

Justice in Migration: A Moral Cosmopolitan Framework

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Abstract

This study is devoted to the ways and means to justify a more moral cosmopolitan realization of certain policy implications, in the case of immigration. The contemporary debate over open borders does not have determinate conclusions since it does not deal with the duty-bearer perspective of justice. On the other hand most of the liberal cosmopolitan accounts neglect the detrimental consequences of their open borders argument – which take it as a means to compensate people in need – such as brain drain and the effects of brain drain on the opportunities of the members of sending countries. Therefore I offer a comprehensive moral cosmopolitan account of immigration which takes the interests of would be immigrants, residents in receiving, along with residents in sending countries. Considering the morally arbitrary border control, and inequality of opportunities that stem from it, I offer an account in which I develop the global equality of opportunity principle to derive duties of justice in migration. In the end, in the light of recent cultural plurality objections to the principle, I suggest the *Weak Moral Cosmopolitan Premise* that: “institutions regulating migration in general ought to provide decent opportunities to all individuals.” I claim that border control should be encapsulated under this premise.

Acknowledgements and Dedication

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This thesis is dedicated to my grandma, and all the immigrants in the world looking for a “better life.”

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Introduction

International migration is a powerful symbol of global inequality, whether in terms of wages, labour market opportunities, or lifestyles. Millions of workers and their families move each year across borders and across continents, seeking to reduce what they see as the gap between their own position and that of people in other, wealthier, places.¹

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The conventional modes of governance on international borders assign an almost absolute and arbitrary right to liberal states on the control over their immigration/first admission policies in accordance with their priorities²; and the global inequalities as an indicator of majority of the movement across the globe requires our immediate political and, more importantly, normative response to the issue of arbitrary border control. On the political/policy level the international system of nation-states and the local political bodies are struggling to delineate policies towards migration. This national and increasingly global debate mostly revolves around economic impacts of migration, and the legal status of migrants.

Nevertheless, especially in the last decade, migration has become a highly charged political issue in most societies in the Western world.³ Migration doubtlessly seems a “driving force behind the rapidly growing ethnic, racial, and religious diversity of Western welfare states.”⁴

The continual diversity and the increasing demand for migration have created a fear that it might be detrimental to cultural homogeneity and economic welfare of the host countries which are believed to be necessary conditions for sustaining both social justice and democratic processes. On the other hand, most politicians in the Western world, independently of their political affiliations, demand a certain form of restriction on migration;

¹ Richard Black, Claudia Natali, and Jessica Skinner, “Migration and Inequality,” *Equity and Development World Development Report 2006, Background Papers* (2005).

² Shelley Wilcox, “The Open Borders Debate on Immigration,” *Philosophy Compass* 4:1 (2009): 2.

³ David Miller, “Immigration: The Case for Limits,” in *Contemporary Debates in Applied Ethics*, ed. Andrew I. Cohen and Christopher H. Wellman (Oxford: Blackwell, 2005), 193.

⁴ Gary P. Freeman, “Immigration, Diversity, and Welfare Chauvinism,” *The Forum* 7:3 (2009): 1.

and the admission policies show a great deal of convergence meaning that there is an increasing resemblance among labour-importing states in terms of immigration control.⁵

On the other hand, from a normative perspective, the issue of restriction on migration has aroused interest in recent years, considering that “migration policies involve highly contested normative judgments.”⁶ In the simplest term, the ways in which the states restrict the freedom of movement or the access of individuals to opportunities within their territory do indeed need a normative assessment. Thus scholars like Phillip Cole, Christopher I. Wellman, Joseph H. Carens, Chandran Kukathas, Veit Bader, Thomas Cristiano, David Miller, Michael Blake and so forth have turned their attention to the morality of migration in the last decade; and questioned the justifiability of the exclusive right of states on border control. For Blake, the fundamental question of morality of migration, “whether or not a liberal society may, consistently with its liberalism, restrict immigration at all ..., [should] be answered before any more specific aspect of immigration policy can be adequately dealt with.”⁷ This preference is the very *raison d’être* behind the most common ethics of the migration debate, namely ‘the open versus closed borders’. The main question is whether the states should have open borders or not. In this debate, scholars have mainly focused on the morality of migration through discussing two liberal moral rights, which are the freedom of movement and the freedom of association.⁸ Briefly, questions to be considered were: Is there a universal moral right to international movement, and what are the implications of it for borders? To what extent, if they have, do states have the exclusive moral right to exclude would-be migrants?

⁵ Wayne A. Cornelius and Takeyuki Tsuda, “Controlling Immigration: The Limits of Government Intervention,” in *Controlling Immigration: A Global Perspective*, ed. Wayne A. Cornelius et al., (Stanford: Stanford University Press, 2004), 4.

⁶ Veit Bader, “The Ethics of Immigration,” *Constellations* 12:3 (2005): 331.

⁷ Michael Blake, “Immigration”, in *A Companion to Applied Ethics*, ed. Raymond Gillespie Frey and Christopher H. Wellman (Oxford: Blackwell, 2003), 224.

⁸ Christopher H. Wellman and Phillip Cole, *Debating The Ethics of Immigration, Is There a Right to Exclude?* (New York: Oxford University Press, 2011).

The open versus closed borders debate has been the focal point in which scholars have tried to answer these questions. Thus the debate has mostly revolved around the tension between freedom of movement and freedom of association/sovereignty. Without a doubt “the right of a state to control its borders and its membership is a central element of its sovereignty.”⁹ Since the argument for open borders poses a threat to the states’ exclusive right to decide over their admission policies, the discussion has created and also aimed to mitigate the tension between open borders; and maintaining state sovereignty and self-determination as well. This point has attracted the attention of liberal political theorists, and the ethics of immigration has been on the rise in the last decade. However, the open borders dispute has no determinate conclusions on the ways in which the global inequalities stemming from this arbitrary border control can be addressed; and therefore what duties of justice we have towards each other in the case of immigration. The standpoint of anyone in this debate depends on which freedom they approach the issue from, and which freedom they favour; either being freedom of association or freedom of movement. It should be noted here that scholars like Will Kymlicka and Michael Walzer have also assessed the issue from a perspective of justice to argue for or against open borders respectively. The supporters of open borders on this ground have plausibly concentrated on the normative principles such as equal opportunities, and in brief it has been claimed that the moral arbitrariness of the places we are born into cannot limit our freedom to move in order to seek access to work, shelter, and any other opportunities.

However, the consequences of open borders on the opportunities of people who stay behind, and issues such as brain drain have not been subjected to a comprehensive assessment. In brief, such a comprehensive practical task from the perspective of justice has not been achieved yet, except some recent suggestions made by Lea Ypi, Jonathan Seglow, Michael

⁹ Andrew Altman and Christopher H. Wellman, *A Liberal Theory of International Justice* (New York: Oxford University Press, 2009), 258.

Blake, Matthias Risse and Gillian Brock.¹⁰ On the other hand, the supporters of the restriction on immigration on this ground have focused on the argument that justice requires a form of bounded political community in order to distribute the goods and resources; and preserving that might inevitably lead to a fair form of restriction. However this argument by itself still does not nullify our global duties of justice, if any; yet it might compel us to pin the egalitarian principles of justice down in a less demanding fashion.

Apart from the considerations as such, scholars have mainly focused on the rights/entitlements states or individuals should have, and discussed which one outweighs the other. Therefore, ‘the duty-bearer’ aspect of justice; and possible grounds through which a comprehensive justice in migration framework can be formulated have not attracted attention till recent times.¹¹ I assert that rather than only looking at whether states have an absolute right to exclude immigrants or not, a framework can be formulated in order to encapsulate border control under the principles of justice derived from this approach. In brief, this argument is based on two grounds. Firstly, most immigrants undertake such an international movement in order to *improve* their lives whether or not they have good prospects for a decent life in their home country.¹² In other words, most people move in order to increase their opportunities. Therefore the arbitrary border control practice of states is restricting such opportunities, and this phenomenon should be addressed from the perspective of justice. Secondly, it should be noted here that “migration involves many phases: emigration (root and intermediate causes), immigration or actual first admission, and the different stages of

¹⁰ See Gillian Brock, *Global Justice: A Cosmopolitan Account* (New York: Oxford University Press, 2010); Jonathan Seglow, “Immigration justice and borders: towards a global agreement,” *Contemporary Politics* 12:3 (2006): 233-246; Bader, “The Ethics of Immigration.”

¹¹ See Michael Blake and Mathias Risse, “Is There a Human Right to Free Movement? Immigration and Original Ownership of Earth,” John F. Kennedy School of Government, Faculty Research Working Paper Series, 2006; Lea Ypi, “Justice in Migration: A Closed Borders Utopia,” *The Journal of Political Philosophy* 16:4 (2008): 391-418; Jonathan Seglow, “The Ethics of Immigration,” *Political Studies Review* 3 (2005): 317-334.

¹² Brock, *Global Justice*, 192.

incorporation,”¹³ along with different affected parties including immigrants, members of both sending and receiving countries. That is why, the effects of international movement on all these actors in terms of their opportunities should be considered. So in addition to Blake’s question I also ask: How to justify immigration control? To whom should the immigration policies be justified? How should global institutions react to this problem?

I believe that moral cosmopolitanism might serve as an alternative framework on the ground that all phases of migration, the interests and opportunities of every actor, and the duties of justice we have towards each other will be considered. I argue that arbitrary border control, as one of the symbols of unjustified distribution of resources, clearly creates a more robust case for global justice, in which the principles addressing the issue within the framework of *justice* might be the governing criterion behind the global and local institutions. My general view is that moral cosmopolitanism can be adopted as the moral theoretical standpoint while reasoning about just immigration policies. Although different interpretations exist, I argue the main features of moral cosmopolitanism, as individualism, universality and generality (which will be discussed in detail in 2.3); and ‘equal worth of all individuals’ argument embedded in cosmopolitanism will best reflect on morally significant reasons in the development and justification of just immigration policies to the all addressees of justification. In this thesis, I shall not argue for substantive policies, yet some implications of my thesis will be presented. More importantly, I will argue that the current open versus closed borders debate fails to take all addressees of justification of immigration policies, such as the members of the sending countries and their diminishing opportunities due to phenomena such as brain drain, into account; and I will present a form of moral cosmopolitanism, as an alternative to mitigate this problem. I should note here that, first, I perceive the issue as a global phenomenon, and take the interests of every agent into my account from a direct egalitarian perspective. Also, in

¹³ Bader, “The Ethics of Immigration,” 331.

relation with that I call my perspective justice in migration; which will both govern justice in immigration and justice in emigration.¹⁴ I also should remind that I confine the implications of my assessment to economic migration, or in other words opportunity-seeking migration.

I have started this enquiry with the supposition that all individuals all around world belong to the same moral community and this itself requires some form of extension of our duties of justice to the global scope. However, as it can be seen, I adopt a modest approach to global justice, namely the transitional global justice as Gillian Brock calls it, through which more modest steps towards global justice can be taken. By doing that, I assume the existence of borders as they are since abolishing them is not a practicable option right now. Nevertheless, being a liberal cosmopolitan myself, I pursue the ways and means to justify a ‘more’ cosmopolitan realization of certain policy implications in the case of immigration. That is why, following Blake’s methodological priority, I will attempt to propose liberal moral cosmopolitanism as an alternative framework through which duties of justice in migration can be prescribed. Considering the indeterminacy of open borders dispute and the global nature of the issue, in brief, my first substantive thesis is that a moral cosmopolitan transitional justice framework is feasible and plausible for a normative assessment of migration, and I believe this approach represents a potentially insightful beginning for achieving such a hard task.

To sum up, I argue that normative consideration of immigration can be embedded in a cosmopolitan approach to the global justice. My understanding is that the problem of immigration can be understood from the perspective of global distributive justice: and once we have a correct account of global justice, we can set out to examine what it implies for the practice of immigration. Accordingly, in the first chapter I will discuss the open borders debate and diagnose the problem. In the second chapter I shall accommodate normative

¹⁴ Here I follow Lea Ypi’s suggestion; see Ypi, “Justice in Migration.”

resources to present why the cosmopolitan approach is plausible in order to come up with a comprehensive framework justice in migration along with the duties of justice. I will also deal with the issue of scope of justice in this section. Additionally, I will move on to the issue of some methodological concerns for the sake of both clarification and also as an introduction to some further debates in the study. Basically, in this chapter I lay out what I take to be the right account of justice. Following this, I will explore the ground and implications of my approach for immigration. Therefore, in the third and final chapter, I shall start by accommodating basic factual resources to show why the issue of immigration is global in its nature, and why it represents an inequality of opportunity. Secondly I will address the issue of responsibility and to what extent and on what ground individuals have responsibilities towards each other to provide aliens an access to opportunities. In relation with that, in what follows, I will assess the equality of opportunity principle in a global scope to derive the duties of justice in migration. I believe the conditions faced by poor countries on the ground of brain drain should be addressed in order to formulate a just migration policy, since inequality of opportunity might be deepen due to phenomena such as brain drain. Lastly, I will present the implications of my approach for the institutional structure.

A methodological note is needed. Applied political theory incorporates normative considerations and practical judgment. According to Onora O'Neill, the first methodological assumption to consider is that "writing in applied ethics depicts normative principles as applying to specific types of cases or situations, rather than to particular cases."¹⁵ Hence the case of migration should be considered as it belongs to a type of context that falls under a principle. Accordingly, a normative consideration of the principles of cosmopolitan justice should be given regarding immigration. In my view, the equality of opportunity is a plausible

¹⁵ Onora O'Neill, "Applied Ethics: Naturalism, Normativity and Public Policy," *Journal of Applied Philosophy* 26:3 (2009): 224.

principle to apply since the immigration pressure in the world in general points out the inequality of opportunities between different citizens of the world. Secondly “the task of practical judgment is a matter of developing and maintaining an institutional and cultural framework that will make the joint satisfaction of important principles, including important ethical principles, more feasible in more contexts.” Overall, my transitional justice approach aims at such a joint satisfaction on the basis of the unfeasibility of abolishing states right now.

Chapter 1: The Open Borders Debate

World-wide suffering from deprivation, famine, wars, human right violations etc. constitute major features of global politics. These features are also recognized as the main causes of the mass movement of people across globe.¹⁶ Out of a humanitarian concern, which has been intellectually developed in the works of scholars like Peter Singer¹⁷, global or local humanitarian institutions address issues such as deprivation, famine etc through calling, collecting and distributing aid. Yet, such events also create a more robust case for global justice. Without a doubt, the main rationale behind humanitarian aid institutions is only a humanitarian, yet not an egalitarian concern as such. I claim that a set of principles addressing the issues through an egalitarian concern should be the governing criterion behind the global institutions. Therefore most of the discussions revolved around the global justice first deal with the global inequalities, since most of the world-wide sufferings can be traced back to morally arbitrary, unjustifiable inequalities such as arbitrariness of one's birth place.

However, one issue has been neglected till the last decade that is the mass movement of people across the globe caused by the same sufferings. This gap is quite astonishing if one considers the fact that movement has been used by people to address the global inequalities. That is why many recent studies have focused on the normative judgments behind the restrictions on immigration. Scholars either being cosmopolitan or not in their outlook have turned their attention to the morality of immigration in last decade. Justifiably, rather than investigating the issue in relation with the global injustices, scholars have mainly focused on the morality of immigration through discussing two liberal moral rights; freedom of movement and freedom of association. This choice has created the question to what extent

¹⁶ Phillip Cole, *Philosophies of Exclusion: Liberal Political Theory and Immigration* (Edinburgh: Edinburgh University Press, 2000), 3.

¹⁷ Peter Singer, "Famine, Affluence, and Morality," *Philosophy and Public Affairs* 1:3 (1972): 229-243.

states' absolute right to exclude immigrants can be justified. This legitimate question has shown itself due to the increased arbitrariness in the states' exclusion practices in their immigration policies. As Raffaele Marchetti points out, while in other realms, states' sovereignty is getting more and more tenuous, in the case of legislating the admission policies towards immigrants, the state's exclusive right is still intact.¹⁸ On the other hand, the admission policies show a great deal of convergence in the way they restrict immigration.¹⁹ It can be said that is why many recent studies have focused on the normative judgments behind the restrictions on immigration. The question to what extent states' absolute right to exclude immigrants can be justified has inevitably created the debate over the 'open borders vs. closed borders'.

The first task of this study is to explore the current problem of the open borders debate. To do so, I will present the problem through discussing the arguments for and against the open borders, having said that the defenders of closed borders do not argue for a total restriction on immigration, rather they believe that the liberal states have right to exclude some immigrants at their discretion. It must be noted that, they do not argue for restrictions on *refugees*. They merely address the voluntary and economic migration. On the other hand defenders of the open borders do not simply propose fully open borders, but they mostly question the restriction practices.²⁰ I claim that the current problem of the ethics of immigration gives no determinate conclusion and it neglects the possibility to have a duty-bearer justice perspective by focusing only on the entitlements/rights of individuals and the states. Thus firstly I will present the normative resources both sides of the debate have accommodated. In the end I shall explain why the open borders debate along with its discussion over the principles of

¹⁸ Raffaele Marchetti, "Global Citizenship: The Case of Migrants and Residents," *Refugee Watch. A South Asian Journal on Forced Migration* 34 (2009): 59.

¹⁹ Cornelius and Tsuda, "Controlling Immigration," 4.

²⁰ Chris Armstrong, *Global Distributive Justice: An Introduction* (Cambridge: Cambridge University Press, 2012), 225.

sovereignty and the right to free movement has failed to produce a comprehensive framework of discussion from the liberal egalitarian perspective.

1.1 Open versus Closed Borders

Global immigration raises significant ethical questions on the states' immigration policies. Nevertheless, several philosophers have started to pay attention to normative questions raised by this very phenomenon. All in all the issue, divided into two distinct spheres, consists of rights for the immigrants and right to immigration. The dispute over open borders has its ground on the latter sphere of the issue. Rather than dealing with the rights of the already accepted immigrants, it has questioned whether there is a fundamental moral right to immigration, and to what extent this can be limited by liberal states. Before proceeding further, I will make a conceptual note on my use of the term 'liberal state'.

Following Isaiah Berlin, I argue that the liberal state commits itself to the protection of liberties of its citizens.²¹ Indeed at the heart of liberty is the right to define and pursue one's own conception of good life. Therefore the liberal state ought to commit itself to ensure the absence of any coercive mechanism through which one's own pursuit of good is undermined. The question is whether the liberal state should have full-scale sovereignty to discharge such a duty. Thus the principles of state-sovereignty and non-interference come in to the picture. Nevertheless, Joseph H. Carens points to the fact that "liberal egalitarianism [also] entails a deep commitment to freedom of movement as both an important liberty in itself and a prerequisite for other freedoms."²² The free movement is one of the principles of the liberal

²¹ Isaiah Berlin, *Four Essays on Liberty* (Oxford: Oxford University Press, 1969); Charles Taylor, "What's Wrong with Negative Liberty," in *The Idea of Freedom*, ed. A. Ryan (Oxford: Oxford University Press, 1979).

²² Joseph H. Carens, "Migration and morality: A liberal egalitarian perspective," in *Free Movement: Ethical Issues in the Transnational Migration of People and of Money*, ed. Brian Barry and Robert E. Goodin (Pennsylvania: Pennsylvania State University Press, 1992), 25.

moral theory. Hence freedom of movement plays an important role firstly as a basic moral right of persons. Modern political theorists such as Thomas Hobbes have described freedom of movement as a significant liberty in itself.²³ Secondly freedom of movement has been formulated as an instrument for other liberties such as self-determination and personal autonomy, or it has been presented as a condition for more egalitarian concern based rights such as right to equal opportunity.

In conjunction with the variety of principles and values mentioned above, liberal states' restrictions over immigrants have been open to debate. Hitherto, the debate has revolved around two types of arguments, which are, as I call them, right-based and instrumentality arguments, by both closed and open borders defenders. Following Ricard Zapata-Barrero's approach to the issue, these two arguments can be also conceptualized as deontological and consequentialist.²⁴

In a nutshell, defenders of closed borders argue that the freedom of association and right to self-determination are consistent with the liberal egalitarian values. From an instrumental point of view, they believe that the burdens brought out by immigrants might be detrimental to the economic, cultural, and political institutions of the state. Secondly, they believe the only effective and feasible way for a liberal state to discharge its duties of justice is through having the international system of liberal states and this system presupposes sovereignty to some extent. On the other hand, defenders of open borders argue that freedom of movement is a fundamental liberal egalitarian value along with right to equal opportunity. From an instrumental point of view, the open borders defenders also believe that such a policy would be one way to deal with the global poverty.

²³ Bader, "The Ethics of Immigration," 338.

²⁴ Ricard Zapata-Barrero, "Theorizing State Behavior in International Migrations: An Evaluative Ethical Framework," *Social Research An International Quarterly* 77:1 (2010): 325-352.

1.1.1 Right-based Arguments

As Altman and Wellman claim, “the right of a state to control its borders and its membership is a central element of its sovereignty.”²⁵ The right-based arguments for sovereignty of a state appeal to the moral significance of freedom of association and right to self-determination. In other words, freedom of association and right to self-determination are believed to be values behind the justification of a state’s sovereignty, and inevitably of a state’s right to control its borders and immigration.

Freedom of association has been recently used by Christopher H. Wellman in order to justify the states’ sovereign right to exclude some immigrants entering into their country.²⁶ Freedom of association is the right to join with other individuals to collectively express ideas, or to share, defend and pursue a common interest.²⁷ This freedom is highly appealed in the case of religious and marital associations. In *A Liberal Theory of International Justice*, Andrew Altman and Christopher H. Wellman appeal to this freedom and build their defence of a state’s right to control its borders and its membership upon the moral value of freedom of association, without denying the global duties of justice of the members of the wealthy societies.²⁸ Their argument firstly assumes that freedom of association is an important value, and it also presupposes the right not to associate and disassociate in some cases. It stands to reason that every individual ought to have right to associate in any form respecting other individuals’ basic liberties. I should have right to marry, choose my educational institution, create a Stanley Kubrick fans club, associate with the members of my religion, or even procreate a religion and call for an association for it. In many cases this also includes right *not* to associate. If I have the right to associate myself with another individual by marriage, I also

²⁵ Altman and Wellman, *International Justice*, 158.

²⁶ Wellman and Cole, *Debating The Ethics of Immigration*.

²⁷ Altman and Wellman, *International Justice*.

²⁸ *Ibid.*, 158-159.

have the right to disassociate with another person for the marriage. If I create an association of Stanley Kubrick fans with a couple of friends, we have the right to exclude some members from joining our association. For Altman and Wellman, in the case of immigration, “just as an individual has a right to determine whom (if anyone) she would like to marry, a group of fellow-citizens has a right to determine whom (if anyone) it would like to invite into its political community.”²⁹ Therefore the argument follows that just as my freedom of association gives the right to not marry anyone else; on the other hand a state’s freedom of association gives the right to keep out the aliens from its territory.³⁰

Yet in the context of immigration, I believe, freedom of association does not directly presuppose the right *not* to associate and even the right to disassociate unlike Andrew Altman and Christopher H. Wellman claim.³¹ First of all, the freedom of association is not an absolute freedom. Its relationship to other important values that are essential to liberal [state] ... - including freedom of expression, religion, and conscience, [and especially] economic opportunity, non-discrimination, and civic equality”³² should be addressed. Secondly the membership within the framework of contemporary liberal states is not voluntary per se. In other words, the states are not voluntary associations. Being a member of a state is not analogous with being a member of a marriage or a religious association. As a possible response to this objection, Wellman, recently in *Debating the Ethics of Immigration*, argues that “since freedom of association is an integral component of self-determination, and ... legitimate states are entitled to political self-determination; “legitimate states may choose not to associate with foreigners ... as they see fit.”³³ Wellman associates freedom of association with moral value of self-determination of a collective. However, I believe that value of self-

²⁹ Ibid., 159-160.

³⁰ Ibid., 160.

³¹ Ibid., 159.

³² Amy Guttman, “Freedom of Association: An Introductory Essay,” in *Freedom of Association*, ed. Amy Guttman (New Jersey: Princeton University Press, 1998), 5.

³³ Wellman and Cole, *Debating The Ethics of Immigration*, 13.

determination should not make us *prima facie* assume any action of the association justified. It is true that freedom of association is an integral component of self-determination, yet self-determination may have its limits. For instance, as Kubrick fans we might determine which movie to watch this week, yet just because two Kubrick fans have a child, does not give us the right to make this child watch the every movie we watch every week. The involuntary nature of the political membership and the inequalities stemming from moral arbitrariness of one's place of birth still seems a problem, and arbitrary border control combined with economic inequalities between states does vindicate a perspective of justice towards the issue.³⁴

One plausible defence of border restrictions in accordance with national priorities comes from Michael Walzer. As a communitarian, he appeals to a political-normative argument in the sense that he understands "political membership as a social good" to be distributed on the basis of the members' shared understanding.³⁵ According to Seglow, he "asserts the value of democratic sovereignty over the claims of global justice."³⁶ Therefore, it is the right of every political community to distribute its membership on the basis of their own understanding of their community. Walzer is aware of the complications that stem from the analogy of clubs with political communities, since the membership is not voluntary. That is why he suggests that political communities are like "families rather than clubs, for it is a feature of families that their members are morally connected to people they have not chosen, who live outside the household."³⁷ On the other hand, he also suggests a mutual aid principle for economic refugees, who are deprived or in the midst of starvation. However, from a cosmopolitan perspective of justice through which the equal worth of every human being is endorsed, this argument seems simply too restrictive. In brief the right-based arguments in favour of closed

³⁴ Zapata-Barrero, "Theorizing State Behavior," 329.

³⁵ Wilcox, "The Open Borders," 2.

³⁶ Seglow, "The Ethics of Immigration," 320.

³⁷ Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983), 41.

borders can be boiled down to a) freedom of association, b) right not to associate, and c) democratic sovereignty and morally relevant relationships.

On the other side of the coin, the right-based arguments in favour of open borders are freedom of movement and right to equal opportunity. Before proceeding, I shall make a conceptual note about the frameworks in which these two right-based arguments have developed. Freedom of movement is the focal point of the liberal/libertarian case for open borders, while right to equal opportunity is more of a (luck) egalitarian principle to be used for open borders. This is why when it comes to which principle outweighs over another; within this framework, one cannot go past the tension between freedom of association and freedom of movement.

Freedom of movement has been accommodated to defend a form of open borders regarding immigration. I will conceptualize this right as freedom of international movement. Liberal political philosophers like Joseph Carens and Jean Hampton have wielded this freedom on the premise that individuals should have the right to choose any place in the world to live their lives unless such a large scale right that allowing unlimited immigration would be detrimental to the democratic processes, or even to the internal justice of the society.³⁸ The very value philosophers appeal to is the freedom itself,³⁹ yet they also try to avoid neglecting the consequentialist objections by pointing out the importance of the democratic processes and the internal justice of the society. To that end, Joseph Carens brings off an account in which freedom of movement, from a libertarian perspective, puts into use to argue for open borders. He gives the following example to illustrate his point:

Suppose a farmer from the United States wanted to hire workers from Mexico. The government would have no right to prohibit him from doing this. To prevent the Mexicans from coming would violate the rights of both the American farmer and the Mexican workers to

³⁸ Joseph Carens, "Aliens and Citizens: The Case for Open Borders", *Review of Politics* 49 (1987): 251-273; Jean Hampton, "Immigration, identity, and justice," in *Justice in Immigration*, ed. W. F. Schwartz (Cambridge: Cambridge University Press, 1995).

³⁹ Miller, "Immigration: The Case for Limits," 194.

*engage in voluntary transactions ... So long as they were peaceful and did not steal, trespass on private property, or otherwise violate the rights of other individuals, their entry and their actions would be none of the [Nozickean] state's business.*⁴⁰

Altman and Wellman argue that from Carens's reading of Robert Nozick the libertarian case against restriction on immigration take two forms in accordance with whether it focuses on the property rights or freedom of movement.⁴¹ By doing so, they try to show how a legitimate state's sovereignty over its territory outweighs one's property rights or right to free movement. First of all, Carens's account does not result in constituting two distinct focal points. Carens basically shows how such a limitation may end up in a conflict with basic liberties, such as property rights, not to mention the fact that "even if the Mexicans did not have job offers from an American, a Nozickean government would have no grounds for preventing them from entering the country."⁴² Additionally, he does a great job in showing the linkage between freedom of movement and freedom of association in this very international context. However most importantly, Carens's argument suffers from his libertarian focus. This is because, since he grounds the freedom of movement to a libertarian argument, this basically implies no social security, appeal to equality or any shelter whatsoever for the individual. I believe freedom of movement should be appealed as an instrumental value to increase opportunity sets in life, considering that most of the people demand immigration to pursue their life with better economic means. To sum up, the political morality of immigration has rested upon a debate over which principles outweigh over another.

1.1.2 Instrumentality Arguments

⁴⁰ Carens, "Aliens and Citizens," 253.

⁴¹ Altman and Wellman, *International Justice*, 175.

⁴² Carens, "Aliens and Citizens," 253.

Furthermore, the debate has carried on within a different realm in which the liberal philosophers discuss the ways in which the duties of justice can be discharged effectively or should be discharged through the use of immigration. In brief, in this sense closed borders defenders might argue that the only feasible way to discharge our duties of justice is through delimiting the scope of justice to the communal level. I will touch upon this instrumental claim by discussing Robert Goodin's "Assigned Responsibility Model".

Robert Goodin, in his essay, *What Is So Special about Our Fellow Countrymen?*,⁴³ conducts an enquiry on the specialness of our relationships with our compatriots. In the end, he discovers an instrumental value in discharging our duties of justice within the communal level. To answer the very question the title suggests, he asks what international law says about this issue. He finds out that; political communities are characterized by stronger positive duties that participants have towards one another. At the same time, negative duties towards compatriots are weaker than negative duties towards foreigners. This finding seems as a function of the relationship between fellow citizens for Goodin. Among the models he proposes to explain this phenomenon, *Assigned Responsibility Model* is the most compelling one. The model suggests that special duties toward our compatriots, including the burdens and benefits, seem as if they stem from an instrumental purpose. It can be stated that it is more manageable for the individuals to discharge their duties of justice within a decontested scope. However, the assigned responsibility model, by itself, does not make arbitrary border controls justified. Goodin also does not deny our responsibilities towards foreigners, and he states that if an individual is not assigned under a protector, then all states have a responsibility towards her. However, the ways in which an individual will be left out without a protector; and the distribution of responsibilities towards the individual is not clear in his account. Overall, his

⁴³ Robert E. Goodin, "What Is So Special about Our Fellow Countrymen?," *Ethics* 98: 4 (1988): 663-686.

argument does not necessarily justify a state's absolute right to exclude membership, yet opens a plausible scope for some considerations.

On the other hand, freedom of movement has been defended on the consequentialist cosmopolitan grounds; as a right to address human misery. Teresa Hayter claims that freedom of movement should be recognized as a basic human right; as its violation is detrimental to human welfare.⁴⁴ This idea is mostly related with the misery of the asylum seekers due to the political or cultural oppression in their home country. As I confine my analysis on voluntary economic-migration, and I believe the issue refugees represent a distinct phenomenon, and it should be addressed from a different perspective. On the other hand, both Kymlicka and Carens argue for open borders as a resort to address global inequalities. They both appeal to open borders on a consequentialist cosmopolitan ground, and argue that wealthy states should eliminate all restrictions on their borders to provide a form of equal opportunity, if they refuse to redistribute their wealth in consistency with moral equality of individuals.⁴⁵ However, clearly such an appeal disregards the current situation of the citizens of the sending countries. Gillian Brock successfully points out that:

*Removing restrictions on immigration without taking any (or enough) further steps to improve the prospects for decent lives in countries that people want to leave could yield mixed results, and may even constitute a considerable step backward, for global justice.*⁴⁶

From the point of view of the immigrants, open borders might be justified, yet such a policy might significantly worsen the situation of the people who remain in the country. Even if this might be required for an ideal justice, since open borders have been offered as a means to

⁴⁴ Teresa Hayter, "The case against immigration controls," *Feminist Review* 73 (2003): 16.

⁴⁵ Peter Higgins, "Open Borders and the Right to Immigration," *Human Rights Review* 9 (2008): 528.

⁴⁶ Brock, *Global Justice*, 191.

global justice, this tells us really “little about what our non-ideal world current policy on immigration should be.”⁴⁷

1.2 The Complications

The problem, first, presents itself in the endless debates over which principles and values outweigh each other. Secondly, by giving such a big importance to freedom of association, some scholars neglect the moral arbitrariness of one’s birth place in the current system of nation-states. According to freedom of association, one inevitably has a right to exit from the association she got into, yet in contemporary world, statelessness is considered as an anomaly, and if one has a right to exit from an association of nation-state, she should also right to enter new one.

Secondly, I argue that freedom of movement can be defined as an instrumental right for the sake of equal opportunity. However, opening all the borders might leave some countries worse-off than they are now. As Veit Bader also calls attention, the current framework has neglected the fact that immigration from the poor countries might leave the poor countries worse off.⁴⁸ That is why one should take immigrants and people in the sending countries into their account along with the members of the receiving countries. Brain drain might be a significant problem in the case of open borders and in relation with that, Eszter Kollar presents a significant case of this phenomenon by discussing to what extent medical migration may be limited in order to not leave the sending countries worse-off.⁴⁹ Any cosmopolitan justice in migration should be justified to all individuals respecting their life-choices and

⁴⁷ Brock, *Global Justice*, 191.

⁴⁸ Bader, “The Ethics of Immigration.”

⁴⁹ Eszter Kollar, “Medical Migration between the Human Right to Health and Freedom of Movement,” in *Health Inequalities and Global Justice*, ed. Patti T. Lenard and Christine Straehle (Edinburgh, Edinburgh University Press, forthcoming).

opportunities, and the principles derived on this basis would serve to regulate global or local institutional arrangements on migration. The next chapter will discuss the theoretical approach I adopt, namely moral cosmopolitanism from the perspective of justice. I will mention the more specific considerations on immigration in the last chapter.

Chapter 2: Justice and Moral Cosmopolitanism

Considering the primary claim of this thesis that the issue of immigration involves contested normative judgments and these might best be addressed by the perspective of global distributive justice, first we should have a correct account of global justice in order to see what it implies for the practice of immigration. I will start by briefly presenting my reasons about why immigration needs a comprehensive account of justice which will be detailed in the next chapter. Secondly, I will address the issue of scope of justice and recapitulate the discussions revolving around *The Law of Peoples*. I will contend that the Rawlsian non-cosmopolitan idea of international justice is not sufficient to address the non-ideal circumstances covering the issue of immigration. In the last part, some methodological considerations and concerns embedded in any account of cosmopolitan justice will be discussed along with their relevance to justice in migration. Finally, I will discuss global difference principle and some objections to the principle for the sake of introduction to the principle I will adopt, namely the principle of global equality of opportunity.

2.1 Immigration and Justice

A good man, though he will value his own countrymen, yet will think as highly of the worthy men of every nation under the sun.

-Samuel Richardson

18th century English novelist Samuel Richardson's somewhat 'humanitarian' concern is the rationale behind this project. This quote itself reflects on the variety of debates embedded in this project. Regardless of the context of this quote, I believe Richardson's anti-humanitarian concern for the *worthy men* is simply a depiction of the absolute and non-justified⁵⁰ authority

⁵⁰ I differentiate 'non-justified' from 'unjustified' that if something is non-justified it does not mean that it lacks justification or is not able to be justified from any theoretical point of view. I use the term non-justified in order to point to the arbitrary exclusive right of states on first admission policies which requires justification.

of the states on first admission policies. The current international law allows the states to have almost absolute power over their borders without any requirement for justification. First the question here is to whom immigration policies should be justified? This question concerns the unit of our moral concerns, which is one of the fundamental issues in any account of justice. Is it going to be the nations or the peoples of the nations, or basically the individual per se? Apart from the indicative nature of the unit of analysis on the scope of justice, this is a nontrivial and significant question considering that compliance is one of the challenges current immigration policies face for the time being. Strictly speaking, the admission policies evolved in such arbitrary and exclusive manners that have required more and more resources in order to have effective control over immigrants. Following Levi, Sacks and Tyler's correlation between legitimacy and compliance, I argue that the lack of legitimacy could be one of the reasons behind the increasing spending on enforcement and monitoring in the case of immigration control.⁵¹ For instance, "the budget of U.S. Customs and Border Protection grew from \$5.9 billion in 2003 ... to \$11.5 billion in 2011."⁵² "Legitimacy is a necessary prerequisite for effective governance in complex and diverse [set-ups]."⁵³ Considering the global nature of the issue of immigration, I suspect the lack of legitimacy and compliance as the reasons behind the increasing spending on border control.⁵⁴ Therefore the debate over the unit of our moral concern comes into prominence.

On the other hand, Richardson's emphasis on the *good man* indirectly reminds us that institutions are not merely instruments enhancing efficiency for our duties of justice, rather

⁵¹ Margaret Levi, Audrey Sacks and Tom Tyler, "Conceptualizing Legitimacy, Measuring Legitimizing Beliefs," *American Behavioral Scientist* 53: 3 (2009): 354-375.

⁵² "Fiscally Irresponsible: Immigration Enforcement without Reform Wastes Taxpayer Dollars," last modified October 19, 2011, <http://www.immigrationpolicy.org/just-facts/fiscally-irresponsible-immigration-enforcement-without-reform-wastes-taxpayer-dollars>.

⁵³ Cord Schmelzle, "Evaluating Governance: Effectiveness and Legitimacy in Areas of Limited Statehood," *SFB-Governance Working Paper Series* 26 (2011).

⁵⁴ Without a doubt, one would expect an increase in border control spending in post-9/11 world, yet figures show a constant increase since 1990s.

justice requires institutions through which the content of our duties of justice will be specified.⁵⁵ The *good man*, whether he is truly *good* or not, necessarily requires institutions reflecting the principles of justice to comply with and fulfil his part of the deal. Thus following Rawls, I argue justice is an institutional problem. I hold this account of justice in which the normative principles addressing the issue of immigration within the framework of *justice* should be the governing criterion behind the global and local institutions.

As mentioned earlier I believe the moral cosmopolitan approach to the normative debate over immigration might serve as an alternative perspective that has been neglected by most theorists. It is likely that a cosmopolitan account of global justice will bring about the an insightful alternative normative framework that is responsive to non-ideal circumstances of the world, respectful for individual rights and liberties and compatible with the consequentialist requirements of global justice. Yet, before approaching the issue of immigration through a cosmopolitan global justice approach, I shall present Rawls's idea of international justice and two cosmopolitan accounts of global justice in order to be acquainted with the general framework of global justice debate.

2.2 Why Cosmopolitanism?

In our contemporary world, it has become clear that conventional modes of governance (nation-state and international regulations) “are not living up to global challenges such as environmental problems, humanitarian catastrophes and new security threats.”⁵⁶ Aside from humanitarian crises, the north-south divide in terms of the wealth gap and unequal distribution of resources still prevails. The world left the age of colonization behind, but many developing

⁵⁵ Zoltan Miklosi, “Compliance with Just Institutions,” *Social Theory and Practice* 34:2 (2008): 183.

⁵⁶ Thomas Risse and Ursula Lehmkuhl, “Governance in Areas of Limited Statehood - New Modes of Governance?,” in *Governance in Areas of Limited Statehood Research Project*, Research Program of the Research Center (SFB) 700, FU Berlin (2006).

countries still suffer from the remnants of domination and exploitation.⁵⁷ Above all the ‘Dark Continent’ has undergone a brutal post-colonization period and the degree of responsibility of former colonial countries following the independence movements has always been asserted, yet the degree of responsibility is still not clear.⁵⁸ I will not deal with the issue of responsibility right now, and to some extent it is not relevant. Whether or not colonial regimes are responsible for the increasing socio-economic gap between wealthy developed countries and poor developing countries, the morally arbitrary distribution of (natural) resources and membership still creates a robust case for questioning the ways in which our moral considerations are grounded. Every year, some babies die due to the sole fact of insufficient nutrition. Every year some Africans try to immigrate to Europe in order to pursue their subsistence, and some of them die in the shores of Europe in boat accidents. All developments point out the one single claim: “We do not live in a just world”, as Thomas Nagel, famously stated in his prominent article, *The Problem of Global Justice*. However, this does not say much about how justice on a world scale would look like and the ways and the means to achieve it.⁵⁹

2.2.1 From Theory of Justice to Cosmopolitan Global Justice

Since John Rawls introduced his, *A Theory of Justice*, in which he tried to solve the issue of distributive justice, his framework has become the dominant one for assessing the distributive justice principles.⁶⁰ He formulated a hypothetical thought experiment in which people within the original position behind the veil of ignorance would decide to choose and pursue two main principles of justice; protection of equal entitlements to basic liberties, and second, “the

⁵⁷ Gillian Brock and Harry Brighouse, introduction to *The Political Philosophy of Cosmopolitanism*, by Gillian Brock and Harry Brighouse, (Cambridge: Cambridge University Press, 2005), 1.

⁵⁸ Ibid.

⁵⁹ Thomas W. Pogge, “The Problem of Global Justice,” *Philosophy & Public Affairs* 33:2 (2005): 113.

⁶⁰ Brock and Brighouse, *Cosmopolitanism*, 1.

difference principle” through which socio-economic inequalities are permitted if and only if they benefit the least advantaged within the society in which all the positions are open to everyone under “the fair equality of opportunity principle.”

As Thomas Pogge suggests, for Rawls, the principles of justice for local institutions, nation-states in this case, is sufficient. Originally Rawls had dealt with justice within “a self-sufficient scheme of social cooperation,”⁶¹ by assuming that the principles are developed and applied for this closed scheme;⁶² yet he left open the possibility of extending the scope of justice to the global scheme.⁶³ Less than a decade after Rawls published his original piece, territorial⁶⁴ scope of the principles of justice has been called into question and cosmopolitan objections to the delimitation of our mutual obligations to the limited scope have been brought out by Rawlsian cosmopolitans like Charles Beitz and Thomas Pogge.⁶⁵ The argument is that if the *raison d’être* of the veil of ignorance is to remove the knowledge of the people of morally arbitrary factors whereby they would decide on the principles of justice, then one’s place of birth should be a factor to neglect under the veil of ignorance.⁶⁶ Therefore the idea is that if every human being deserves equal worth regardless of their status or membership, then eventually the scope of our duties of justice ought to be global.

In 1993, Rawls did respond to critics in his influential work, *The Law of Peoples*, yet he did not really truly from his original position and only focused on international justice, in other

⁶¹ Thomas W. Pogge, *Realizing Rawls* (New York: Cornell University Press, 1989), 240.

⁶² Brock and Brighouse, *Cosmopolitanism*, 2.

⁶³ In his influential essay, “The Basic Structure as Subject,” *American Philosophical Quarterly* 14:2 (1977): 159-165; Rawls prioritizes the need for justice in a closed community, yet leaves space for the issue of global justice. However, in *The Law of Peoples* (Cambridge: Harvard University Press, 1999), he proposes some principles to govern the international relations, yet neither the international distribution nor “global” justice with a cosmopolitan egalitarian concern.

⁶⁴ I borrow the term, “territorial” from one of the global distributive justice discussions of Hillel Steiner, since I believe the term “territorial justice” best represents the scope of Rawls’s *A Theory of Justice*: see Hillel Steiner, “Territorial Justice and Global Redistribution,” in *The Political Philosophy of Cosmopolitanism*, ed. Gillian Brock and Harry Brighouse (Cambridge: Cambridge University Press, 2005).

⁶⁵ Charles R. Beitz, *Political Theory and International Relations* (New Jersey: Princeton University Press, 1979); Pogge, *Realizing Rawls*.

⁶⁶ Brock, *Global Justice*, 20.

words justice between peoples, and emphasized the necessity of an international arrangement in order to protect the internal justice of liberal peoples. I should lay stress on the fact that *The Law of Peoples* has established a ground of discussion for most cosmopolitan political philosophers. Most of the discussions on cosmopolitan global justice have made a reference to the work, and as Gillian Brock suggests, “much theorizing about global justice and cosmopolitanism is framed in terms of this exchange.”⁶⁷ I believe a short introduction to *The Law of Peoples* would provide an insightful look into the concerns of scholars of cosmopolitan global justice.

Throughout the article, Rawls adopts a dualist approach to the issue of global justice. He separates the principles to govern liberal societies and to govern the international arena. He asserts that the international arena necessitates a second original position through which representatives of peoples would choose different principles to apply to the international practices and law. These are, as eventually developed in the book:

1. Peoples (as organized by their government) are free and independent, and their freedom and independence is to be respected by other peoples.
2. Peoples are equal and parties to their own agreements.
3. Peoples have the right of self-defence but no right to war.
4. Peoples are to observe a duty of non-intervention.
5. Peoples are to observe treaties and undertakings.
6. Peoples are to observe certain specified restrictions on the conduct of war (assumed to be in self-defence).
7. Peoples are to honour human rights.
8. Peoples have a duty to assist other peoples living under unfavourable conditions that prevent their having a just or decent political and social regime.⁶⁸

Although the procedural aspect is much the same for both⁶⁹, most cosmopolitans claim that in the second original position liberal peoples are not required to show a strong commitment to

⁶⁷ Ibid., 19.

⁶⁸ Rawls, *The Law of Peoples*.

⁶⁹ John Rawls, “The Law of Peoples,” *Critical Inquiry* 20 (1993): 37.

egalitarianism represented in justice as fairness.⁷⁰ The eight principles of international justice are based on “acknowledging peoples’ self-determination, the equal ground between them in the international arena that they have a right to defend themselves and not being intervened; and they are required to honour some human rights and to assist non-liberal states in a form of know-how aiming at the development of just regimes rather than direct resource transfers.”⁷¹ In *A Theory of Justice*, Rawls brings up the duty to assist as long as such action does not contain any considerable loss or risk⁷² whereas this direct egalitarian concern does not govern the justice between peoples. The principles of justice developed through the second original position serve to safeguard the principles of justice developed through first original position.

Rawls is an anti-cosmopolitan. As Richard W. Miller points out he rejects the “cosmopolitanism of equality and the global extrapolation of the domestic original position.”⁷³ Most cosmopolitans emphasize his failure to justify his refusal to accept the global implications of his theory of justice. Pogge, for example, stresses the incompatibility between his international and domestic theories. I believe the complication of his argument does not stem from his dualist anti-cosmopolitan approach, but rather from that he neglects the socio-economic scope of justice between individuals and shows a lack of respect for individuals.⁷⁴ Richard W. Miller’s reconstruction of Rawls’s work shows his deep commitment, especially in his late writings, to the “self-reliance, freedom of association, mutual concern in valued relationships, being able to shape the contours of one’s own life, and civic friendship.”⁷⁵ Therefore Miller argues that the extension of the Rawls’s theory of justice to the global level would not give us a cosmopolitan equality. Setting aside this

⁷⁰ Thomas W. Pogge, “Responses to the Critics,” in *Thomas Pogge and His Critics*, ed. Alison Jaggar (Cambridge: Polity Press, 2010), 216.

⁷¹ Brock, *Global Justice*, 20.

⁷² John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1999), 98.

⁷³ Richard W. Miller, “Rawls and Global Justice: A Dispute Over a Legacy,” *The Monist* 94:4 (2011): 467.

⁷⁴ Darrel Moellendorf, *Cosmopolitan Justice* (Cambridge: Westview Press, 2002), 12-15.

⁷⁵ Gillian Brock, “Cosmopolitanism versus Non-Cosmopolitanism: The State of Play,” *The Monist* 94:4 (2011): 458.

discussion, I believe the problem lies in grounding the egalitarian concern in peoples rather than individuals.

A priority given to the liberal ‘peoples’ and their safety, with no strong egalitarian ground for ‘individuals’ does not provide us with a thriving account to address the challenging situations within our global world. The aim of this thesis is to create an account in which the basic rights and opportunities are respected through an egalitarian concern for every individual. Rawls’s international justice is not sufficient in that regard; as in the case of immigration, I think, Rawls’s framework does give exclusive power to the liberal peoples to restrict immigration into their territory out of a concern for security and internal justice. For Rawls, in an ideal international justice, most of the reasons to emigrate would cease to exist and the justice between borders basically aims at this. However, granted that, his theory enables liberal states to continue performing their current absolute control over the borders. That is an exclusive right to restrict immigration from ‘burdened societies’, and also does not respect individuals’ aim to pursue their interest in different parts of the world nor to their subsistence or survival. In the need of urgent immigration requests in which the would-be immigrant is under an actual threat or forced to emigrate from the burdened societies, long term projects to establish just institutions in the burdened society is not a compelling argument.⁷⁶ On the other hand, inequalities between states constitute one of the principal explanatory factors for human mobility⁷⁷, and whether such inequalities are just or unjust; such inequalities combined with arbitrary border control should be treated through a normative perspective.⁷⁸ I believe this complication is rooted in the absence of a strong and direct egalitarian concern for individuals, considering that the claim that ‘peoples’ have a right to pursue their own interest

⁷⁶ Yaffa Zilbershats, “Sovereign States Control of Immigration: A Global Justice Perspective,” *Israel Law Review* 43:1 (2010): 139.

⁷⁷ Zapata-Barrero, “Theorizing State Behavior,” 329; Cornelius and Tsuda, “Controlling Immigration,” 340.

⁷⁸ I do not, *prima facie*, claim that such inequalities between states *ipso facto* create responsibilities to compensate the disadvantaged people. I will address this issue in the Chapter 3, section 3.3 in detail in accordance with the issue of migration.

is not necessarily incompatible with moral cosmopolitanism. In respect of its implications on justice in migration, the reason I argue against Rawls's eight principles of international justice is not because it gives an absolute right to liberal peoples to control their borders per se, rather because of the way he derives such principles out of a non-egalitarian concern for 'individuals' which are seen as morally primary by the cosmopolitan approach to justice.⁷⁹

2.3 Cosmopolitanism: Methodological Considerations

Prior to the discussion of the principles of global justice in general and the assumptions they ground on, I should present and discuss some important methodological preliminaries and their relevance to justice in migration, for the sake of intelligibility of some of the implications which will be presented in the next chapter. First and foremost, the three elements of cosmopolitanism are very essential to any account of cosmopolitan global justice. According to Thomas Pogge, these are, as committed by many cosmopolitans, are individualism, universality and generality. In brief, cosmopolitans are concerned with the interests of individuals regardless of nationality, status or any other subset. Additionally this concern has a global scope and it is binding for every individual.⁸⁰

These elements are significant to any cosmopolitan account of justice, since any conception of ethics is cosmopolitan if its considerations and possible applications consider the equal worth of every human being⁸¹ regardless of any membership, relationship or status. This is not to deny the moral significance of any relationship; provided that it is derived by moral individualism. Robert E. Goodin's consequentialist assigned responsibility model is an example of such assessments. Goodin argues that "what justifies states in pressing the

⁷⁹ Luis Cabrera, "Migration, the 'Brain Drain,' and Individual Opportunities in Gillian Brock's Global Justice," *Global Justice: Theory Practice Rhetoric* 4 (2011): 39.

⁸⁰ Thomas W. Pogge, "Cosmopolitanism and Sovereignty," *Ethics* 103:1 (1992): 48-75.

⁸¹ The debate over the moral status of non-human persons is not in the scope of this study.

particular claims of their own citizens is, on my account, the presumption that everyone has been assigned an advocate/protector."⁸² According to his moral consideration, such a membership practice is nothing but a spatial status that permits individuals to be assigned to duties and responsibilities towards their compatriots more than towards non-residents.⁸³ Be that as it may, assigned responsibility model is not incompatible with moral individualism, since such a model is not necessarily prescription for an absolute morally arbitrary control over borders, but to assume the international borders as it is and some form of autonomy at the very most. Goodin himself never denies the duties and responsibilities toward non-residents.⁸⁴ Concerning the immigration policies, he claims that if any individual being in the world is not secured under a protector, either by not being assigned in the first place⁸⁵ or being left alone, then the individual "becomes the 'residual responsibility' of all"⁸⁶ states. Goodin seems to perceive the rights of refugees not as an act of mercy but one of the responsibilities of states derived by the same moral considerations applied in the case of special responsibilities toward compatriots as well.⁸⁷ However, for him, such a duty is an "imperfect" one that it is not the duty of a particular state; rather it is a duty for all of them "taken as a whole."⁸⁸

Therefore, the ambiguity over the distribution of responsibilities opens up a debate over some methodological questions such as the subject matter of the cosmopolitan approach in our case. Although the central idea of cosmopolitanism is "including all human beings as equals"⁸⁹, there are many interpretations depending on different empirical, methodological and

⁸² Goodin, "Fellow Countrymen?," 684.

⁸³ Alfred M. Boll, *Multiple Nationality and International Law* (Leiden: Martinus Nijhoff Publishers, 2007), 168.

⁸⁴ Stephen R. Perry, "Immigration, Justice and Culture," in *Justice in Immigration*, ed. Warren F. Schwartz (Cambridge: Cambridge University Press, 1995), 103.

⁸⁵ Such a practice of statelessness is an anomaly in current international system of states.

⁸⁶ Goodin, "Fellow Countrymen?," 684.

⁸⁷ *Ibid.*, 685.

⁸⁸ *Ibid.*, 684.

⁸⁹ Thomas W. Pogge, "Cosmopolitanism," in *A Companion to Contemporary Political Philosophy*, ed. Robert E. Goodin and Phillip Pettit (Oxford: Blackwell, 1995), 312.

epistemological considerations. Pogge divides such methodological preliminaries into two as the subject matter of our moral conceptions, such as “individual and collective agents, the actions of agents as such, rules and practices of institutions, and the states themselves;” and the ways in which they are applied.⁹⁰ First, the cosmopolitan idea can be distinguished in accordance with different subject matters taken into account. If one chooses action/conduct of individuals as the subject matter of our ethical considerations, then the cosmopolitan idea of equal worth would be applied to interpersonal relationships. Otherwise, if one assesses and prescribes an ethical consideration specific to social institutions, then in our case the rules and practices of the institutions would be derived by the cosmopolitan idea. Second is the way the equal worth idea is being applied.

According to Pogge, there are two ways to apply the cosmopolitan idea to social institutions, which are legal and social justice cosmopolitanism.⁹¹ Charles Beitz, on the other hand, labels them as institutional and moral respectively.⁹² Individuality, equality and generality compose the characteristics of social justice/moral cosmopolitanism, whereas legal/institutional cosmopolitanism is committed to global institutions, such as a world state. This distinction is important since many cosmopolitans are committed to the idea of equal worth of every human being, yet this does not presuppose the existence of a world state for all of them.⁹³ One might claim that this distinction owes its existence to the Kantian scepticism towards a world state on the ground that “the amalgamation of states” under one political authority might be fragile and/or despotic.⁹⁴ Nevertheless, various empirical and prudential considerations on how the interests of every human being are best addressed might be implemented by the moral cosmopolitans, yet its fundamental idea is not dependent on any empirical or explanatory

⁹⁰ Ibid.

⁹¹ Ibid., 313.

⁹² Simon Caney, *Justice Beyond Borders: A Global Political Theory* (Oxford: Oxford University Press, 2005), 5

⁹³ Ibid., 5.

⁹⁴ Rawls, “Peoples”, 46.

presuppositions and it does impose a certain limit on the regulations and practices of institutions we construct.⁹⁵ For instance, since abolishing nation states is not a practically feasible option, states might be given a crucial role in approximating justice in a transitional fashion, and to do that they require some level of autonomy. In relation with justice in migration, some sort of autonomy over borders can be exemplified in this regard. However, moral cosmopolitans still advocate the equal worth argument regardless of how this will be applied in the institutional level.⁹⁶

Additionally to Pogge's discussion, cosmopolitanism's relationship with liberalism is another point to consider. As most of the cosmopolitans defend a liberal approach to cosmopolitan justice⁹⁷, Rawls's *The Law of Peoples* and David Miller's *National Responsibility and Global Justice*⁹⁸ are good examples of a liberal non-cosmopolitan global justice account. On the other hand, there are some cosmopolitan accounts which reject liberalism. Simon Caney gives the example of some cosmopolitan utilitarians who might "argue that maximizing total utility at the global level requires restrictions on freedom."⁹⁹ Whether to claim certain restrictions on freedom would be a deviation from liberalism or not, I believe this depends on the principles developed and argued for in any cosmopolitan account of justice¹⁰⁰. In the case of justice in migration, a global principle of justice might prescribe some restrictions on both immigration and emigration coextensively resulting from the cosmopolitan character of principles, which means a restriction on the freedom of movement. However, some restrictions on liberal rights, such as freedom to move in this case, is not incompatible with liberalism per se, as long as

⁹⁵ Pogge, "Cosmopolitanism."

⁹⁶ Caney, *Justice Beyond Borders*, 6-7.

⁹⁷ Brian Barry, Thomas W. Pogge, Ohora O'Neill and Charles Beitz have been some of the prominent examples of this outlook.

⁹⁸ David Miller, *National Responsibility and Global Justice* (Oxford: Oxford University Press, 2008).

⁹⁹ Caney, *Justice Beyond Borders*, 5.

¹⁰⁰ Clearly the classical tension between liberalism and equality shows itself in this debate as well. However, some restrictions on freedom does not necessarily make a cosmopolitan account of justice non-liberal. For example, certain restrictions on freedom of movement that stem from moral individualism is not by itself a non-liberal approach.

the argument is compatible with the claims and interests of all affected parties. Overall, this is simply related with the global principles of justice one argue for since while many cosmopolitans are committed to a strong egalitarian ideal, moral individualism, by itself, does not say much about what principles to support.

2.4 Cosmopolitanism: Principles

Along with different methodological considerations moral individualism allow for, there is room for different principles of justice. Hitherto, the global difference principle (GDP) and the global equality of opportunity principle (GEO) have been the prominent distributive principles endorsed by many liberal cosmopolitans.¹⁰¹ Initially, Rawlsians like Beitz and Pogge, and more recently Moellendorf have reconstructed Rawls's *A Theory of Justice*, and argued for a global difference principle based upon the interconnectedness within our global world. Simon Caney calls this the 'institutionalist' approach, saying that only "the members of an 'institutional scheme' have a responsibility for the justice of this scheme."¹⁰² The other main account is the direct approach, or direct egalitarian approach which does not necessitate interconnectedness or an economic exchange for duties of justice to arise and maintains that the duties extend to all who can help. First, I will discuss the principles developed from the perspective of the institutionalist approach.

Charles Beitz argues that through a global original position in which parties do not have any knowledge on the initial/natural resource distribution, they would agree on a redistribution principle which will "give each society a fair chance to develop just political institutions and

¹⁰¹ Brock, *Global Justice*, 45.

¹⁰² Simon Caney, "Global Poverty, Human Rights and Obligations," UNESCO Poverty Project, *Ethical and Human Rights Dimensions of Poverty: Towards a New Paradigm in the Fight Against Poverty*, Philosophy Seminar, All Souls College, Oxford (2003), 4.

an economy capable of satisfying its members' basic needs."¹⁰³ Upon that underlying principle, a global difference principle suggests that inequalities departing from this “fair chance” are justified as long as they are to the benefit of the global poor.

One plausible objection to the GDP is that the causal interdependence argument it originally relied on leads to a need for additional normative criteria to decide over the moral significance of different levels of interdependence. Beitz, himself, introduces this objection to his argumentation. Suppose that there are two self-sufficient and internally just societies: A and B. The least advantaged in B is somewhat worse-off than her equivalent in A. This basically means that citizens of A do not have any duties of justice to the worse-off in B, although duties of aid might be held by the citizens of A. The question is that if A starts trading only one product with B, and although the accumulated wealth within A is ascribable only to the economic exchange of the citizens of A; does GDP become valid all of a sudden?¹⁰⁴ The institutionalist approach requires global interdependence and economic exchange to enable the global duties of justice, and therefore it seems that GDP does not become valid on this ground.¹⁰⁵ For Beitz, global economic exchange and interdependence only above a certain point, “which produce significant aggregate benefits and costs”¹⁰⁶, create a robust case for global distribution of our duties of justice and makes GDP valid.¹⁰⁷ However he does not provide normative criteria to decide what constitutes the ‘significant’ benefits and costs.¹⁰⁸ More importantly, the institutionalist perspective does not offer a clear account of why and how interconnectedness has a moral significance per se. Following Simon Caney, I look at principles of justice from two perspectives. First is “entitlement” that questions why people

¹⁰³ Beitz, *International Relations*, 141.

¹⁰⁴ Caney, *Justice Beyond Borders*, 111.

¹⁰⁵ Charles Beitz, “Justice and International Relations,” in *The Cosmopolitanism Reader*, ed. Garrett W. Brown and David Held (Malden: Polity Press, 2010), 95.

¹⁰⁶ Beitz, *International Relations*, 152.

¹⁰⁷ *Ibid.*, 141.

¹⁰⁸ Simon Caney, “Humanity, Associations, and Global Justice: In Defence of Humanity-Centered Cosmopolitan Egalitarianism,” *The Monist* 94:4 (2011): 524.

are entitled to certain goods, and second is “duty-bearer” that questions why people have duties of justice to others.¹⁰⁹ Consider a worst-off member of B with her counterpart in A, who is slightly better-off. Suppose that both have the same talents, efforts and need. However, the institutionalist approach does not explain why the member of A is entitled to more goods just because A is a wealthier society. Therefore, Caney suggests that “the institutionalist needs to answer why membership in an institutional scheme is of any moral relevance.”¹¹⁰

The moral relevance of membership in an interconnected/institutional scheme can be defended by an emphasis on the impact of the global institutional structure on our lives. This is a plausible approach, yet it is problematic in the sense that an institutional scheme might have some impacts on the interests of people outside of it, or people within the scheme might affect the opportunities of outsiders. Let’s consider the European Union as an institutional scheme, and imagine that country C outside the EU is a self-sufficient and internally just society. The impact argument seems getting tangled when one approaches the issue of justice in immigration from this perspective. The very moment a person from C decides to immigrate and has been restricted by the EU, then the institutional scheme, the EU, starts having an impact on the interests, opportunities or well-being of the person from C.

After a couple of years, Beitz revised his idea and restricted his ‘institutionalist’ view on a more direct egalitarian ground.¹¹¹ He built upon the claim that humans have the same capacities in having a sense of justice and in determining what is good for them.¹¹² Thus, the principles regulating the distribution of natural resources deviated from the ‘institutionalist’ perspective. However he still maintained that in order to apply GDP, a form of interconnectedness is a must. I, on the other hand, adopt the direct egalitarian approach that

¹⁰⁹ I should also note here that one can argue for the priority of one perspective over the other in her account of justice.

¹¹⁰ Caney, *Justice Beyond Borders*, 112.

¹¹¹ *Ibid.*, 110.

¹¹² Charles Beitz, “Cosmopolitan Ideals and National Sentiment,” *The Journal of Philosophy* 80 (1983): 595.

the moral premise a principle of cosmopolitan justice argument depends on should be on the ground that every human being deserves an equal worth regardless of the institutional membership structure she belongs to.

One alternative to Rawlsian reconstructions of GDP is Gillian Brock's "Needs-Based Minimum Floor Principle". Although many non-cosmopolitans claim that GDP is a very demanding principle, Brock's reason for arguing against it is different. She claims that through the Rawlsian global original position, representatives would choose "a more minimally egalitarian principle – a particular Needs-Based Minimum Principle"¹¹³. She appeals to psychological studies done by Norman Frohlich and Joe Oppenheimer to show how under impartiality, individuals would choose to guarantee our basic socio-economic needs and basic political rights and choose a safety net for the worst-off rather than GDP. This argument questions Beitz's, Pogge's, Moellendorf's assumptions on the outcomes of their global reconstruction of the original position. However it does not, by itself, offer a compelling argument for the "Needs-Based Minimum Floor Principle."¹¹⁴ The reason Brock is satisfied with her construction of the original position is because she is not worried about inequality per se, but the patterns of domination and oppression which can be traced back to inequalities. She adopts Elizabeth Anderson's relational egalitarian approach¹¹⁵ and argues that income inequality does not pose any problem as long as they are not transformed into status inequalities and certain basic freedoms and opportunities are provided.¹¹⁶

The second most prominent principle of global distributive justice, which is defended excessively by Simon Caney, is the global equality of the opportunity principle. It is "the idea that people of a somewhat similar talent and motivation should have equivalent opportunity

¹¹³ Brock, *Global Justice*.

¹¹⁴ Christopher H. Wellman, review of *Global Justice: A Cosmopolitan Account*, by Gillian Brock, *Mind* (2012).

¹¹⁵ Elizabeth S. Anderson, "What is the Point of Equality?," *Ethics*, 109:2 (1999): 287-337.

¹¹⁶ Brock, *Global Justice*.

sets regardless of their membership or status.”¹¹⁷ In the next chapter, first, I will discuss and defend GEO as a principle to adopt and apply in order to approximate justice in migration. As I mentioned earlier, in general I look into the principles of justice from the entitlement and duty-bearer perspectives. Thus secondly, I will discuss GEO in relation to justice in migration on the ground that why and how people have entitlements on goods, such as the right to restrict immigration; and why and to what extent people are obligated to open their borders.

¹¹⁷ David Miller, “Against Global Egalitarianism,” *The Journal of Ethics* 9:1/2 (2005): 55.

Chapter 3: Cosmopolitan Justice in Migration

The ultimate aim of this study is to explore the possible ways in which a cosmopolitan theory of justice in migration can be developed. Therefore, firstly it is interested in the conditions and the reasons that enable us to be uneasy about justice in migration; and the addresses of duties of justice along with the perspective through which the reasons why duties of justice arise. Lastly, it will question what kind of principle(s) it should rely on?¹¹⁸

In this chapter I will start my inquiry with a very short conceptual/empirical review of the issue of migration and I will introduce the basic determinants of migration with an emphasis on the way arbitrary border control represents inequality of opportunity. Secondly, I will argue that along with immigrants and members of receiving countries, members of sending countries deserve equal concern for the sake of justice in migration. Additionally, I will present my reasons about why the duties of justice arise for migration from a moral cosmopolitan perspective. In this part I will also touch upon the issue of responsibility. Lastly, I will discuss the global equality of opportunity principle for making border control more just, and argue for a more relaxed version of it, namely the global equality of decent opportunities. I should note here that I am adopting a modest perspective to global justice which Gillian Brock calls the transitional global justice approach.¹¹⁹

3.1 International Migration: Inequality of Opportunity

The report of International Organization for Migration (IOM) estimated that in 2010 there were 214 million international migrants in the world.¹²⁰ It is hard to determine the reasons

¹¹⁸ Lea Ypi formulates this roadmap in her article, see: Ypi. "Justice in Migration," 391.

¹¹⁹ Brock, *Global Justice*.

¹²⁰ "IOM - Facts & Figures," accessed May 1, 2012, <http://www.iom.int/jahia/Jahia/about-migration/facts-and-figures/lang/en>.

behind this figure as migration has a “complex character.”¹²¹ The movement of people have various motivations behind, and there are different categories of migrants. A post-graduate student pursuing her research in UK; a family exposed to a famine and in the midst of starvation; a political refugee fleeing from the oppression in her country; an international businessperson looking for investment opportunities; a doctor volunteering to aid developing countries- are all migrants, yet with different reasons and in different conditions. Migrants, in brief, tend to pursue better life opportunities. Nevertheless, most of the international migrants have direct economic or economic-related motivations behind their movement.¹²² Only the %15 of international immigrants is refugees.¹²³ On the other hand, from the perspective of states, although the beginnings of 1990s had experienced a transnational public debates on immigration politics, in 1996, Richard Black noted that “the right to immigrate appears everywhere on retreat”¹²⁴ mostly because of the negative public attitude towards immigrants especially in Europe. Some recent studies show that throughout the 90s and in the beginnings of 2000s we experienced a “renationalization of public debates on immigrant integration,”¹²⁵ and as a matter of fact the convergence of the labour-importing states’ border control policies and practices¹²⁶ support this argument. In the meantime, the figures, in terms of both the number of migrants and the sending countries, are also rising.¹²⁷ For instance, in the case of labour migration, the estimates show that, although it is in a decrease, the huge gap between positive immigration pressure (if more people want to immigrate into the country than to emigrate from) Western Europe has and negative immigration pressure (if more people want

¹²¹ Seglow, “The Ethics of Immigration,” 317.

¹²² *Ibid.*, 318.

¹²³ “IOM - Facts & Figures.”

¹²⁴ Richard Black, “Immigration and social justice: towards a progressive European immigration policy?,” *Transactions of the Institute of British Geographers, New Series* 21:1 (1996): 64.

¹²⁵ Ruud Koopmans et al., “The Denationalization of Immigration Politics: Is It Happening and Who Benefits?,” in *Of States, Rights, and Social Closure: Governing Migration and Citizenship*, ed. Oliver Schmidtke and Saima Ozcurumez (New York: Palgrave Macmillan, 2007), 252.

¹²⁶ Cornelius and Tsuda, “Controlling Immigration,” 4.

¹²⁷ Seglow, “The Ethics of Immigration,” 318.

to emigrate from the country than to immigrate into) North Africa has will be preserved (Table 1).

Table 1 – Positive/Negative Immigration Pressure Estimates until 2020 (in thousands)¹²⁸

Area/Years	2006 - 2010	2011 - 2015	2016 - 2020
Western Europe	256.1	235.1	226.0
North Africa	- 113.3	- 101.8	- 97.3
CIS Middle East Countries	- 65.3	- 45.8	- 51.8
South Asia	- 64.7	- 50.8	- 50.3
Eastern Europe	- 49.9	- 45.4	- 45.4
Slavic World	37.0	8.7	23.3

There might be different socio-economic explanations of this phenomenon, such as rational choice approach to the issue on the basis of push and pull factors, or more structural approaches taking the ways in which global labour markets work into their account.¹²⁹ As it is mentioned in the introduction, Richard Black takes the issue as a “symbol of global inequality” as immigration is perceived as a means to have an access to opportunities one does not have in her country.¹³⁰ Cavallero also asserts that “the normative significance of immigration pressure is that it indicates *inequality of opportunity*.”¹³¹ The crux of the matter is that borders serve as a means to distribute economic opportunities that limit resources and advantages into its territorial borders and its members whereas it restricts other individuals in certain ways to have access to those opportunities and advantages on arbitrary basis.¹³²

¹²⁸ Vladimir Borgy and Xavier Chojnicki, “Labor Migration: Macroeconomic and Demographic Outlook for Europe and Neighborhood Regions,” *Economie Internationale* 119:3 (2009): 115-153.

¹²⁹ Seglow, “The Ethics of Immigration,” 318.

¹³⁰ Black, Natali and Skinner, “Migration and Inequality.”

¹³¹ Blake and Risse, “Immigration and Original Ownership,” 14.

¹³² Eric Cavallero, “An immigration-pressure model of global distributive justice,” *Politics, Philosophy & Economics* 5 (2006): 98.

Another feature which might deepen the inequality of opportunities is the brain drain and its effects on the sending countries. For example, a recent study on the medical brain drain shows that around %25 percent of medical doctors in countries like Ethiopia, Ghana, Malawi, Somalia and Zimbabwe emigrate from these countries.¹³³ Additionally, Gillian Brock shows that although Europe and North America have %21 of world's population, they have %45 of world's doctors and %61 of its nurses.¹³⁴

Without a doubt, the opportunity sets of people residing in developing countries might be diminished through emigration of highly skilled labour from the county. In the case of medical brain drain, this might even lead to more severe complications, such as absence of access to basic health care in the country. Some might argue that remittances sent by the immigrants might work as a sort of compensation for the effects of their absence, yet I object to this argument on two grounds. Firstly, the remittances work in a voluntary basis. However, the aim of justice in migration is to derive principles for institutions, and leaving the scope only to interpersonal ethical considerations would not be a plausible response. As Lea Ypi suggests, such a voluntary act should not refrain us from the need of a more principled and institutionalized approach to the issue.¹³⁵ Secondly, not only would remittances not always compensate for the needs of poor households, but they would also create a remittance-based inequality of opportunities in the local level. A case study in Mexico shows that although remittances do decrease the poverty rates of households, in terms of remittances they get, the share of non-poor households is much bigger than the share of poor households.¹³⁶ This might also imply that labourers from non-poor households are more likely to immigrate into affluent countries. Another case study in Kosovo also suggests that the remittances-receiving

¹³³ Xavier Chojnicki and Cécily Oden-Defoort, "Is there a medical brain drain?," *Economie Internationale* 4 (2010): 101-126.

¹³⁴ Brock, *Global Justice*, 200.

¹³⁵ Ypi, "Justice in Migration," 414.

¹³⁶ Gerardo Esquivel and Alejandra Huerta-Pineda, "Remittances and Poverty in Mexico: A Propensity Score Matching Approach," *Integration & Trade* 27 (2007): 49.

households are mainly the non-poor households, and this phenomenon even sharpens the income gap between poor and non-poor households in some areas.¹³⁷

In brief, I confine my account to this conception, namely the inequality of opportunity the current border control practice represents in every aspect. In this study, I deal with voluntary migration based on economic or economic-related motives based on immigrants' demand to gain access to opportunity sets obtainable in other countries; and I also confine my analysis to first admission processes and residence.¹³⁸ Therefore, the assessments in this study will mostly have implications on economic migration and entitlements to certain rights as a residence.¹³⁹ On the other hand, I should note here that in the case of political and economic refugees, the difference between involuntary and voluntary migration becomes ambiguous,¹⁴⁰ yet refugees might be the subject of a distinct framework of justice.¹⁴¹

3.2 Moral Cosmopolitanism and Migration

The cosmopolitan idea of equal and inclusive concern for every human being will bear on our moral analysis in a way that "each person [will] ... be treated as having equal standing as an addressee of justification."¹⁴² That is to say, any action, regulation or policy having an effect upon the interests, benefits or opportunities of individuals is supposed to be justifiable to them.¹⁴³ Additionally, direct egalitarian approach in general holds that people should not face

¹³⁷ Zana Vathi and Richard Black, "Migration and Poverty Reduction in Kosovo," Development Research Centre Working Paper WP-C12, University of Sussex, 19.

¹³⁸ In many recent cosmopolitan approaches to the issue of immigration, scholars such as Jonathan Seglow and Lea Ypi adopt this 'economic migration' approach.

¹³⁹ The question of admission to citizenship is another focal point of discussion, see: Rainer Bauböck, *Transnational Citizenship* (Aldershot: Edward Elgar, 1994); Will Kymlicka, "Immigration, Citizenship, Multiculturalism: Exploring the Links," in *The Politics of Migration: Managing Opportunity, Conflict and Change*, ed. Sarah Spencer (Oxford: Blackwell, 2003).

¹⁴⁰ Peter C. Meilander, *Toward a Theory of Immigration* (New York: Palgrave Macmillan, 2001), 10.

¹⁴¹ Seglow, "The Ethics of Immigration," 318.

¹⁴² Charles R. Beitz, "Cosmopolitanism and Global Justice," in *Current Debates in Global Justice*, ed. Gillian Brock and Darrel Moellendorf (Dordrecht: Springer, 2005), 17.

¹⁴³ Luis Cabrera, *The Practice of Global Citizenship* (Cambridge: Cambridge University Press, 2010), 15.

inequality of opportunities for morally arbitrary reasons such as their nationality, class, ethnicity and status.¹⁴⁴ In this sense, border control is morally contested since immigration barriers restrict opportunities of individuals based on their country of birth. On the other hand immigration of highly skilled labour, such as medical workers, from a country with a high emigration pressure might leave the citizens of sending countries worse-off. As I mentioned in the previous section, most of the voluntary immigrants are the relatively better-off members of the countries they emigrate from. The inequality of opportunity signalled by the gap between positive immigration pressure and negative immigration pressure might be increased for individuals who are not able to emigrate or not willing to emigrate for plausible reasons. Current immigration policies of wealthy countries that are partly based on attracting skilled labour from poor countries strike me as morally controversial in this sense. Gillian Brock also shares this view and questions the unequal distribution of health workers around the world.¹⁴⁵

The initial response of many cosmopolitans to the issue of immigration is to have open borders on the grounds that individuals are entitled to free movement and equal opportunities.¹⁴⁶ Yet another approach employed by Mathias Risse is that we should not only ask what is good for “us”; and therefore immigration policies should be justifiable to would be immigrants as well.¹⁴⁷ In contrast, some scholars argue against open borders by an appeal to prudential considerations on the effects of massive immigration flow. Thomas Christiano lays stress on the claims that the proper functioning of liberal democratic states is necessary

¹⁴⁴ Simon Caney, “Cosmopolitanism and Justice,” in *Contemporary Debates in Political Philosophy*, ed. Thomas Christiano and John Christman (Oxford: Wiley-Blackwell, 2009), 394.

¹⁴⁵ Gillian Brock shows that although Europe and North America have %21 of world’s population, they have %45 of world’s doctors and %61 of its nurses, see Brock, *Global Justice*.

¹⁴⁶ Thomas Christiano, “Immigration, Political Community and Cosmopolitanism,” *San Diego Law Review* 45 (2008): 933.

¹⁴⁷ Ryan Pevnick, Philip Cafaro and Mathias Risse, “An Exchange: The Morality of Immigration,” *Ethics & International Affairs* 22:3 (2008): 254.

for approximating justice in global scope, and massive unrestricted immigration flows might be detrimental to the territorial justice.¹⁴⁸ Lea Ypi also questions whether massive immigration flow would diminish social justice within the “immigration-affected states.” This is a compelling objection to open borders. However, such an argument still does not vindicate an absolute and arbitrary control over borders, just as Goodin’s “assigned responsibility model”, nor does it justify the inequalities resulting from unjust border control practices.

In addition to both Ypi and Christiano’s argument, I would like to introduce my concerns on possible consequences of open borders on the members of poor countries (see brain discussion above) that might be detrimental for the countries as such to approximate territorial justice. Thus, I oppose to the open borders argument from a moral individualist perspective through which I formulate a different cosmopolitan approach concerning both the demands of citizens of liberal affluent countries as such, and the opportunities of the members of sending countries along with the would be immigrants.

As it is shown, non-ideal circumstances of the world might create a conflict between the two entitlements, which are free movement and equal opportunity. I believe that is the reason why the open versus closed borders debate suffers from the indeterminate discussions on whether liberal states are entitled to restrict immigration. I do not deny the moral significance of entitlements, yet that perspective alone does not deal with the duty-bearer aspect of justice in migration questioning the duties derived by the principles of justice, and the responsibilities of individuals towards aliens, if there is any.

¹⁴⁸ Christiano, “Immigration,” 961.

In my view, this perspective requires an immediate attention, and following Brock I assume a transitional justice perspective through which modest steps toward global justice are taken. In the case of immigration, I, *prima facie*, assume the existence of borders, since abolishing states is not a practically feasible option for now; and states will have a crucial role in approximating justice both in territorial and global scope, and to do that they need some level of autonomy. Therefore, the subject matter of my cosmopolitan approach is the states and their regulations and practices on migration, and duties of justice should be assigned to them. As Chris Armstrong suggests, “it is not necessarily inconsistent for global egalitarians to accord some value to the ideal of self-determination; since there are ways to reconcile two values.”¹⁴⁹ I believe the moral individualism I adopt directly implies a concern for the interests of the members of receiving countries.

Overall, the crux of the issue is that any policy goal should also take the interests of the members of sending countries into its formulation. Therefore, my cosmopolitan approach to justice in migration requires that: (i) immigrants who want to pursue their interests elsewhere, (ii) the people who reside in the receiving countries, and (iii) the people who stay in the sending country are simply the addressees of justification, and the units of our moral reasoning. In what follows, I shall get into the details of why moral individualism requires equal concern for the opportunities of (i), (ii) and (iii), and also how this equal concern for opportunities creates duties of justice for all.

3.3 Justice, Responsibility and Migration

Here I will present the moral ground of my units of analysis for justice in migration, out of a concern for morally arbitrary inequalities disadvantaging individuals in terms of their access

¹⁴⁹ Chris Armstrong, "National Self-Determination, Global Equality and Moral Arbitrariness," *The Journal of Political Philosophy* 18:3 (2010): 313.

to opportunities. To recapitulate some relevant debates; I should note here that I agree with the main rationale behind the open borders argument that morally arbitrary injustices should be addressed in a liberal and cosmopolitan egalitarian framework, and the current membership regime is one of the instances of such injustices due to the disadvantages caused by one's place of birth and the arbitrary exclusion practices in border control.¹⁵⁰ Hitherto cosmopolitan scholars, like Pogge and Moellendorf, have emphasized on the inequalities rooted in one's place of birth and nationality in order to derive duties of justice. As it has been discussed in the previous chapter, unlike Pogge and Moellendorf, Simon Caney extends the scope of moral arbitrariness of one's place of birth to one's birth into an interconnected/institutional scheme by an appeal to a humanity-centred cosmopolitan approach.¹⁵¹ Caney shows that the argument the institutionalists use to show the moral arbitrariness of national borders does also vindicate the argument for the moral arbitrariness of one's birth into a specific institutional scheme, since no one is responsible for being born into an institutional scheme through which one's access to basic opportunities might be hampered.

I adopt Caney's direct egalitarianism; and in order to be more inclusive and to reconcile my humanity-centred cosmopolitanism approach with my justice in migration framework, following Cécile Fabre's approach, I claim that along with nationality and place of birth, residence therefore seems as another morally arbitrary feature which might oblige us to address the inequalities stemmed from it. It should be noted here that Fabre appeals only to residence, and believes "residence [alone] captures what is at stake"¹⁵² over the global justice debate in general. She holds that:

¹⁵⁰ Christine Straehle, "Immigration," in *Encyclopaedia of Global Justice*, ed. Deen K. Chatterjee (London: Springer, 2011), 525.

¹⁵¹ Caney, "Cosmopolitanism and Justice," 395.

¹⁵² Cécile Fabre, "Global Distributive Justice: An Egalitarian Perspective," in *Global Justice, Global Institutions*, ed. Daniel Weinstock (Calgary: University of Calgary Press, 2007), 142.

*... Residence, and not proximity to natural resources or nationality, is the most salient of the considerations that should lead us to conceive of distributive justice globally, not domestically. For in residing somewhere, we have - or, as the case may be, we do not have - access to the infrastructure, networks of exchange, and groups of productive people that we need in order to convert natural resources into wealth. To be sure, a resident in a country is, more often than not, a national of that country; yet ... nationality does not suffice to explain why we benefit from living in a given country, while residence does.*¹⁵³

Setting this aside, I believe residence does function as ‘another’ source of morally arbitrary inequalities as one’s nationality or place of birth in the case of migration; and introduction of this will capture some disadvantages which require our moral reasoning for justice in migration. I believe the interests and opportunities will be best dealt with an emphasis on the unjustified inequalities which can be traced back to one’s place of residence as much as nationality and place of birth within the framework of my transitional justice in migration.

That is to say, residence, here, is just another “potential basis of institutional inequalities.”¹⁵⁴ That is to say, even if, one moves to a relatively poorer country, her diminishing opportunities can be perceived as morally unacceptable from a direct egalitarian perspective. I would like to remind that in any case moral individualism requires any cosmopolitan account to take any affected party as the unit of concern. Suppose that, Justine, as a humanitarian individual, is volunteering to aid the poor country, A, and for that reason she decides to share her knowledge in mathematics with young students there. It must be noted that her access to various opportunity sets might also undergo a change, for instance, if a big amount of highly skilled health care workers from A, immigrate into the affluent country B, which grants entry to those highly skilled health care professionals. If she gets an unknown disease, she might find herself in a situation in which her illness is not being able to diagnose due to lack of experienced health care professionals in the hospital. A massive brain drain might diminish the chances of Justine’s access to even basic opportunities, such as basic health care.

¹⁵³ Fabre, “Global Distributive Justice,” 144.

¹⁵⁴ Thomas Pogge, *Realizing Rawls*, 247.

In my view, justice in migration should consider the inequality of opportunities caused by the one's birth place in the case of health care workers from A, and respect their demands to pursue their life in affluent countries in which they will have at least decent opportunity-sets; and it should also be concerned with the consequences of their demands on the opportunity-set of Justine, along with the other members of A. Any account of justice in migration should not create such deterrents to the voluntary cooperation or leave the members of sending country worse-off. Therefore, along with the members of affluent countries, the nationals of A also have duties of justice¹⁵⁵ to anyone residing in their country. It can be said that it is Justine's responsibility to reside in the country A. However, it is not Justine's responsibility to be disadvantaged by unjust immigration policies, as a result of staying in A.

Nevertheless it might seem counter-intuitive to suggest that members of a very poor country have such a duty towards Justine, who is a national of a very affluent country. In relation with that, Pogge asserts that citizens of affluent countries residing in relatively poor countries mostly have higher standards of living than citizens of poor countries residing in the affluent countries.¹⁵⁶ Pogge's empirical claim is sound, yet I believe this might be simply a consequence of unjust distribution of resources in the world as well as lack of respect for the opportunities of immigrants, who are the nationals of developing countries. However what I suggest is basically that along with other members of A, Justine's access to opportunity sets should not be restricted just because she voluntarily resides there. After all, this is the case for immigrants from developing countries residing in B. Simply because they 'choose' to immigrate there, and B granted an entry to them; their access to opportunity sets should not be

¹⁵⁵ My scope is only the duties of justice, derived in relation with the issue of migration, while I do not deny other duties of justice.

¹⁵⁶ Fabre, "Global Distributive Justice," 144.

restricted on that ground. Apart from that, I believe, as long as a fair distribution is maintained and decent opportunity sets are provided, it would not be counter-intuitive to see relatively wealthier immigrants from B in A.

Therefore, in my view, justice in migration should be concerned with the morally unacceptable inequality of opportunities between individuals regardless of their nationality, residence, or place of birth; and global duties of justice in migration should be derived accordingly. Overall, the global nature of the issue of immigration, first, enables us to consider the interests, rights and given opportunities of individuals in a cosmopolitan fashion; and second, it qualifies a duty-bearer justice perspective since inequalities due to the moral arbitrariness of one's place of residence, nationality or place of birth might restrict one's opportunities. I claim that we have duties of justice towards each other that is immediately needed to govern the states' practices and regulations on the immigration. The principle I defend here is the principle of equality of opportunity.

3.4 Global Equality of Opportunity

The inequality of opportunities as the institutional basis of both most of the immigration flows, and the inequalities caused by arbitrary border control allow us to derive global duties of justice in migration from the global equality of opportunity principle. Simon Caney is one of the most prominent defenders of the principle¹⁵⁷, and I will mainly depend on his analysis, along with the introduction of some objections.

¹⁵⁷ It can be said that the principle of global equality of opportunity has attracted little attention.

This principle as formulated by John Rawls suggested that each member of the society should have equal opportunities to attain social positions, independently of what class or origin they belong to, “given the same talents and willingness to try.”¹⁵⁸ Caney extends this principle to the global scope that every individual, regardless of their national identity, class or race, should have same chances of attaining positions.¹⁵⁹ Caney points out to the fact that equality of opportunity is not an outcome-governed principle, and it only provides that people should not have worse opportunities on the basis of morally arbitrary features such their national identity, race and gender etc.¹⁶⁰ In the case of justice in migration, this principle is appealing on four grounds: First, the negative conception of the principle will strengthen the claim that it is unfair to restrict would be immigrants’ opportunities on the basis of their place of birth, national identity, or place of residence. Second, the principle also entails a positive conception that “people are entitled to the same opportunities as others.”¹⁶¹ Third, the principle allows us to derive freedom of opportunity accordingly with its ideals. Open versus closed borders debate mainly perceive freedom of opportunity as a freedom in itself, however, in most of the accounts in which this freedom is appealed to, as Joseph Carens’s somewhat libertarian defence, freedom of movement by itself does not presuppose any entitlement to goods such as social security, accommodation, jobs, basic income and etc.; nor does it entails any entitlements on having equal or decent opportunities. On the other hand, accounts, in which free movement perceived as a means to approximate global justice, as Kymlicka’s consequentialist cosmopolitanism, open borders might leave the members of sending countries worse off or at best this would not serve “many others whose interests nonetheless come within the ambit of a global principle.”¹⁶² As I mentioned above, remittances do not

¹⁵⁸ Rawls, *The Law of Peoples*, 115.

¹⁵⁹ Simon Caney, “Cosmopolitan Justice and Equalizing Opportunities,” *Metaphilosophy* 32:1-2 (2001): 114.

¹⁶⁰ *Ibid.*, 113.

¹⁶¹ *Ibid.*, 115.

¹⁶² Seglow, “The Ethics of Immigration,” 327-328.

only address the inequality of opportunities in a principled way, they sometimes even deepen 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. Therefore, the main claim of the thesis, regarding the principle of justice is that any policy implication derived by the global extension of this principle should respect the opportunity sets of everyone.

Along with the merits of the principle, there are some complications when we think of the ways in which it can be endorsed. The most common objection to the principle comes from Bernard Boxil. The claim is that cultural pluralities in our world make the application of this principle unfeasible, since it requires a neutral way of measuring opportunity sets.¹⁶³ In this culturally plural world, individuals with different cultural backgrounds might value different sets of opportunities in various ways, and it is not appropriate even to try “calibrating” the opportunities as such, since the principle requires a commonality on the way people perceive opportunities and success.¹⁶⁴ According to Gillian Brock, this problem has its roots in the transformation of the negative ideal of the principle into a positive one. In other words, although the negative conception of “what to be rejected” is appealing, positive conception of “what to be endorsed” seems elusive.¹⁶⁵ Different cultures value different life choices, and a children from X country might value being a storyteller more than a being a spokesperson in United Nations; therefore, establishing a neutral way to endorse equal opportunities seems unfeasible. In order to avoid such objections, Caney reconstructs the principle as that:

¹⁶³ Bernard R. Boxil, “Global Equality of Opportunity and National Integrity,” *Social Philosophy and Policy* 5:1 (1987): 143-168.

¹⁶⁴ Caney, “Equalizing Opportunities,” 119.

¹⁶⁵ Brock, *Global Justice*, 58

*Global equality of opportunity requires that persons (of equal ability and motivation) have equal opportunities to attain an equal number of positions of a commensurate standard of living.*¹⁶⁶

He incorporates Martha Nussbaum's argument that although different cultures value different opportunities, they are basically initiated by the same standards about living, which are "capacity for (1) life, (2) health, (3) the avoidance of pain, (4) use of the five senses, (5) human relationships, (6) the deliberation about and pursuit of personal ideals, (7) relations of care for others, (8) access to the natural environment, (9) experiencing enjoyment, and (10) independence."¹⁶⁷ For Caney, this list can serve as an index to measure different cultural opportunities in terms of their effect on well-being which will be endorsed by the principle of global equality of opportunity. This avoids Boxil's objections which are based on the cultural plurality of the world. However, Brock provides, as I call it, a power-effect argument against the standard of living index. For her, although different opportunities might be valued by a reference to same measure of well-being, cultural plurality and different perceptions on how to achieve the well-being might put some individuals into a better situation in being able to influence public policies, institutions and etc..¹⁶⁸ In the 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. Suppose that residents of a relatively poor country A have demand for relatively less resources than the residents of B, in order to be supplied with their culturally grounded opportunities. Cécile Fabre, for instance, believes that if the distribution is fair; and if A is able to provide decent opportunities to its residents, then it is not morally unacceptable for A to subsidize relatively expensive cultural choices of the residents in B. However, Brock's power-effect analysis can

¹⁶⁶ Caney, "Equalizing Opportunities," 120.

¹⁶⁷ Martha Nussbaum, "Human Functioning and Social Justice: In Defense of Aristotelian Essentialism," *Political Theory* 20 (1992): 222.

¹⁶⁸ Brock, *Global Justice*, 60

be directed against this argument. Imagine that, *ceteris paribus*, people in B value ability of public speech much more than the people in A. If A is able to provide equality of opportunity and B is not; then duties of justice for A to subsidize the public speech courses in B arise. However, the people from A might have more effect on the international arena, or foreign relations.

On the other hand, the problem, as it is directed to me by Lea Ypi¹⁶⁹, is the potential incompatibility between global equality of opportunity and territorial equality of opportunity. As David Miller claims the preferred opportunity-sets of individuals are mainly determined by the sets of “morally relevant” relationships they have with their co-nationals. That is to say, the preferred opportunity sets within a national community are indicative of morally relevant relationships they have towards each other, since one’s nationality is a feature shaping her cultural opportunities. As Sylvie Loriaux asserts, for Miller, “decisions made by domestic societies must inevitably affect the resources and opportunities that will be available to their present and future people.”¹⁷⁰ Therefore, for Miller, endorsement of global equality of opportunity would undermine political self-determination, which is needed for the territorial equality of opportunity. He justifies preferential treatment to one’s co-nationals on this basis, and for him, the argument for global equality of opportunity cannot only depend on the claim that international relationships and the duties outweigh the national ones.¹⁷¹ I believe Miller’s instrumentalist look into the value of equality plays an important role in his assessment of the principle.¹⁷² Nevertheless, there is a need for a criterion which will govern the possible conflicts between what global equality of opportunity and what territorial equality of

¹⁶⁹ “Global Justice: Norms and Limits Conference,” Faculty of Philosophy, University of Bucharest and The Center for the Study of Rationality and Beliefs, Romania, May 10-12, 2012

¹⁷⁰ Sylvie Loriaux, “Global equality of opportunity: a proposal,” *Journal of International Relations and Development* 11 (2008): 19.

¹⁷¹ David Miller, “Against Global Egalitarianism,” 70.

¹⁷² For a debate on the equality on that regard, see: Thomas Scanlon, “When Does Equality Matter?,” unpublished manuscript (2004).

opportunity positively endorses. One way to avoid such criticisms might be relaxing the principle in certain ways.

One proposal comes from Gillian Brock. Her suggestion is to endorse a *decent* sets, rather than *equal* sets of opportunity in order to secure *decent* lives for everyone.¹⁷³ She believes that United Nations Development Program's (UNDP) measure based on factors such as life expectancy, literacy, and so on might be put into use to argue for a weaker positive conception of equal opportunity.¹⁷⁴ Therefore in the light of this debate, the weak positive conception of global equality of opportunity can be as following:

Global equality of opportunity requires that persons (of equal ability and motivation) have equal opportunities to secure a decent life.

3.5 Justice in Migration: Toward a Global Migratory Regime?

I believe both strong (equal) and weak (decent) versions of positive conception of equality of opportunity, and the negative version of it can be put into use to argue for the premises which can govern the institutions regulating migration. Overall, justice in migration, consist of both justice in immigration and justice emigration, deals with the ways in which (freedom of) movement will be restricted in a morally acceptable way, and the way responsibilities will be distributed between all parties. If we are looking for a global justice in migration, both accounts of emigration and immigration should be the ultimate concern of same account of justice. Therefore, I believe some restrictions on movement, either in emigration or immigration, out of a concern for equality of opportunity is not a deviation from 'liberal' cosmopolitanism. As Lea Ypi suggests, some restrictions on liberal rights, such as freedom to

¹⁷³ Brock, *Global Justice*, 62.

¹⁷⁴ *Ibid.*, 63.

move, is not incompatible with liberalism per se, as long as the argument is justified and compatible with the claims of people from both sending and receiving countries in the case of migration.¹⁷⁵ In this case, right to move will depend upon its impact on the opportunity structure of all affected (sending, receiving countries, etc.).

In related with the subject matter of cosmopolitanism, my transitional justice approach is concerned with “the morality of social institutions and practices” and I do not have extend it to “all of morality.”¹⁷⁶ Justice should be the governing criterion behind the institutions in a Rawlsian sense. That is why the premises I formulate are as following:

Strong Moral Cosmopolitan Premise: “Institutions regulating migration in general ought to equalize all individuals’ opportunities.”

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

Negative Moral Cosmopolitan Premise: Institutions regulating migration in general ought not to restrict anyone’s opportunities in a ‘morally unacceptable way’ on the basis of one’s place of birth, residence, status or nationality.

As Miller points out, recently most of the cosmopolitans, who hitherto defended a sort of equality of opportunity principle relaxed their conception of equal opportunities in the light of recent objections. Both Caney and Moellendorf eased their strong and positive premises and started to “look at particular goods that make a valuable life such as UNDP measures.”¹⁷⁷ Miller claims that the defenders of the principle try to see how far it is possible to travel politically starting from less contested principles. The approach I adopt allows me to have the same roadmap. For that reason, I will only take the Weak Moral Cosmopolitan Premise at hand here to discuss concisely the possible applications and implications of it. A detailed

¹⁷⁵ Ypi, “Justice in Migration,” 412.

¹⁷⁶ Beitz, “Cosmopolitanism and Global Justice, 17.

¹⁷⁷ Brock, *Global Justice*, 62; Simon Caney, “Justice, Borders and the Cosmopolitan Ideal: A Reply to Two Critics,” *Journal of Global Ethics*, 3 (2007), 267–74.

comparative account in which all the premises are discussed is not in the scope of this thesis; and I also should remind that I do not deny the general duties of global justice.

In my view, justice in migration, on the basis of *Weak Moral Cosmopolitan Premise*, prescribes that regulations and practices of migration policies are supposed to provide decent opportunity sets to everyone. In other words, I encapsulate immigration controls under this premise meaning. The idea is that decent opportunity sets of all individuals, namely life expectancy, basic goods, shelter, literacy, health care, and so forth¹⁷⁸, should be secured in the face of emigration/immigration demands by focusing on the impact of such move on the *decent* opportunity sets of everyone. The suggestion is that, what matters ultimately is the overall *decent* opportunity sets of each person, and policies should be based on the measures, combining the decent opportunities created by movement, and those created by resource entitlements of the country where would be immigrant resides. Therefore, as long as states fulfil their duties either in the form of allowing immigrants and/or in the form of compensation; then they will be assigned with a delegative right to restrict immigration into their territory upon their discretion. Additionally, if an affluent country grants entry to highly skilled labour whose absence in the sending country might impair decent opportunity sets of the people there; then a state, individually, should also compensate for this complication either by direct transfer¹⁷⁹ or by assisting them to, for example, establish decent medical facilities. On the other hand, the distribution of responsibilities between affluent countries regarding the first case is another point to consider. I believe this might be grounded on either the resource entitlements of the countries, or better on the extent to which the affluent country is able to equalize the opportunity sets of its own members.

¹⁷⁸ What is to be included in this list is also the scope of further research.

¹⁷⁹ Direct transfers might be subjected to fair and effective use.

Here I will question the ways to achieve such a practice in the international level. In other words, I will try to assess the implications of my moral cosmopolitan approach on the institutional arrangements. Here I will discuss some practical suggestions such as Cavallero's pressure equilibrium argument¹⁸⁰ and Seglow's quota argument.¹⁸¹ Firstly, according to Cavallero, all countries in the world should adopt discretion to immigration demands, yet countries attracting immigration pressure should be legally obligated to provide assistance¹⁸² to countries producing this pressure. Cavallero claims that when same proportion of people - between the country attracting immigration, and the country producing the pressure - prefer to immigrate to other, then the equilibrium will be sustained. Thus, if the country X consist of members, who do not have any demand to emigrate, attracts a huge portion of would be immigrants from the poor country Y. Then till the demands of would-be immigrants approximate to zero, X has a legal obligation to assist Y. This seems as a strong claim, however, Cavallero's pressure equilibrium argument is not well responding to a situation between, a poor country A, which does generate a considerably low immigration pressure for B due to some cultural reasons, and a wealthy country B which has the same immigration pressure for A for some economic reasons.

On the other hand, Jonathan Seglow proposes a quota argument that all affluent states will adopt as an obligation to grant entry to immigrants to some degree. I acknowledge the merits of this argument from a duty-bearer perspective of justice in migration. I believe, this argument also necessitates the introduction of a principle; and the premise I proposed might fill this gap. Given that, if the quotas are regulated by the Weak Moral Cosmopolitan Principle, then every affluent country should cooperate in a way to grant entry to a specific

¹⁸⁰ Eric Cavallero, "An immigration-pressure model."

¹⁸¹ Jonathan Seglow, "Immigration and Global Justice," Politics and International Relations Working Paper Working Paper 1 (2006).

¹⁸² This assistance, for Cavallero, is going to be conditional upon fair and effective use.

amount people with no *decent* opportunities, while compensating for the others with no *decent* opportunities. The proportion between these two means can be left to country's own discretion. Also if additionally 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. It might be even argued that affluent countries might have a right to buy or sell quotas in accordance with their own considerations.

Setting aside the way in which institutionalization of the *Weak Moral Cosmopolitan Premise* can be structured, I believe, this issue necessitates an immediate response and starting with a less contentious premise and look into the ways in which we can move politically to a more strong version is the roadmap of my transitional justice.

Conclusion

I began my analysis with equal concern for everyone, and eventually I claim that the right to international movement should be derived from the global equality of opportunity in a way to subsume the current restriction practices under this principle of justice. That is a significant alternative to the way this right has been accommodated in the open versus closed borders discussion, on the basis of its implications on the members of the sending countries. My primary goal is not to argue against or for open borders, but embedding the discussion into a more comprehensive framework through which a more inclusive account can be formulated. I argue that the current open versus closed borders debate shows some inadequacy regarding its success to justify its possible policy adaptations to the addressees of justification, who should be all affected individuals in the world. Such a policy application becomes more meaningful when one considers countries such as Hungary or Colombia from which highly skilled health care workers increasingly immigrate to wealthier countries. Wealthier countries clearly benefit from the flow of highly skilled workers, who have benefited from education and all other benefits of cooperation in their home countries. Putting unjustified restrictions on emigration would be some form of enslavement, yet compensating for such flows would be justifiable. Brain drain is a significant problem of our contemporary world and clearly the open versus closed borders debate can say little about this phenomenon.

Here I adopt the equality of opportunity, extending to the global scope, as the principle to derive our duties of justice. Thus, the interests of the citizens of receiving countries can also be taken into account in accordance with sustaining equal opportunity sets for every human being. However, in the light of objections to the principle out of a concern for cultural plurality, I try to include the value of democratic institutions by confining myself to somewhat

relaxed versions of the principle. Therefore the *Weak Moral Cosmopolitan Premise*, I formulate suggests that “institutions regulating migration in general ought to provide decent opportunities to all individuals.” I believe, global egalitarians can start from the less contested principles as such to find the ways in which they can move into more demanding versions without undermining the liberal aspect of cosmopolitanism. This should be the scope of further research.

What kinds of specific immigration policies are just? I have only tried to sketch a cosmopolitan justice framework. Therefore, I cannot give a substantial answer to this question, yet one possible implication of my framework would be some form of institutional cooperative regime, in which all affluent countries provide decent opportunities to everyone, based on their resource entitlements and in proportion to the extent they provide equal opportunity sets to their citizens. On the other hand, if an affluent country seeks highly skilled immigrants, then the country should compensate for the diminishing decent opportunities, if this is the case. Moreover, the visa issuing processes might be included in the scope of this study. My preliminary argument is that the affluent states should not lay a burden on would be immigrants by charging expensive visa fees, yet further assessment is required.

Overall, I believe any justifiable approach toward immigration policies should provide a ‘win-win’ situation that benefit home and host countries, both locals and immigrants. I would like to remind the reader again that my aim was not to apply the principle in a way to suggest a substantive immigration policy, but to draw a comprehensive framework for further research and assessment. I believe the issue of brain drain by itself stands as a phenomenon to be discussed and assessed from different theoretical perspectives. Additionally, although the scope of my analysis does not include asylum seekers, I believe a strong egalitarian equal

opportunity argument might be proposed in the case of political refugees as a distinct framework.

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