

## REVIEWS

Michael Dummett, *On Immigration and Refugees*

Routledge: London and New York 2001, £7.99 and \$12.95, paperback  
160 pp, 0 414 22708 9

Jeremy Harding, *The Uninvited: Refugees at the Rich Man's Gate*

Profile Books: London 2000, £5.99, paperback  
128 pp, 1 86197 211 3

Teresa Hayter, *Open Borders: The Case Against Immigration Controls*

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## BARRING THE DOORS

From the European Union's 'harmonization' of its border policies and Australia's refusal to accept boatloads from Indonesia to the current exodus from Afghanistan, issues of immigration and asylum have moved centre-stage in international politics. Yet serious social and ethical debate around them is still in its infancy. A small but growing body of scholarly work, narrowly disseminated, has typically been drowned out by noisy demagoguery and hysterical media coverage. Recently, however, there have been signs of a more generous and critical response. Sebastião Salgado's epic photography of masses on the move across the world is one outstanding example. Jeremy Harding's slim but powerful volume is written in something of the same spirit. *The Uninvited* offers a set of searing eyewitness accounts of the plight of asylum-seekers and immigrants attempting to enter Fortress Europe from the Adriatic and the Mediterranean: Albanians adrift on motorized rubber dinghies, Algerians and Senegalese penned in the detention camps of Ceuta, Guinean teenagers freezing to death in an aeroplane undercarriage, a West African woman, seven months pregnant, scaling razor-wire and then committing suicide in a Guardia Civil cell.

Harding's tone is controlled and understated—the reverse of sensational. But few could remain unmoved. His cameos remain in the mind long after the book is closed, haunting every further news story of desperate travellers found suffocated in trucks or drowned at sea. The bland bureaucratic directives of EU border policy are given their real, savage face in these tragedies.

Around the reportorial core of the book, Harding weaves a series of more analytic reflections, first limning the social and economic pressures building up on the borders of Europe, then considering the reaction of officialdom and public opinion towards them, and finally speculating on the direction that more enlightened attitudes towards asylum and immigration might take. Behind current EU policies, he detects the assumption of a 'mechanical model' of migration according to which immigrants and asylum-seekers are 'pushed' from one country by persecution or poverty, then 'pulled' to another by hope of a better life. European countries wishing to 'reverse the tide' of immigration will try to reduce one or other of these forces. Measures to reduce 'pull' include placing asylum-seekers in prisons or detention centres while their claims are considered; reducing social benefits or preventing employment; as well as—of course—adopting minimal interpretations of the 1951 Geneva Convention on Refugees and operating explicitly restrictive immigration policies. Success is not guaranteed. For as Harding notes, the level of local benefits is rarely a determinant of migration: choice of a destination country 'will have to do with colonial history, family connexions, relays of information and, above all, with the traffickers in whose hands refugees put their lives'. On the other side of the coin, measures to reduce 'push' include the 'regionalization' of flows of emigration—that is, persuading or bribing states nearer the sender country to take them in; and military or political intervention to ease situations of crisis in the periphery and so prevent further claims on the centre.

Rejecting the set of assumptions behind current official policies, Harding argues throughout that immigration generally yields great benefits to receiver countries. Economically, many studies show that immigrants as a group typically pay more in taxation than they receive in social provision. Part of the reason for this lies in an error in the 'mechanical model' itself. For it is not those in the direst need who mostly emigrate, but those with the best means and energies to do so. Immigrants thus provide the host society with a vital injection of fresh talent and entrepreneurial drive. Moreover, in ageing Western societies, they could correct a growing demographic imbalance, offering hope that the workforce might still be able to pay for the welfare state. The costs they incur upon arrival—expenditure on their settlement, language-acquisition and preliminary social payments—represent a rational investment for any forward-looking state. Though it is never quite spelt out, Harding's recommendation for Europe seems to be something like a quota system on American lines—what he terms a liberal immigration policy, in lieu of the present inhuman sieve policed by barbed-wire and armed guards. The resulting increase in labour migration

would then reduce pressures on an overstretched asylum system, enabling fairer determination of claims under the Geneva Convention.

Here, however, there is an obvious difficulty in Harding's argument. In his frieze of the 'uninvited', Harding shows the commonalities that asylum-seekers and economic migrants share. The difference between political and 'economic' refugees, he argues, is often not very great. In extreme cases, fear of starvation can be just as acute as of persecution. But when he moves to policy recommendations, Harding reinstates the very distinction he has—rightly—weakened. Whereas economic migration can be licensed by the material gains it affords receiver countries, asylum-seekers need a 'more open defence, without proviso, which makes no appeal to the self-interest of host communities'. In other words, immigration is largely a question of computing utilities: we can 'sell' a more liberal policy by highlighting its benefits to a narrow-minded public opinion. Asylum, on the other hand, is a question of granting rights: victims of persecution are entitled to sanctuary. Harding makes it clear why he thinks the language of rights cannot be extended in the same way to migrants. 'If freedom of movement is a "human right", as some argue, there must also be a case for the rights of communities to oppose what they do not want, including immigration'. Since the two claims are intractably opposed, it is only the language of self-interest that can break the deadlock. For the moment, Harding implies, that sets definite limits on the amount of immigration into Europe that can be envisaged, however liberal the system that regulates it. But eventually, governments might come to see the free movement of labour in the way they view the free movement of capital: 'that it may be an expensive waste of time to try to fend it off'.

Here is the principal limitation of *The Uninvited*. It lies in the tension between a harrowing picture of the sufferings of the poor and desperate at the gates of Europe, and a too easy appeal to the self-interest of the prosperous and secure within them. In times of economic boom, amid accelerating growth and tight labour markets, rational-choice arguments for more migrant labour may look well judged. But what of conditions during a recession? Harding's gesture to the right of communities to oppose immigration seems to suggest that our sympathies for others could be justifiably constrained by our selfishness, since he doesn't otherwise specify the grounds of this right. He clearly wishes to make as broad an appeal as he can, but a desire to please everyone rarely achieves its aim. Although *The Uninvited* contains a perceptive, indeed devastating, account of the direction of official policies in Europe, it does not actually criticize any government or politician by name. Perhaps Harding thought this a precaution worth taking, in the hope of gaining a hearing, if not from those in power, from those surrounding them. If so, he is likely to be disappointed. Little more than cosmetic changes, at best, are on the horizon.

*On Immigration and Refugees* is a very different sort of work—in some ways complementary to *The Uninvited*, in others as contrasting as the distinct

tonality of titles suggests. An analytic philosopher who is the world's leading authority on Frege, Michael Dummett has also been a long-standing activist in the movement against racism in Britain. Where Harding adopts the reporter's technique of documenting the migrant's plight and leaving political options relatively open, Dummett offers a lucid philosophical dissection of the ethical principles at stake in matters of immigration and asylum, and a sharp review of the historical ways they have been manhandled.

Taking the Geneva Convention as his starting point, Dummett argues that all adult human beings have the right not just to asylum, to escape persecution, but to self-government within a form of democracy that allows them to be 'first-class citizens'. The duties that one state has to another thus 'imply, and rest on, moral duties a state has towards people living outside its jurisdiction'. The Convention is therefore much too restrictive: 'all conditions that deny someone the ability to live where he is in minimal conditions for a decent life ought to be grounds for claiming refuge somewhere'. It is clear that this would lead to the reclassification of many who are currently regarded as economic migrants as refugees. The right to be a first-class citizen is an absolute right; any failure on the part of the state to help secure this for all is collaboration with injustice.

Such injustices abound. Detecting no political or electoral advantage from accepting refugees, the post-Cold War tactic within Europe has been to criminalize entry into rich nations by imposing visa requirements on those countries deemed likely to generate a large volume of claims. If an asylum claim seems likely, the visa is refused. 'Carriers' liability'—a US invention, imposing fines on companies that carry people travelling without a visa—ensures that airlines, train companies and truck drivers will enforce the visa requirements at minimal cost to the state. Having barred any legal form of entry to the majority of would-be refugees, the European Union thereby in effect compels them to undertake a perilous, often fatal quest for the state protection they deserve. At the same time, restrictive labour immigration policies drive others, looking for work in Europe, to seek the route of asylum: as the numbers of these swell, lies born of desperation are held up as justification for the policies that necessitate them—a Catch-22 of which Heller would have been proud. As Dummett points out, if there is a duty to offer help to someone, it follows that there must be a duty to allow them to ask for help. Systematic visa restrictions are therefore, in his view, not only unjust but—a more radical claim—an abrogation of legal duties under the Convention.

For those who may legitimately not be classified as political refugees, Dummett argues that the right to enter another country is conditional rather than absolute. His discussion of the conditions under which such a right can be exercised, however, is uncharacteristically abrupt and opaque. Among them he lists the possession by a migrant of 'the means of getting to a country'. But his principal emphasis is clear-cut. 'In any consideration of what we have a right to do in this conditional sense, the presumption must always be in favour

of freedom.' By contrast, the presumption is never that a state has the right to do whatever it likes: 'the presumption for individuals is always in favour of freedom; there must be a particular ground why any state is entitled to curtail that freedom, if indeed it is'. Hence 'the onus of proof always lies with a claim to a right to exclude would-be immigrants'.

Setting aside the barring of individual criminals, Dummett allows two general grounds for a community to restrict economic immigration, but no more than these. It may do so, he argues, only if it is threatened either by cultural submergence or gross overcrowding. His discussion of these provisoes clarifies the sense of what Harding probably intended with his vaguer and more questionable formulation. Dummett is helpfully precise in offering examples of what he has in mind—the scale of Indian immigration to Fiji, Russian to the Baltic states, Chinese to Tibet, Indonesian to East Timor. 'Small countries', he concludes, 'have a better right to control immigration than large ones, weak countries than powerful ones'. Typically, the background to such cases is colonial rule or external invasion. In the absence of these, even high levels of immigration will usually be assimilated into the native culture. So far as overcrowding goes, Dummett is more sceptical. While theoretically this could be grounds for restriction, in practice he judges no rich country to be so densely populated as to warrant barriers to economic immigration. Under current conditions, the demographic effect of immigration is usually benign, helping to restore a necessary balance between working and retired sections of the population. The presumption in favour of the freedom of individuals has carried a lot of weight in Dummett's discussion here: there are few grounds for exclusion that are considered sufficient to curtail it. His conclusion is unambiguous. 'The idea that national frontiers should everywhere be open should become far more than a remote aspiration: it should become a principle recognised by all as the norm', he writes, 'from which deviation can be justified only in quite exceptional circumstances'.

Strikingly, calculations of economic advantage play virtually no part in Dummett's argument. Rather than appealing to the self-interest of the rich nations of the West, he subjects the global order over which they preside to withering attack. The ratio of real income per head in the richest countries to the poorest, he notes, which was 3:1 in 1800 and 10:1 in 1900, had risen to 60:1 by 2000. So long as this massive inequality persists, 'justice requires that the rich countries should not shut their door against the poor'. This uncompromisingly egalitarian note is missing in Harding. The contrast between the two becomes still more pronounced when Dummett moves, in the second half of his book, to look at the political record of British and European governments in matters of immigration and asylum since the war. Here he bluntly lays the blame for decades of exclusionary xenophobia and hypocrisy at the door of racism, openly whipped up or covertly pandered to by successive regimes. In Britain, as he makes clear, Labour worthies like Callaghan or Straw have competed with their

Conservative counterparts in a racist auction for electoral advantage, and the Blair regime has tightened the asylum rules left by its predecessor, against a continuing drumbeat from the tabloid press against 'bogus' refugees, 'shopping' for the country with the best benefits, and 'alien' immigrants threatening British culture and draining the public purse.

If the strength of Harding's case lies in its documentation of human suffering and need, Dummett's argument for open borders hinges rather on a notion of freedom, with Kantian and Catholic roots. Human autonomy and dignity require not only freedom of thought and action, but freedom to choose our own laws, and to change residence without undue restriction. Arbitration between these individual rights and the right of states to restrict immigration, in the limited circumstances which he allows, Dummett would entrust to an international panel of experts to assign asylum-claims, set up by states agreeing to comply with its decisions. Presumably, he would envisage a similar mechanism of international arbitration to decide whether or not a state was in danger of overcrowding or submergence from economic migration. Given the increasing global inequality he himself highlights, however, not to speak of the violent hegemony of the single superpower, such a tribunal of fair-minded capitalist states seems a fantasy.

But there is a deeper difficulty here. In an agreed legal framework, where rights are codified, conflicting claims can be settled by judicial decision. But where rights are postulated as ethical claims to entitlement, all kinds of different constructions of them are possible. How do we then decide between them? Dummett never confronts this philosophical issue. But it is posed particularly sharply by questions of immigration, as can be seen by a glance at John Rawls's recent *The Law of Peoples*. For Rawls, often regarded as the supreme exponent of a rights-based liberalism, reaches exactly the opposite conclusion to Dummett. *The Law of Peoples* argues that there is no right for migrants from poor countries to enter rich ones, on the grounds that, since the former typically come from cultures that have failed to tend their natural inheritance as responsibly or productively as the latter, they not should try to impose themselves on others, but stay at home to emulate them.

There is no doubt which of the two philosophies is more generous and humane. But the presumption of freedom that Dummett invokes to back his conception of the right to migration seems insufficient to arbitrate between them. If talk of human rights is to clarify, rather than obscure, political debate, it must be anchored in more concrete notions of human needs or interests. So construed, rights indicate a degree of need sufficient to impose a duty upon others; hence providing a basis for legislation or political action. Looked at in this light, the need to move from one country to another will be a result of other, more primary needs: to escape persecution or starvation. Rights to freedom of movement would therefore have to be derived from other rights. Thus in the consideration of border-crossings, the degree of need to escape persecution or

poverty would have to be weighed against the extent of impact on natives. The rights of each would become conditional on consequences, rather than on means, as in Dummett's usage.

A modification of focus along these lines would have some bearing on Dummett's diagnosis of popular opposition to immigrants. His conviction that racism is the root cause of closed borders is powerfully argued, but may in the end be too narrow. The United States traditionally exhibits greater racial tension than the United Kingdom, yet its immigration policies are not more restrictive, but more liberal. The difference is clearly related to the structure of the respective labour markets. Fears of job loss or falling wages as a result of immigration can be genuine enough in their own right, whatever the objective basis for them. They are best met by evidence of consequences. A recent study by the IPPR, surveying research right across the European Union, has shown once again that migrants pay in taxes more than they receive in benefits—yielding a surplus to the UK Treasury in 1998–9, for example, of £2.6 billion, or 1p on the basic rate of tax. Data gathered from fifteen European countries suggest that a 1 per cent increase in population through migration is associated with GDP growth of between 1.25 and 1.5 per cent. Nor are these effects accompanied by any negative impact on the wages of native workers. There is, moreover, clear evidence of a homeostatic pattern in migrant flows: if the labour market in one country is saturated, immigrants will move elsewhere. Popular fears of a huge tide of immigration, should controls be relaxed, are likely to be misplaced. None of this means either that appeals to principle are irrelevant, or that calculations of self-interest will always point in the same direction. Wars or natural disasters may still prompt massive flights of population, often with incalculable effect.

Teresa Hayter's *Open Borders* argues a more radical line: the dismantling of all border controls. In reverse order and proportion to Dummett, the larger part of the book is a detailed survey of the growth of immigration controls during the twentieth century; the final, smaller part a trenchant defence of its title on both human rights and consequentialist grounds. An Oxford-based activist and anti-racist campaigner—at times involved in the same movements as Dummett—her historical account is complementary to his: both lay bare the lethal effect of legislative and institutionalized racism, with Hayter emphasizing the reactionary dynamic of any system of border controls. Moving onto terrain untouched by either Dummett or Harding, there is also an account of contemporary European movements against border controls—the most vital being the *sans papiers*, able to mobilize thousands onto the streets of Paris, and the associated Fédération des Associations de Solidarité avec les Travailleurs Immigrés.

The primary reason Hayter gives for advocating total abolition of controls is the direct suffering they cause, both at the borders of the rich world and for minorities within those borders. Hayter argues that the morality of the frontier invades the interior, leading to unjust imprisonment in detention cen-

tres, the exploitation of illegal workers and the harrassment of ethnic minorities. Exposing some of the contradictions of liberal capitalism, she also argues that already-codified human rights—not to be subjected to inhumane or degrading treatment; not to be tortured, arbitrarily arrested or imprisoned; to a fair trial; to work—are routinely and inevitably undermined by the imposition of border controls. This inevitability is partly logistical: the numbers who migrate are such that any attempt to discriminate at the borders will undermine these rights. It is Hayter's firm opinion that such numbers would not radically increase without controls: quicker than Harding to dismiss the fears of rich countries, she is also quicker than Dummett to dismiss the fears of smaller, weaker states. Many will not share Hayter's confidence in these calculations of outcomes, but the evidence available is marshalled effectively. Her position is strengthened by a discussion of the effects of migration on sender countries: the 'brain drain' argument—that an increase in migration will remove vital skilled personnel from poor countries—counts more against quota systems than it does against an open-borders position. Open borders would facilitate return migration, as well as increase the vital flow of remittances—which now exceed international aid in quantity and, in Hayter's view, effect. Principled opposition to immigration controls by the Western Left must be clearly linked to support for those fighting for self-determined forms of development in the Third World.

Dummett's faith in the enlightened co-operation of nation-states finds its counterpart, in Harding and Hayter, in hopes for the effects of globalization. The worldwide march of neoliberal economic theory, apparently requiring the free movement of *all* factors of production, would seem to condemn the rising costs of manifestly inefficient controls. Yet there is little evidence of this in practice. Notwithstanding periodic pleas from the libertarian right for an untrammelled free market, extending from capital and commodities to labour-power itself, no call for open borders is going to sway the existing capitalist powers of the world. Even if they were to be converted to the virtues of Friedmanite consistency in deregulating the movement of labour, 'security considerations'—never so strident as today—would preclude any chance of them accepting large numbers of newcomers from the 'dangerous zones' of the world, where they have every reason to fear popular reactions to their own policies. Mildly liberalized quotas are the uttermost limit of any official agenda. Dummett's occasional expressions of optimism about the 'international community' are misplaced. The war of barbed wire and border patrols along the frontiers of the rich world speaks rather of an unmoving defence of global inequality. The Left in these countries has few more important duties than solidarity with the dispossessed seeking a home in them.