

Global Justice and Reflexive Immigration

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Abstract

The nature of immigration policies across countries have gained immense importance and come under scrutiny; on whether notions of global justice are better implemented under open or close borders. This proposed paper will look into the theory of global justice and redistribution starting with Rawls and his critics and apply a cosmopolitan framework on the ethics of immigration and borders. Relevant discourses on immigration and borders have largely focused on the accepting country and migrants, and their relationship but have failed to adequately consider the origin country. However, this analysis will not only include the origin country but also look at principles of global justice in a comprehensive structure comprising all three actors: the migrants, accepting and origin countries. Engaging with the issues on how to make immigration policies fair will be done through an analysis of global difference principle and global equality of opportunity. Based on this understanding, the paper attempts to seek to assert a weak cosmopolitan premise with opportunity sets in as the context to create immigration policies.

Keywords: Immigration; Closed borders; Open borders; Cosmopolitan; Global justice

Introduction

The term migration refers to the movement of people across different lands, a process that has existed since ancient times. Emigration can be defined as migrating away from the home country while immigration, refers to the act of the receiving country accepting foreign people into its own borders. To say immigration policies should be fair is deceptively simple. It gains deeper complexity as one starts to question to whom it should be fair to and how it is to be implemented in the non-ideal world. If immigration policies are to be just only to the receiving country, then the migrants and the sending country are likely to be disadvantaged. Similarly, favoring solely the sending country can lead to violating the freedoms of migrants and the receiving country. The same trend follows in merely focusing on the migrants and discarding the receiving and sending countries. In order to conceive of immigration policies that benefit all three actors, it is important to analyze the costs and benefits of immigration on receiving and sending countries while not discarding the liberty of migrants. This cost-benefit analysis of immigration integrated with global justice principles can create or modify immigration policies within an ethical cosmopolitan framework. However, this is not without its problems. Even if one is to keep a fundamental premise of ethics in analyzing immigration and border control, arguments still become polarized with differing conceptions of justice that only includes either one or two of the existing three actors. This paper seeks to address these differing arguments that have a fundamental commitment to global justice but end up in varying conclusions on whether borders should be open or closed. An analysis on equal opportunity and the difference principle applied to the global level reveals the moral reasoning behind many of these viewpoints. Based on this understanding, the paper asserts a moderate stand of border control grounded on a weak cosmopolitan premise principle that satisfies migrants, sending and receiving countries in the framework of the global justice. This weak cosmopolitan premise argument will be applied in the US context to see how immigration policies can be adequately modified to loosen excessive border restrictions and make it more ethical for all concerned.

Immigration: Open or Closed Borders?

The debate on immigration can broadly be divided into two cases: open or closed borders. The crux of this debate lies in the extent of

the states' rights to exclude immigrants. Proponents of open borders highlight freedom of movement and equal access to opportunities whereas closed border supporters focus on the importance of freedom of association and sovereignty. It must also be noted as also Chris Armstrong [1] claims that the supporters of closed borders significantly do not promote total restriction of borders and most of them do not limit the entry of refugees. They only seek to increase constraints on voluntary and economic migration. Similarly, defenders of open borders do not promulgate free and unlimited access and often only question the stringent restrictions that are put in place. Nevertheless, an overview of these two perspectives in a deontological and consequentialist framework below will help understand the nature of immigration debate today and how both these strands comprise of different notions of justice.

From a deontological angle, defenders of open borders assert that freedom of movement is a fundamental liberal egalitarian value along with equality of opportunity. From a consequentialist viewpoint, they believe that this may be one of the ways to deal with global poverty. Thomas Pogge, a cosmopolitan, asserts the world is filled with famine, wars and deprivation and the developed countries have a moral obligation to assist those that seek refuge from such conditions [2]. In accordance with his conception of cosmopolitan justice, he pushes for open borders by the developed countries to accept people in need. According to him, global politics is rife with inequities that disadvantage the poor countries and the poverty in these areas could be mitigated by the people that move abroad and send remittances back to their origin countries. Many other open border supporters such as Philip Cole [3] argue the premise of equality of opportunity to all regardless of identity based categories like birth. This is based on the view that reasons that access to opportunities for individuals

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should not be restricted by sociological facets like nationality and geography, as the fundamental principle of liberalism urges people to seek the fulfillment of their notion of good life according to one's own choices [4]. It then follows that scholars like Joseph Carens emphasize the importance of the freedom of movement for individuals in order to pursue their life choices that might not be available in their original country [5]. A categorical perspective of closed borders focuses on freedom of association, the right not to associate and self-determination (sovereignty) as the basis of liberal egalitarian values. From an instrumental standpoint, they assert that the strain of immigrants could be detrimental to the economic, social, political and cultural fabric of the state. As Altman and Wellman claim in *A Liberal Theory of International Justice* [6], the state has a right to control its borders and also its membership, which is central to its sovereignty. Wellman [3] claims that freedom of association is a fundamental attribute of self-determination, based on which people have a right to collectively associate, not to associate or even disassociate, at times. Michael Walzer [7] puts forward a political-normative argument where a political community could distribute membership according to its own construction of its identity. Seglow demonstrates how Walzer highlights democratic sovereignty over the assertions of global justice. Some scholars assert that a state has contractual property rights with its citizens and that immigrating without permission on land owned by citizens is a "trespass of property" [8]. An interesting view for closed borders is the assigned responsibility model where association is seen as an essential aspect of discharging duties of justice Goodin [9]. Goodin claims that it is easier to discharge duties of justice in an uncontested scope where people of similar associations seek to ease each other's burdens. He does not discard foreigners altogether, as he believes that individuals that have no state as its protector should have all the states as its guardians. The conception of justice here can then be seen to be sovereignty-based, where immigrants are seen as disturbing the fabric of self-determination and undermining freedom of association. Both these views have its shortcomings. Unrestricted freedom of movement may leave many countries worse off than it is now. It would make poor countries worse off [10] in terms of brain drain and continued unresolved underdevelopment while simultaneously increasing the pressure of accommodating vast numbers in the receiving country. On the other hand, freedom of association is not a fundamental freedom, and is instead viewed in conjunction with other values such as freedom of expression, religion, etc. Additionally, membership to a state is involuntary and the inequities that rise from being born to a certain geographical area should not restrict seeking association elsewhere. But these are only some of the minor problems regarding these two broad views [11]. In establishing the costs and benefits of immigration for the sending and receiving countries in the following section, it will be clear how many of the arguments for open and closed borders often leave out important considerations such as the plight of the sending country, the receiving country or even the migrant.

Immigration: Benefits and Costs

It is important to understand the costs and benefits of immigration for the sending and receiving countries and see how it substantiates the arguments of open and closed borders scholars. The following paragraphs will deal with the benefits of immigration on sending and receiving countries followed by an analysis on the negative aspects. Following this, an examination on how open and closed border arguments are selectively shaped by a partial consideration of the costs and benefits will be looked at below. Immigration in the era of globalization can be seen to be positive for the receiving country, as it opens avenues for cheaper labor. Immigrants are more ready to do the

jobs that other people find unappealing for lower wages. This is contrary to the popular view that foreigners steal away jobs from existing citizens [8]. Usually, developed countries have an older population range and the influx of immigrants could change the pattern of the population to a younger range. Receiving countries may also require individuals for skilled occupations which are not adequately filled by the existing population and can hence benefit from arrival of immigrants of certain skill sets. Likewise, immigration is also seen to be beneficial for the sending countries. Cosmopolitans believe that one of the ways to alleviate global poverty is to accept people from relatively poorer countries. Immigrants that settle in foreign countries send back remittances to their family in the origin state that benefits its economy [2]. These countries often have a large population that they are unable to provide for adequately. Even the skill sets of many in the population are not utilized optimally as the sending country usually does not contain sufficient opportunities for these people. In this context, dissatisfied people can often create greater disaffection amongst the population that further exacerbates the instability of the nation [12]. It is better that people seek improved opportunities in foreign lands when their own country fails to provide. Often refugees also flee from unstable situations in the origin country, as the political climate is averse to their circumstances. In those cases, a temporary refuge is best till the country is once again stable, or immigrating permanently might be better if the circumstances remain unfavorable [11]. While immigration may have positive effects in this regard, it is the negative aspect that creates debate in this discourse. The cost of immigration on the receiving country forms most of the study in this subject. It is only recently that the negative aspects of immigration on the origin country have been brought to the forefront. Host countries often have to deal with public disapproval for keeping relatively open borders, as citizens often feel their opportunities are being usurped [6]. Assimilating these immigrants in a mode advantageous to the receiving country is an arduous task. Any mishaps with immigrants may also aggravate international quarrels between the host nation and origin state. Moreover, foreigners change the identity of the state, which also causes social conflicts during its process of social change. Some opponents believe that immigration encroaches on sovereignty due to the change in its social composition, political structure and economic policies. Hospers, a strong advocate against immigration, also argues that the increasing population in the host country also leads to a simultaneous degradation of the environment [8]. The origin country also faces problems with the increased emigration from its lands. Most of the people that leave the country in search of opportunities are often well-endowed with skills and resources. The loss of this to a more developed country leads to a phenomenon commonly termed as 'Brain drain'. It is a major source of concern as the loss of skilled nationals has adverse effects in economic and human development in impoverished countries. Immigration policies in rich countries are molded to attract skilled professionals from poorer countries and shun the unskilled and deprived [12]. The drain of the skills away from the poor countries that requires them most hence threatens development and creates unjust situations in which rich countries abuse the professional labor force of the origin country. The medical brain drain can further worsen the situation as it restricts access to basic health care in the origin countries [13]. Remittances are thought to be useful, but are not helpful as they appear, as they are voluntary in nature and eventually dwindle out when the immigrant loses connection with her past [13]. Moreover, scholars like Meyers argue that remittances reduce the incentive of work and depress economic activity in the sending country. A recent study on remittances [14] merits a closer look as it demonstrates the reason why it is not helpful to origin countries by observing the effect it

has in Mexico and the migration of its people to USA. Remittances can be defined as money that is sent as a gift, usually from immigrants to their family back at the origin country. Mexicans send back \$10 billion as remittances, which exceeds the revenue from tourism and agricultural exports. According to Brock, one in ten families receives remittances from the USA. This is seen as beneficial to Mexico, as the money goes directly to the poor citizens instead of corrupt officials. However, unlike foreign aid, the money from remittances is not used in public good projects like infrastructure, schools and healthcare and instead is used for private consumption. Moreover, recent studies [15] show that migrants from poorer countries are usually from a well-off background rather than from a meager upbringing. This may mean that the direct effects of remittances on the genuinely impoverished may be limited. As mentioned before, economic development becomes hampered as people become more dependent on remittances instead of seeking active employment. In Mexico, many would rather face unemployment and wait to emigrate rather than work in local wage levels. The skilled population also moves away to relocate to the USA, depleting Mexico's effective human capital. This leads to Mexico's brain drain and hence impedes its development. The above mentioned analyses demonstrate how immigration affects the receiving and sending countries. Open and close border defenders shape their arguments selectively by only partially incorporating the effects of immigration. This can be seen in cosmopolitan arguments which conceive of justice only for the migrant and sometimes discard the impact on the host and origin countries [4]. Other scholars for unrestricted borders argue that the sending country ultimately reaps benefits from immigration as it reduces poverty [16]. However these arguments fail to adequately grasp the impact in a more complete manner, as it does not address the effects of brain drain in stunting the development of the country. While close border supporters use this view to restrict migration and seek alternatives in alleviating the poverty in sending countries, even their viewpoints are lacking in certain ways. Most close border defenders seek to mainly keep the interests of the host country in mind, even when claiming it to be in the benefit of origin country. They usually advocate only very selective migration, often based on high skills, which contribute to the brain drain issue of the origin country [6]. Moreover, closed border views hardly consider the rights of the migrants and are often just absorbed with the perspective of countries. Even Brock's study on the effects of immigration has this same problem. While the author does conceive of alternatives of immigration policy that benefit both the receiving and feeder countries, that will be further explored in another section, it does lack sufficient consideration of immigrant freedoms. What is being so emphasized here is that any attempt at a fair immigration policy should encompass full-length consideration of the effects on all three actors: the immigrant, the host and origin countries. Keeping this in mind, to arrive at a policy that is congruent to ideas of justice, the theoretical aspect of justice and ethics in immigration should be explored in detail so that it can translate to policy.

Global Justice and Ethics of Immigration

The contested normative judgments about global justice lie in the crux of the open and closed borders debate. In order to formulate immigration policies that correlate to ethics, it is important to have a comprehensive account of global justice. The Rawlsian account of global justice is the most frequently quoted in a multitude of arguments. The following paragraphs will comprise of the insufficient nature of the Rawlsian notion of justice in the Law of Peoples in contrast to his Theory of Justice and recapitulate some of the discussions and criticisms of applying this concept to immigration. This will be followed by a

discussion of equality of opportunity and global difference principle in the framework of cosmopolitanism to apply it to immigration. While the study of cosmopolitanism is vast and multifaceted, the scope of this paper will be restricted to its core foundational principles since it will be addressed only in the framework of immigration.

Global Difference Principle and Immigration

The principles in A Theory of Justice [17] are better suited for immigration than the principles postulated by Rawls in The Law of Peoples [18]. In A Theory of Justice [17] distributive principles were addressed on the basis of a thought experiment in which people in the original position in a veil of ignorance would pursue justice according to two main principles; the first, protection of equal entitlement to basic liberties and second, the difference principle where inequalities are permitted only if they are to the benefit of the least-advantaged in which all the positions are open to all under "fair equality of opportunity" principle. This hypothesis can easily extend to the cosmopolitan realm to conceive of principles of justice that apply to all without border considerations. However, Rawls did not intend for the hypothetical thought experiment to be implemented in a cosmopolitan fashion as becomes apparent in the Law of Peoples [19]. In this text, he asserts that separate principles have to be applied to liberal societies and the rest of the international arena. He claims that the rest of the societies that are non-liberal need a second original position which does not safeguard those principles that are ascertained in the first original position. In the first original position, sociological categories are not allowed for the individuals in the thought experiment but in the second original position made in Law of Peoples, Rawls adds the category of the nature of state and society. This subsumes the individual under the control of the state instead of as an autonomous entity. Miller [19] points out that Rawls was not a cosmopolitan as he separated the domestic and international areas. In the international sphere, he emphasizes the need for security from non-liberal societies, and by extension, would justify increasing immigration restrictions for liberal peoples. In Rawls' ideal international justice, the need to emigrate would be absent, which would result in complete control of liberal state over its territory, which is his aim in justice between borders. The problem with Rawls analysis is that he is only focused on claim of 'peoples' to pursue their interests, and does not consider individuals as an autonomous unit in a strong and egalitarian manner in Laws of Peoples [11]. For a normative conception of immigration, it is important to apply Rawls' thought experiment in the first original position, where the individual is unaware of his sociological characteristics, so that the essential unit of the individual is not foregone in considerations of justice including the host and origin states. Hence it is important to add cosmopolitanism to the conception of global justice that does not discriminate with individuals with nationality or any other subset. Cosmopolitanism according to Pogge [16] has three essential elements: individualism, universality, and generality which lay the foundation of any account of global justice. Liberal cosmopolitans largely endorse the global difference principle (GDP) and global equality of opportunity (GEO) as the distributive principles of justice, the latter of which shall be explored in greater depth in the next section.

The prominent work A Theory of Justice was reconstructed by Beitz to argue for global difference principle upon the growing interconnectedness of our world. Beitz argues that in the global original position in a veil of ignorance, a redistribution principle would be agreed on that would give each society a fair chance to develop just political institutions and an economy capable of satisfying members' needs. Built on this, the difference principle suggests that inequalities

departing from this “fair chance” are justified as long as they benefit the global poor. One plausible objection to the global difference principle is the causal interdependence argument which requires additional normative criteria to decide over the moral significance of different levels of interdependence. Beitz asserts that only above a certain level of global economic interdependence makes a case of redistribution and the difference principle, but fails to provide adequate criteria to determine the same. Moreover, this perspective does not adequately justify the moral importance of interconnectedness to apply the difference principle [11]. An alternative construction of the Rawlsian GDP is Gillian Brock’s “Needs-Based Floor Principle”. She claims that in the global original position, people would choose a more “minimally egalitarian principle” - a particular needs-based minimum principle [11]. She indicates to psychological studies done by Oppenheimer to establish that individuals under impartiality would choose to guarantee their own basic socio-economic needs and basic political rights and choose a safety net for the worst off rather than a difference principle. The basis of her reconstruction is not inequality per se; Brock is only primarily concerned with domination and oppression that can be traced back to inequalities [11]. While this argument questions Beitz’s assumptions on the outcome of their global reconstruction, her arguments by itself do not offer a compelling stance for the ‘Needs-Based Floor Principle’. She [13] assimilates Elizabeth Anderson’s relational egalitarian approach that asserts that income equality is not an issue as long as it is not transformed into status inequalities and certain basic freedoms are provided.

Global Equality of Opportunity and Immigration

The other most prominent principle of global redistributive justice is global equality of opportunity. This paper leans in greater favor for the principle of global equality of opportunity as the basis for evaluating immigration policies for all units of actors, ranging from the individual to the sending and host countries. Cavallero [20] famously asserted, “The normative significance of immigration pressure is that it indicates inequality of opportunity”. The crux of the matter, he claims is that borders are used as a means to distribute economic opportunities that limits resources and advantages in its own territorial borders and its members whereas it restricts other individuals from obtaining these same opportunities on an arbitrary basis. Inequality of opportunities is further exacerbated by brain drain for which remittances cannot be seen as compensation, as previously mentioned, because it is privately owned and is not used in developing the public sector. This paper will defend the equality of opportunity principle and qualifies a duty-bearer justice perspective for developed countries since inequalities arising from moral arbitrariness from one’s birth or nationality might restrict one’s opportunities. The following examination will follow Simon Caney’s work in this area due to its prominence while introducing objections to it. Simon Caney [21] extends the equality opportunity principle to the global level and claims that people regardless of nationality and birth should have the same chance of attaining positions. He does not make this principle outcome-based, merely suggesting that social background should not be the basis of worse opportunities. This conception of justice for migration is favorable on four grounds [11]. Firstly, the negative conception would strength the claim that it is unfair to restrict would be immigrants on the basis of nationality, birth, class, etc. Secondly, it contains a positive conception that people are entitled to the same opportunities as others. Thirdly, the principle allows for the derivation of freedom of opportunity according to its ideals. Open versus closed border debates often view freedom of opportunity as an end itself, however in most accounts where it is referred to, as in Joseph Carens

libertarian defense, freedom of movement by itself does not presuppose any entitlement to goods such as basic income, jobs, social security, nor does it entail any entitlements to equal or decent opportunities. In other accounts where free movement is approximated to global justice such as Kymlicka’s consequentialist cosmopolitanism, open borders might leave sending countries worse off [22]. As mentioned previously, remittances do not only address the inequality of opportunities in a principled way, it sometimes even deepens the inequalities within the sending countries. Lastly, global equality of opportunity principle benefit from a prudential consideration that it might alleviate the push factors stemming from inequality of opportunity. The core of this argument is that any policy implication derived by the global extension of this principle should respect opportunity sets of everyone. Along with the merits of this principle, there are certain objections that arise in its endorsement. The most common objection is by Boxil [23] who claims that cultural pluralities in our world make the application of this principle unfeasible since it requires a neutral measure of opportunity sets. People of culturally different backgrounds value different sets of opportunities in various ways and attempting to even calibrate criteria for opportunities is erroneous, since the principle requires universality in perception of opportunities and success. Brock [13] adds that the problem lies in the translation of this principle from a negative to a positive ideal. In other words, although the negative conception of what to reject is easy to conceive, the positive conception of what to endorse is elusive. Different cultures value different life choices and establishing a neutral way to promote equal opportunities is unfeasible. In response to such objections, Caney [21] reconstructs his principle by incorporating Martha Nussbaum’s argument [24] that although different cultures value different opportunities, they have the same basic standards of living, which are capacity for life, health, avoidance of pain, use of five senses, human relationships, etc. This list for Caney serves as an index to measure different cultural opportunities on the basis of their effect on well-being endorsed by GEO. This avoids Boxil’s arguments but Brock [13] introduces new ones which can be termed as a power-effect argument against the standard of living index. She claims that although different opportunities might be valued by a reference to same measure of well-being, cultural plurality and different perceptions on how to achieve well-being might put some individuals in a better situation in being able to influence public policies. In case of immigration, this might leave some immigrants worse off in terms of their influence on the public discourse, and public policy, since such a power represents an important inequality of opportunity. A self-determination based analysis is done by David Miller [25] where he claims that of preferred opportunity sets of individuals are determined by the sets of morally relevant relationships they have with their co-nationals. In other words, the preferred opportunity sets within a national community are indicative of morally relevant relationships they have towards each other, since nationality is a feature of shaping cultural opportunities [25]. For Miller, endorsement of GEO would undermine political self-determination, which is needed for territorial equality of opportunity. He hence favors preferential treatment for co-nationals and does not see international relationships as prevailing over national ones. Brock [13] mediates between global equality of opportunity and territorial equality of opportunity by endorsing “decent” sets rather than “equal” sets of opportunity to secure decent lives for everyone according to UNDP’s measure on life expectancy, literacy, etc to assert for a weaker positive conception of equal opportunity. In summation of this section, a negative version of equality of opportunity can be put to use to argue for the premises which can govern the institutions of migration. The positive conception of strong and weak versions of equality of opportunity can both be argued in a duty-bearer perspective

of justice, where providing opportunity sets for would be immigrants is imperative from a cosmopolitan framework, where the background of the individual is a basis of consideration for the granting of these opportunities [11]. This section saw an application of a cosmopolitan approach to justice in migration that considered; (i) immigrants who want to pursue their interests elsewhere, (ii) the people who reside in receiving countries and (iii) people who stay in the sending country. The ethics saw equal concern for opportunities for (i), (ii), and (iii) and how this equal concern for opportunities create duties for justice for all.

Theory to Practice and Policy: USA

The main point of contention between open and closed borders is that the non-ideal circumstances of the world can create conflicts in the two entitlements of free movement and equal opportunity. In the world of transitional justice, [13] only modest steps toward global justice are taken. In the case of immigration, the existence of borders is a reality since abolishing states is not a feasible option. States will have a crucial role in determining justice in both the territorial and global area, and to accomplish such, some level of autonomy is needed. Borders with a consideration of cosmopolitan justice analyzed in the previous section are a lucrative option and the application of this theory to practice via policy will be analyzed in this section. The theory behind the ethics of immigration addressed notions of justice in the ideal and non-ideal world. In the transitional justice world, both accounts of emigration and immigration should be considered when dealing with ways free movement should be restricted in a morally acceptable way. Some restrictions on movement, either in emigration or immigration out of a concern for equality of opportunity are not necessarily a deviation from cosmopolitanism [26]. According to Lea Pyi, some restrictions on liberal rights such as freedom to move is not incompatible with liberalism by default, as long as the argument is justified and compatible with claims of people from both sending and receiving countries in the case of migration. In cosmopolitanism, this paper argues for

Weak Moral Cosmopolitan Premise: institutions regulating migration in general ought to provide decent opportunities to all individuals.

Strong Cosmopolitan Premise: would seek to equalize all individual opportunities

Negative Moral Cosmopolitan Premise: would assert institutions not to restrict anyone's opportunities in a morally unacceptable way on the basis of sociological categories.

The Weak Moral Cosmopolitan Premise affirmed by this paper is also reinforced by scholars like Caney [21] and Moellendorf [27] that eased their strong positive premises to look at particular good that make a valuable life such as UNDP measures.

A Weak Moral Cosmopolitan Premise in justice in migration prescribes that regulations and practices of migration policies are supposed to provide decent opportunity sets to all. The idea that decent opportunity sets of all, namely basic goods, shelter, and so forth, should be secured in the face of emigration/immigration demands by focusing on the impact of this move on the *decent* opportunity sets of all. Hence policies should be based on the measures, combining the decent opportunities created by movement, and those created by resource entitlements of the receiving country. As long as states fulfill their duties either in the form of allowing immigrants and/or in the form of compensation; then they will be assigned with a delegate right to restrict immigration upon their discretion [11]. Additionally, if an affluent country grants entry to highly skilled labor whose absence in

the sending country might impair decent opportunity sets of there, then a state, individually should also compensate for this complication either by direct transfer or by assisting them, for example, to establish decent medical facilities.

Seglow [22] proposes a quota argument that proposes all affluent states adopt as an obligation to grant entry to immigrants to some degree, which fills the duty-bearer standpoint of justice in migration. However, this paper seeks to substantiate Seglow's argument on the basis of a weak moral cosmopolitan premise, where every affluent country should cooperate in a way to grant entry to a specific amount of people with no decent opportunities, while compensating for the others with no decent opportunities. The proportion between these two means can be left to a country's own discretion. Additionally, if a country grants an entry to people whose absence diminishes the decent opportunity sets of the residents in the developing country, this will establish another layer for the country through which they will either increase their quota or directly compensate for the diminishing decent opportunity sets. Affluent countries may even be able to buy or sell quotas in accordance with their own considerations [11]. The weak cosmopolitan premise applied in this manner, makes the beginning for transitional justice, where eventual stronger versions can be applied where required. A look into the case study of USA, a prominent affluent country, and how it applies the theory of ethics in migration to policies in accordance with the weak cosmopolitan premise will comprise the rest of the section. The Human Rights Watch commented on Immigration policy in the US that it failed to regularly hold international human rights law in its enforcement policies by violating fair treatment of immigrants at the hands of government. The state implements proportional sanctions, violates freedom from arbitrary detention, the right to family unity, and protection from return to persecution. These policies infringe the International Covenant on Civil and Political Rights and the Refugee Convention, to which the US is member [28]. If developed countries like the USA have a fundamental commitment to liberty for individuals, it seems contradictory to put forward a politics of exclusion specifically for immigrants, who are individuals as well [29]. Responding to the international criticism, the new Obama administration brought about the Comprehensive Immigration Reform (CIR). It is an acknowledgement of the cosmopolitan premise that has created recent immigration reform in the US. The reform is only modest in form, based on a weak cosmopolitan premise. The immigration policy has implemented much of the theory discussed in this paper, starting from better visa work options for low skilled workers, including an agricultural program. The Act also naturalizes the illegal immigrant population residing at length in the US. The legislation is a product of cooperation among business groups, labor unions, agricultural interests, and immigration advocates, who negotiated compromises subsequently leading to broad architecture in immigration reform "including a track to citizenship for 11 million undocumented immigrants, a new temporary worker program, increased visa numbers for skilled foreign workers, and a nationwide employment eligibility verification system" [30]. Despite the CIR leaving much to be desired in the area of distributive policies for the origin countries discussed earlier, this policy marks a change in immigration border restrictions in making it more accommodating. This is especially important in the context of restrictions increasing exponentially in Britain, Australia and other developed countries. These policies could have more consideration of the population affected in the sending country by brain drain, and could possibly encourage immigrants to share the resources and skills acquired in the developed states and use it productively for the origin state and resettling there. There does seem to be a trend in this regard, where foreign nationals

return to their home state, for e.g. NRIs resettling in India from the US [31-33].

Conclusion

There is still much work to be done in translating the theory in ethics in immigration into policy. While slow steps are being taken in this direction, most countries practice stringent border restrictions in fear of losing sovereignty in identity and territory. Much of the literature now is inclusive in considering the plight of the migrant, host nations and origin states. However, the problem of being ethically inclusive in policy making of immigration is still much desired. While the US might be loosening restrictions in one sphere for immigrants, restrictions in another sphere tighten, such as entry of family members and kinfolk unity. In order to better justify immigration policies, an ethical undertone is absolutely imperative. The theoretical framework explored in this paper could well inform immigration policy which would benefit all the parties concerned and give it an ethical framework. Having absolute open or closed borders is not an option any longer, in an era of increased global integration. The primary goal of this paper was for embedding the immigration debate with a more comprehensive framework through which a more inclusive account could be formulated through policy. Even whilst making deliberations of global justice and ethics in migration, considerations of the migrant, sending and receiving countries were included comprehensively to reach a weak cosmopolitan premise in situating immigration policy. The current open versus closed border debates needs to explore the effects on the origin state in greater depth, especially with contexts like medical brain drain in countries like Hungary or Columbia. Affluent countries clearly benefit from high skilled migration, and putting unjustified restrictions on emigration could be enslavement, yet compensating for such flows seems justifiable. How do you make immigration policies more just? The paper has explored the weak cosmopolitan premise as a route to more fair consideration for all parties, whether migrant, host or origin states. This paper has only applied it to US policy on a surface level, due to the scope of this paper on global justice and ethics in immigration in a more general framework. Research into the greater complexity and penetration on this issue and premise is being done so by other scholars.

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