

Introduction

Challenges to Liberalism with Borders

Hope is the desperate brother of despair. The following is a news report from a front line of our global migration crisis:

[O]n the tenth day of [Djipy Diop's] journey to the Canary Islands, everyone's prayers mingled together, voices rising jagged and hoarse, calling on the Great, the Merciful, to save them. Water poured over the sides as the wind knocked them from wave crest to trough and back up again... They ran out of food. Then they ran out of water. Some dipped their cups into the sea. Others jumped overboard, hallucinating land... Others babbled, terrified, unseeing... Diop saw men suffocate to death under others. "If you screamed no one would help you... It was every man for himself, God for all." When Diop finally reached Tenerife, he spent a month in a [Spanish] detention center before being sent back to Senegal.¹

He and tens of thousands like him had once made an adequate living fishing in small wooden boats off the Senegalese coast. Year by year his struggles grew. The mangrove forests along the coast where certain species had gone immemorially to spawn had shrunk. The warming of the seas pushed some fish stock farther out in search of colder water. Accessible stocks also dwindled as industrial-scale fishing boats from other nations invaded Senegal's coastal waters.

When he got back to Senegal, Diop told the journalist Laura Dean, he felt "a little crazy," and suffered nightmares. "The dead would come back to me at night. My parents would wake up at three and four in the morning because I was hitting the walls and doors in the dark... I no longer dream of the dead." In spite of the trauma of his attempt, Dean reports, Diop still thinks about leaving.²

There is no reason to believe that 2015, a year in which Germany alone admitted over one million strangers, will prove to have been the high-water mark of migration from the Global South into the wealthy and comparatively well-ordered countries of the North. Potentially tens of millions more, many not yet born, will attempt to

follow, pushed by the economic, social, and political pathologies of the lands of their birth and pulled by visions of affluence and security. They will go North toward hope.

The prospective arrival of tens of millions of Diops fills many, though by no means all, of the West's legacy inhabitants with, well, if "fear" is too strong a word, then let us say "anxiety" inspired by economic, cultural, and security concerns. For that part of the indigenous population viscerally aroused under the best of circumstances by the appearance of racially or ethnically disparate people, fear can mix with rage. The ranks of the enraged should shrink if the concerns which generate anxiety prove largely baseless. But what constitutes "proof" is often a contentious issue. The fact that Confederate flags are flown in parts of the United States one hundred and fifty years after the Civil War confirms, if confirmation were needed, that great hosts of people cling fiercely to their premises and prejudices.

Do those who read Diop's tale and tens of thousands like it without some empathic anguish have hearts of stone? Not necessarily. They may, like a couple I know, shake with pity for a beaten, starved dog they meet at the local shelter. They may even take it home, nurse it back to health, make it part of their family, while disparaging most forms of social support as giveaways to the unworthy. Or they may sympathize with humans too, unthreatening individual humans toward whom they feel a bond, an obligation, a sensation of identity – there but for the grace of God go I or my son: the veteran crippled by the Afghan war; the scarred fireman who came too close to the flames; the newly unemployed neighbor made obsolete by the workings of the marketplace; yes, and even the living remains of a once-large Syrian family introduced to the neighborhood by a sympathetic minister of a nearby church.

Compassion is not rare, just limited, the limits varying in part with the scope of our respective moral imaginations and in part with our sense of threat to our identity, our security, our status, our quotidian comforts. It is not unusual for people to take impoverished dogs home, but how many invite the cripple with the sign saying "VERY HUNGRY" to dine at their table or offer beds for the night to the exhausted mother and child who have fled the abattoir of Honduras, survived the long road through Mexico, and endured the nocturnal desert crossing to arrive in the United States?

Critical thinking, I tell my students, begins at home. None of us starts with a blank slate. In writing about migration I have tried to bring to the surface of my mind all those half-buried assumptions, preferences, and convictions about cause and effect which are the baggage of our intellectual journeys. In an effort to take each reader with me on this trip, I have tried to reveal mine, so that if, in the end, we arrive at different places, at least we will be clear about why we parted.

A MATTER OF PERSPECTIVE

You have a right to know at the outset, in the idiom of this identity-obsessed moment, where I am coming from. Which is the political camp I normally call home even if not all of the other residents, a fairly diverse lot, always recognize me as one of them? I approach the mass migration phenomenon from the standpoint of a twenty-first-century liberal who believes (1) that every human being should enjoy the rights enumerated in the Universal Declaration,³ (2) that public policy should seek to equalize opportunity, and (3) that really gross inequalities of wealth, even where not the result of predation, corruption, or market failure, are a threat to the long-term survival of liberal democracy.

A premise of the liberal imagination is that the ultimate meaning of life is not susceptible to common apprehension. Liberalism does not dictate a grand design to which all rational persons must conform their lives. Instead, all we have are competing convictions about the nature of the design, some more widely and zealously shared than others, or the conviction that there is no primordial design, only designs constituted by the various narratives respectively shared by one or another cluster of believers. If there is no design for life on which all people can in theory agree, whether guided by right reason or by revelation, then, given the human need for political community, we face two alternatives. One is perpetual struggle among groups of believers, each seeking to impose its preferred design on society. The other, the liberal alternative, is agreement within some limits to organize the political community on the basis of mutual acceptance of divergent beliefs about what conduct should be applauded and what conduct condemned.

Liberalism, however, is more than a mere pragmatic formula for coexistence. If that were all it is, how could it match the emotional power of the Abrahamic and pagan faiths, with their operative narratives? How could it compete with the ecstatic totalitarian political creeds, with their heroic races and classes, which engulfed the twentieth century in so much gore? Liberalism has its own dramatic story, a tale of Promethean individuals smashing through inherited constraints in pursuit of personal freedom *and a more just world*.

Understood this way, liberalism is a life-shaping view with a distinct history and established practices, rituals and symbols. It can thus be thought of as a culture and a faith, albeit one without deities. Hence there is an irreducible tension within liberalism. On the one hand, as I have proposed, it is a formula, the only possible formula (other than empire) for peaceful coexistence of diverse belief systems within a single political community. On the other, it is itself a belief system, at least a conviction about what constitutes a fulfilling life – continuous critical inquiry into the nature of things and the coincident shaping and revising of a life plan – and about the character of a good society. So in practice there is a tension between the commitment to tolerance of diverse beliefs – often the property of distinct ethnic or religious groups – and the conviction that neither public nor private power should

be exercised to prevent the individual from being an entrepreneur of the self, *albeit one who respects the equal right of others to fashion a dignified life[°] and accepts the civic duties and communal obligations which permit a relatively free society to endure.*

My conception of liberalism draws from two of its primal sources: John Locke's emphasis on the rights of individuals in the face of state power and the French Revolution's call for not only "liberty" but also "equality and fraternity."⁴ As recent progressive critics of both liberalism and the discourse of human rights have implicitly argued in calling for greater emphasis on equality and mutual support,⁵ the former source can lead down the Ayn Randian road to the oligarchy of billionaires soaring in their minds above the great mass of the less successful and regarding all redistributive measures as theft.[†] The liberalism coloring my world view draws substantially on the one limned by the great twentieth-century political theorist John Rawls. Rawls hypothesized that individuals, if unaware of the positions they would occupy in society, would rationally choose to live in one where every person enjoys a broad, well-protected freedom of choice in shaping her or his life and where inequalities could be justified only if they improved the condition of the worst off (the so-called difference principle). My vision of liberalism draws as well on the Nobel Laureate Amartya Sen's restatement of human rights as in essence a right of each individual to develop his or her capabilities.⁶ Governments have a duty to try and create the conditions essential for such development to occur.

One's political identity may influence analysis; it undoubtedly influences conclusions and recommendations. It does not, however, preclude productive conversation with observers viewing the issues from a different ideological perspective. For instance, while a traditional nationalist by definition feels no duty to citizens of other countries, she might nevertheless favor large-scale migration if convinced, for example, that it would stimulate the economy, facilitate social support for aging legacy citizens, and enhance national security. Or consider another example: conservative but rational nationalists might reflexively support the settled majority's right to impose its inherited culture on minorities, and yet still decide, after empirical inquiry and mature reflection, that the most efficient way to defend conservative values is to tolerate certain minority cultural practices at odds with their own.

In short, conservatives and liberals, though proceeding by different paths, might conceivably reach the same policy conclusions – from time to time. But the liberal's path will be trickier to negotiate because she does not enjoy the conservatives' single-mindedness. Unlike them she does feel some measure of cosmopolitan sympathy.

[°] "[E]verybody . . . should have a variety of decisions to make in shaping a life. And for a person of a liberal disposition these choices belong, in the end, to the person whose life it is." Kwami Anthony Appiah, *The Ethics of Identity* (Princeton: Princeton University Press, 2005), xii.

[†] As I note in Chapter 6 on France, the call for "liberty and equality" also can be twisted to illiberal ends.

But Western liberals may conclude (or automatically assume) that the national state into which they are born is, as a practical matter, the main instrument for defending and enhancing liberal values. In fact, many do. So, contrary to the common conservative critique, the term “liberal nationalism” is not an oxymoron.⁷

Moreover, as I noted above, while liberalism is a recipe for tolerance, it is also a faith and like most faiths ardent in defense of its ethical turf against bearers of antagonistic value systems. “Isms” often politically allied with liberalism and seen at least by conservatives as subsets or outgrowths of liberal culture – I am thinking principally of feminism – are likely to feel equal or even greater antipathy to the non-liberal cultural practices which dominate many societies in the Global South and are still very much alive within the native population of rich democracies. Liberal schizophrenia may thus produce more points of policy convergence with conservative nationalism on migration-related policy recommendations than one might initially assume. That remains to be shown.[‡]

One observation and one hypothesis drive this book’s policy analysis and recommendations. The observation is that the liberal center in Western European politics is eroding at a dangerous pace. For me, that center extends from German Chancellor Angela Merkel to the Scandinavian Social Democrats. It includes all those who respect the cosmopolitan discourse of human rights, who experience some measure of sympathy for, some sense of obligation to, desperate people beyond their national borders. It includes the political parties and leaders who built the EU and the welfare state and take seriously the duties of government arising from ratification of the principal UN human rights covenants and the European Convention on Human Rights. For all the considerable differences among the parties and elites embraced by this conception of the center, they are united in opposing the illiberal democracy trumpeted by Prime Minister Viktor Orban of Hungary and caricatured by President Vladimir Putin of Russia.

My associated hypothesis is that the single largest source of electoral erosion is the center’s failure to deal effectively and openly with the issues associated with the post–World War II settlement in Western Europe of people from the Global South. The center’s response to migration and settlement has come to represent for growing segments of the electorate a failure of candor, consultation, competence, and will on the part of socially liberal elites. The resulting anger and distrust are not entirely misdirected.

[‡] Within the United States, liberalism’s internal tension insinuates itself into problems of both domestic and foreign policy. In the realm of foreign policy liberalism as a faith complicates Sino-American cooperation even in areas where interests clearly coincide. And it has been known to lubricate or, it might be more accurate to say, it has “put lipstick on the pig” of costly crusades against illiberal governments such as Saddam Hussein’s in Iraq. In the domestic realm, liberalism as a faith contributes to the polarization of politics by resisting (with varying success) the political claims of communities of faith generally labeled “fundamentalist,” communities which then form what would otherwise be anomalous cross-class alliances with a tiny elite of economic royalists.

As a group the long-dominant centrist parties have not entered into a frank dialogue with their respective electorates to the end of developing a broad consensus about numbers of annual entrants, conditions of entry and permanent settlement, and distribution of costs and gains from migration. Political leaders have also failed to bring into balance the number of new entrants with the state's capacity to feed, house, and prepare them for economic integration. Where leaders have promised limits on new entrants, they have generally failed to enforce them without even a public confession and explanation of their failure. In defending the center, the liberal intelligentsia has tended to indict indiscriminately as racist or xenophobic all criticism of migration outcomes, thereby undermining its credibility as definer of respectable opinion. In fairness I should also note the liberal political establishment's insufficient communication with migrant communities. It has often displayed a deaf ear or sheer indifference to their immediate concerns with, for example, hate speech, unemployment, discrimination, and police harassment.

Political leaders and the officials who execute their directives, having assumed the role of stewards of the public good, are obliged to see beyond the individual case. They may be required to act on behalf of the present majority or of something more abstract: the survival of the state or of a certain form of government. Having accepted that obligation they may try not to know very much about individual cases because it is those cases that can rend the heart, torture the conscience.

Authors, by contrast, have choices. They can write about the long horrible chain of causation that uproots one intimately described family from its ancestral home and drives it to an excruciating death under the waters of the Mediterranean Sea. Or they can assume the role of grand strategist, setting out political and social goals and proposing in light of the available metrics what they take to be the most efficient or least inhumane means for achieving them. Or they can oscillate uneasily between those options, writing sometimes as if human beings were interchangeable units best handled in one way or another for the enhancement of the national interest or the species' betterment. They can defend an idea of the good society and, at other times, however occasional, take note of people with names, people with the same fragile body and hopes and dreams as the author's, people struggling to navigate through a very badly organized world with limited reserves of compassion.

Suppose a migration policy adviser had no psychological defenses against intimate pictures of the individuals behind the units living within his mind. Suppose at the moment he awakened every day that he visualized Lingo, a thirty-five-year-old geography teacher from Eritrea climbing aboard a rescue ship leased by Doctors Without Borders and saying to the first man who greets him, "I must thank you.' . . . When we saw you, we automatically changed from animals into humans.'"⁸ Then, midday, he met in his mind the three children rescued from another ship whose mother had died during their odyssey, who asked the nurse who tended to them after their rescue whether she could be their mother.⁹ And at night as he tried to digest dinner, he saw a man named Sunday from Nigeria, trapped for months in a desolate

refugee camp in the heel of Italy, after struggling for a year in Libya under terrible conditions, who walks kilometers every day in search of work, usually in vain, and says to a journalist: “I’ve come to zero in this place.”¹⁰ That adviser might have to find another profession.

My parents, the children of Jewish immigrants, had no ideology. Theirs was unconsciously the novelist’s view of life. They saw fellow humans, not units. They felt the injustice of the world one person at a time. You may recall the old saw: “Where you stand is where you sit.” When I was a member of the Inter-American Commission on Human Rights, I felt what my parents felt, saw what they saw. But before that time, when I worked in the Pentagon and wrote a memorandum for the Secretary of Defense, I saw the “big picture.”

Most of my life, like any person who writes about policy, I have oscillated between these viewpoints. If you are not necessarily a liberal, if you are just any comfortable middle-class person who does not have a heart of stone, you end up saying, “Yes, something must be done, people are not interchangeable units.” But to preserve liberal democracy in one of the few parts of today’s world where it still flourishes, it may be necessary to see the larger picture. It may be necessary for governments not to suspend but to restrain the humanitarian impulse; to open the door, but not too widely; to be generous, yet not too generous; to appeal to the electorate’s better angels, while acknowledging its attachment to the idea of a community less broad than the world, a bounded space.

Given my fear for the future of liberal democracy, I have written this book with one question foremost in my mind: What grand strategy for managing migration and integrating migrant families into the economic and social order is most likely to enable the defenders of liberal democracy to defeat the authoritarian right with the least possible compromise of human rights norms? The chapters that follow record the dialectic of my thought and the evolution of my answer.

I began by visualizing the principal migration-related questions Western governments need to address. The first is: Does a sovereign state, absent limitations assumed by ratifying relevant treaties, have an absolute ethical and legal discretion to determine who other than a national has a right to enter and, where permission to enter has been granted, to determine how long a person can remain and on what terms? If the state’s discretion is not absolute, by what legal or moral norms is it qualified? Assuming we are convinced that a broad discretion should be imputed to states, we should then consider the legal and ethical norms that arguably constrain their choice of means for excluding persons seeking to enter or for removing undocumented persons.

Among persons seeking to enter or remain without valid documentation, refugees have long been thought to enjoy privileged status. The number of persons satisfying the definition of a refugee has multiplied dramatically in recent years. Meanwhile the moral distinction between persons fleeing from persecution for their race, ethnicity, religion, or political opinions and persons fleeing simply for their lives

in the face of civil war, criminal gangs, and religious fanatics or in the wake of natural disasters has become increasingly hard to maintain. Does it not then follow that governments determined to limit annual migration to the number they can integrate without miniaturizing their electoral support or unsustainably straining public resources will need to modify their obligations under the 1951 Refugee Convention and its 1967 Protocol?

Questions about the morality of limiting and conditioning entry are linked to questions about the means states may employ to integrate those who are admitted and their descendants into a country's economy and social order, starting with the question of how integration should be defined. In particular, should one end of integration be adoption of the native majority's social norms and practices even where they conflict with those which migrants bring with them from their country of birth? If that is a proper end of integration, does it follow that the state has the right to make as a condition of entry and settlement a migrant's readiness to accept or at least tolerate cheerfully even those of the native majority's norms and practices which conflict with his or hers inherited ones?

Finally, there are questions stemming from the increasingly common perception – promoted by Donald Trump, Viktor Orban, and other entrepreneurs of xenophobic populism – that there is a connection between migration from poor countries, particularly those with Muslim majorities, and the threat of mass-casualty terrorism. And assuming there might be a connection, however tenuous, what measures, particularly internal measures, could Western states adopt to minimize the risk, and do potentially effective measures conflict with the values and traditions of a liberal state?

For the most part I will use the term “migrants” in reference to all persons from the Global South seeking to enter rich liberal capitalist states or, having already entered, who remain without a valid visa. I will use this term regardless of their motives and hence their status under international law. If they seek to settle because of a well-founded fear of persecution in their home countries, they qualify for the special rights international law accords to persons seeking asylum.[§] Because of those special rights, most of the persons in recent migration flows claim to be fleeing

[§] An “asylum seeker” is a person who has arrived at the border of a state or gained entry by whatever means and has applied for asylum under the 1951 Refugee Convention. The application rests on the ground that he or she has a well-founded fear of persecution on account of race, religion, nationality, political belief, or membership in a social group if they return to their country of origin. Technically a refugee is a person whose application for asylum has been successful, but in lay discourse the term is often applied to anyone who appears to have fled their country of origin either because of the stipulated fear of persecution or to avoid being caught in the crossfire of an armed conflict. The term is often applied as well to persons uprooted by a natural disaster which has put their lives at risk. Some national courts have stretched the concept still wider to embrace individuals fleeing fearsomely abusive spouses or families. Once a person has come within the jurisdiction of a state, the principle of “non-refoulement” precludes a state from expelling the person to a country, whether or not the country of origin, where he or she is at risk of torture or execution. While this principle is

persecution or at the very least a civil conflict marked by indiscriminate killing of civilians or threats of deadly violence from criminal gangs.

Although from the perspective of international law (and the migrant), motive is crucial, it is in many respects irrelevant to the political, social, economic, and administrative problems the mass entry of people from distinctive cultures pose to the host nation. It is because those problems are my main concern that I will generally use the term “migrant” indiscriminately to cover both persons who do and those who do not meet the criteria for asylum.

WHY FOCUS ON EUROPE?

This book is intended as much for readers in the United States as for those in the United Kingdom and Continental Europe. Why then, you may ask, do I spend so many pages discussing immigration and its effects on various wealthy European countries? In the United States immigration is a current propelling right-wing populism within the long-established political order’s channels. In Europe immigration is an immense wave tearing at the very foundations of the centrist political order and the liberal values and policies that order has embodied. What Europe is experiencing now may well augur challenges the United States will experience in the not-too-distant future.

The challenge is larger and more immediate in Europe for a number of reasons. One is that, unlike Americans, many Europeans have seen themselves as citizens of countries made by successive generations of essentially the same people. Americans, perforce, have seen the country as one made by successive waves of new people bonded to their predecessors by adherence to constitutional values and a shareable historical narrative, shareable in its currently evolved form because it emphasizes the nationalist bonding of immigrant streams and their collaboration in building the world’s most powerful state.

Another reason is the laissez-faire form of capitalism which in the United States organizes the economy and dominates the political culture, a culture which imputes poverty to lack of effort rather than structural inequities. The emphasis on individual effort and the relative freedom of private-sector actors to manage their enterprises, including the terms on which they employ people, together with the weakness of the trade-union movement, helps make American labor markets more flexible than European ones. In addition, the United States economy generates demands for un- and semi-skilled labor considerably greater than Western European counterparts. The propensity for home ownership and suburban sprawl long encouraged by various public policies is one source of that demand. Vast suburbs now spreading out into exurbs with their prized lawns, shrubs, trees,

embodied in the 1951 Refugee Convention and its 1967 Protocol, it has arguably evolved into a principle of customary law and thus is binding on all countries.

and flowers generate work for groundskeepers. Sprawl and weak public transport systems foster car dealerships and maintenance and repair shops. Shifts in economic activity from one section of the country to another and the growing population of retirees fleeing northern climes generate work in the construction industry. A more dynamic economy than Europe's, deeper capital markets, and looser regulation facilitate opening of new businesses and a concomitant requirement for new commercial structures, which adds to the demand not only for new construction but also for more cleaners and maintenance workers.

Also generating demand for low-skilled labor is the country's huge agricultural sector. You don't need a high school degree to pick berries or pack meat, just as you don't need an advanced degree to vacuum carpets or sponge aging bodies. We are talking about hard, not generally pleasant work, but that won't deter newcomers from taking it on, because they discover quickly the thinness of the welfare state. In America you can go hungry and lie down at night without a roof over your head. The state offers no guarantees against destitution. "Work or suffer (if you are not lucky enough to inherit)" could be the national motto. Actually, you can work and suffer, since the market much more than the state governs wages and benefits and there are relatively few impediments to persons down-pricing themselves into the workforce.

A third distinction between the United States and Western Europe is the difference in composition of the immigrant flow, which is largely a function of geography. In the United States, immigration has been primarily from Latin America.^{**} Latin Americans overwhelmingly identify as Christian and they are migrating to a country where the great majority also identifies as Christian. Whereas Western Europe is essentially a secular place where religion is tolerated, the United States is a decidedly religious country where atheists are tolerated.¹¹ Moreover, aspects of Latin culture – music, dance, literature, food, and drink – have for decades integrated into the North American one. There is no difference in dress. Women, native and migrant alike, are conspicuously in the workforce and societal life. Moreover, many Latins arrive in the United States with at least some smattering of English and many Americans have at least a smattering of Spanish or some syntactically similar Romance language. Each picks up the other's language with relative ease, at least if we compare the effort required of an Arab speaker to acquire German. In short, within the Western Hemisphere, conspicuous cultural clash has not marked south-to-north migration.

In Western Europe, immigrants from the south have been and remain predominantly Muslim. Whether due to religion or tradition, many differ at least initially from legacy Europeans in their dietary restrictions, holidays, and day of rest. In many families, at least when they arrive, women have relatively limited contact with the wider society. Cultural differences are simply more conspicuous than they have

^{**} However, an Asian component now grows rapidly.