with more than half of the medical schools in sub-Saharan Africa either offering free tuition or charging less than \$1000 yearly. At the same time, destination countries have saved billions of dollars in training costs by recruiting doctors who have been trained abroad. (Mills et al. 2011)

The recruitment and emigration of doctors from these (and other) African states reproduces a condition in which “Africa experiences 24 percent of the global burden of disease,” yet “it has only 2 percent of the

global supply of doctors, and less than 1 percent of expenditures are on global health.” As COVID-19 accelerates its spread into Africa, the lack of such health systems in many states is likely to become tragically apparent. Currently, for example, the WHO’s head of emergency operations in Africa notes that there are “only about 3000 doctors who have intensive care unit expertise in all of Africa” (Devi 2020).

The implication for arguments concerning open borders is that the legitimate governance of borders as “open” also means building conditions of global background justice through a global basic structure such that all states enjoy a resilient human rights infrastructure, including a well-functioning health system. Put more basically, opening borders and supporting the Sustainable Development Goals (SDGs) needs to be pursued in tandem, not least through SDG-supporting migration policies. Advocates of open borders need to direct their attention to the process of “opening” borders in ways that support and sustain, rather than undermine, the wider goals of global justice.

Conclusion

The current global pandemic does not offer a neat or direct riposte to arguments for open borders. What it does do, however, is to make visible the limitations of the statist imaginary while simultaneously disclosing features of borders and of global background injustice that arguments concerning open borders have not adequately addressed. COVID-19 is, among other things, a lens through which we can be brought to recognize not only the presence of inequalities within and across borders, but the dangers of such inequalities in a world of globalized interdependency—in a world striving, perhaps, for global democracy. No doubt some commentators² will see this as an opportunity for re-asserting a vision of national autarky and the rejection of liberal globalization. In my own view, it is rather the case that we need both to embrace the project of building a global basic structure that is being given initial shape through the pursuit of Sustainable Development Goals, while bringing the legal and technical constructions of borders under transnational constitutional and democratic control.

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NOTES

1. This second argument is advanced by Bryan Caplan 'Pandemics & Open Borders', www.econlib.org/pandemics-and-open-borders/
2. For a well-meaning social democratic version, see Glasman 2020.

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