

Unification Admissions and Skilled Worker Migration¹

Matthew Lindauer
Australian National University

In Fair Work: Ethics, Social Policy, and Globalization,
ed. K.P. Schaff, Lanham, MD: Rowman and Littlefield, 2017, 95-112.

1. Introduction

Political philosophers have recently been interested in better understanding how states should handle their immigration flows and what ways of prioritizing different groups of prospective newcomers are morally permitted. In a well-known article, Stephen Macedo (2007) argued that the United States should abandon the priority placed on family reunification in its immigration policies. The U.S., he argued, should opt instead for a system that prioritizes bringing in the most skilled people from abroad who can work in domestic industries where their talents and abilities will be of use.

I will argue that neither the United States nor any other society, other than in exceptional circumstances, should set its immigration priorities in the way that Macedo suggests. The benefits conferred by skilled worker migration do not outweigh the moral reasons states have to prioritize admitting family members of citizens. In making this argument, I consider the interests of both citizens and non-citizens that are affected by each of these ways of setting priorities for immigration flows. Along the way, I address the issue of “brain drain,” the flight of skilled workers out of developing societies and into developed societies. I argue that while societies should take in at least some skilled workers from societies that won’t suffer from brain drain as a result of their doing so, the admission of at least some family members should be prioritized over

¹ I am grateful to Stephen Darwall, Serene Khader, Mark Maxwell, and Daniel Putnam for helpful comments and discussion on the points raised in this paper.

skilled worker migration. While there is much to be said in favor of encouraging labor migration flows, allowing for the unification of citizens with non-citizen family members is morally obligatory.

2. Unification Admissions as *Obligatory Admissions*

At least certain family members of citizens seeking to enter have been thought of as *obligatory admissions*.² That is to say, states are under a moral obligation to allow these people to enter and acquire citizenship³ if they have been invited by a citizen for the purpose of living in the same state as that citizen. This purpose I refer to as “unification” rather than “reunification” because it is not necessary that a given citizen and the family member whom they wish to bring in ever lived in the same state as co-citizens for that family member to qualify for obligatory admissions status.

There are three main types of arguments that have been given in support of the view that certain family members of citizens must be allowed into the state. First, we must consider arguments that appeal to the *freedom of association* of citizens and non-citizens. Second, it has been argued that there can be reasons internal to *a given state’s culture and history* that make unification admissions obligatory for that state. Lastly, there are arguments grounded in the *interests* of citizens and non-citizens in unification.

Throughout the paper, I will be focusing on what the state owes to whom. I am also taking the interests of citizens and non-citizens, for the purposes of this paper, to matter equally, assessing how all human interests, if they were given equal weight, would contribute to a state’s

² I borrow the term ‘obligatory admissions’ from Joseph Carens (2013, p. 185).

³ Following the general trend in the ethics of immigration literature, I am concerned in this paper with who should be prioritized in terms of being granted citizenship. For a classic discussion of the duties of states to make citizenship available to labor migrants who have been present for more than a brief period of time, see Walzer (1983), pp. 56-61.

priority-setting among different groups of prospective newcomers. With arguments that favor prioritizing unification, in particular, what a state owes to its own citizens will be particularly salient, although the interests of non-citizens also enter into assessing these arguments.

2.1 Freedom of Association and Unification Admissions

Some philosophers who hold that states must admit family members and other immigrants have appealed to the freedom of association of their citizens (Steiner 2001; Wellman 2008; Cole and Wellman 2011). This freedom involves the ability to interact with and form relationships with other persons, typically but not only other citizens, in ways that the state cannot interfere with. The state should not be involved, for instance, in a person's choosing one romantic partner over another to continue dating, even if somehow the overall benefits to society and the individuals in question would be greater with one of these choices. Freedom of association is a core part of a self-determining life characterized by autonomy in one's interactions with others. Hence, it is argued, the state wrongs its citizens when it prevents them from associating with non-citizens by restricting immigration.

There are some concerns with this way of arguing for the duty of states to admit family members, however. First, it is not clear that the argument is *specific* in applying to family members as opposed to friends, business partners, and others whom citizens may wish to associate with. Hillel Steiner (2001) has appealed to freedom of association in arguing for *open borders* rather than family reunification. While open borders would imply the ability of family members to unify within a society's borders, the reverse is not true – being able to bring in one's family members doesn't imply the ability to bring in just anyone.

Notably, the ability of citizens to bring in anyone whom they wish to is not equivalent to an open borders policy. If there is no existing association, this argument does not generate a

reason to allow a given non-citizen in. The response that this non-citizen may wish to associate with some citizens is not enough to establish that their freedom of association is limited by immigration restrictions, because one's freedom of association does not entail the ability to associate with others who do not wish to do so.

This leads to a second, larger problem with this approach to justifying unification admissions policies. Freedom of association has been used to support one of the more prominent arguments for the right of states to exclude non-citizens seeking admission (Wellman 2008; Cole and Wellman 2011). According to Christopher Heath Wellman, the freedom of association of a state and its citizens entails their ability to keep non-citizens out. According to this line of reasoning, the right to exclude is a necessary part of freedom of association. Wellman treats the admission of family members as an exception to the general principle that states may exclude non-citizens as they see fit. But it's not clear that Wellman's appeal to freedom of association in justifying wide latitude for states to set their immigration policies as they wish succeeds (Fine 2010; Blake 2012). Moreover, theorists arguing for the right to bring in family members will often not wish to justify wide-ranging permissions to exclude other immigrants.

Third, there is a tension between liberal neutrality and the claim that freedom of association requires family members but not other persons whom citizens stand in important relationships with to be let in (Ferracioli 2016). How can the liberal state single out family relationships for special treatment without presupposing that certain reasonable conceptions of the good, which involve privileging these relationships over others in certain ways, are not better than other conceptions of the good that privilege or give equal status to friendships or creative partnerships? Wellman doesn't have an answer to this challenge, and it's not obvious that one can be given for an approach that focuses on freedom of association.

2.2 Reasons Internal to a Given Society's History and Culture

Another argument in support of unification admissions focuses on historical and cultural reasons why a particular society should let family members of citizens in. In the course of putting forward the view that states have wide latitude in setting and implementing their immigration policies, Michael Walzer (1983) argued that at least some states have reasons to take in family members from abroad. When a state that has a history of large waves of immigration acknowledges and gives special treatment to family members of their citizens seeking to enter, they recognize what Walzer calls “the kinship principle” (Walzer 1983, p. 41). He points to the United States as an example of a state whose population and culture have been shaped by immigration in important ways that make unification admissions especially appropriate. While it's not entirely clear what the precise content of the kinship principle is, Walzer implies that the nature of a given state—its history and culture—can make it the case that this state ought to admit family members of its citizens.

There are a number of problems with this approach to supporting unification admissions. First, to be applicable, the content of the kinship principle would have to be made more specific, as already alluded to above, but so would its precise implications for the treatment of family members. For instance, the principle as stated by Walzer doesn't yet specify whether states are required to admit family members or merely to prefer them to the general population of prospective newcomers in other ways, such as giving them more points (in a points-based system) or other forms of preference.

Second, and more problematically, this approach seems get the explanation of why states with a history of immigration should admit family members of their citizens wrong. That is, it seems implausible that the fact that a state has this kind of history and the resulting impacts on its

culture have the kind of normative force required to place the state under an obligation to admit anyone. Rather, one would expect that the interests or entitlements of citizens and non-citizens in these relationships would figure in a plausible explanation of the obligation of a state to admit the family members of citizens.

This raises a third and final problem for the approach. Insofar as it relies on historical reasons specific to a particular state, the approach seems only to support unification admissions in states that have the right kind of history of immigration. But from the standpoint of justice, it doesn't seem fair that whether or not one can bring a parent, child, or spouse into their state should depend on whether that state has taken in a large number of immigrants in the past. For the individual, the predicament of not being able to live with one's family members in one's own state is the same whether or not the state has this kind of history. So more has to be said about why the interests of individuals seeking to unify in a state should be hostage to these particular facts about the history of a society's immigration flows. It may be more surprising, of course, if a society that has a long history of immigration does not have a citizenry that understands the importance of unification for its citizens with family members abroad. That shouldn't, however, let societies where immigration has been historically less common off the hook if their immigration policies prevent citizens from bringing in people who occupy the same roles in these citizens' lives.

2.3 The Interests of Citizens and Non-Citizens

A third approach to arguing for the obligation of states to admit family members appeals to the *interests* of citizens and non-citizens in unification (Carens 2013; Lister 2007; Ferracioli 2016). Typically these are described as especially weighty or vital interests. I use the term "fundamental interests" to describe those interests the fulfillment of which is typically required

for a person to have a meaningful and worthwhile life. These may be distinguished from basic or survival interests, which must be fulfilled for a person to live at all.

The interests-based approach seems to capture the moral situation surrounding unification admissions in a plausible way whereas the freedom of association and historical approaches cannot. First, it is *specific* in that it provides an explanation of why it is so important for persons to be able to bring family members, in particular, into their society. Participating in and maintaining close personal relationships with these other persons is plausibly a part of a meaningful and worthwhile life for most people.⁴ Second, it is *individual-focused* in that it doesn't assume that a culture's relationship with immigration in the past can either override or license the family reunification-based interests of citizens in immigration policy.

A third benefit of this approach is that it explains what parent-child relationships and marital relationships share in common such that they each should be put under the category of unification admissions. Societies typically privilege the parents, children, and spouses of citizens over other family members and persons that citizens that are in important relationships in, and give these particular persons similar treatment. In this paper, my account is intended to cover only parent-child and marital relationships. Comparing and contrasting these two types of relationships with relationships between siblings, cousins, grandparents and grandchildren, as

⁴ In this paper, my goal is to defend unification admissions as pertains to parents, children, and spouses of citizens. It is an open question, for my purposes here, to what degree this approach can be extended to cover other family members, such as siblings, cousins, and grandparents. Ferracioli (2016) has argued that states violate the requirement of liberal neutrality when they restrict reunification policies to family members. On her view, other persons who stand in important relationships with citizens, such as their friends and creative partners, should be given the same treatment by these policies. I hold the view that a principled distinction can be drawn between family members and these other persons that does not violate the requirement of liberal neutrality (Lindauer 2015). I unfortunately do not have the space to discuss these issues here, although I say a bit more about the similarities between parent-child and marital relationships for purposes of immigration below.

well as non-family relationships, such as close friendships and creative partnerships, would take us too far afield. It is not obvious even with this more narrow focus, however, that parent-child and marital relationships should be lumped together.

One reason that might be thought to support the view that immigration policy regimes should treat parent-child and spousal relationships differently is due to the difference between them in terms of voluntariness. Modern democratic cultures are committed to the freedom to choose whom one marries. By contrast, we don't choose our parents or children. We have the choice of whether or not to have children, of course, but cannot choose which people will be our children once they have been born, and no child can choose her parents. Hence, one might think that societies could justify being more restrictive in admitting spouses, given that people have the choice of whom they wish to marry⁵ and will know in advance that marrying a person who is not a citizen carries the risk of not being able to live together. The foreknowledge of risks of non-unification cannot be anticipated and enter into our decisions in the same ways with our parents or children.

Further, there is a greater possibility that fraudulent marriage-based claims to unification will be lodged, since it is much more difficult to find out whether two people merely got married, or are seeking a spousal visa, for purposes of immigration. Parent-child relationships are much easier to confirm, for instance through a DNA test, official birth records, or adoption papers. So

⁵ A potential complicating factor enters when persons were part of an arranged or otherwise unchosen marriage in another society. This is a special case, but if the spouses are seeking unification in a new society, this may suffice as evidence that they wish to be together for the purposes of the receiving society's immigration agencies. I cannot discuss the difficult question of how liberal societies should handle this issue or the acceptability of policies that particular societies have imposed, such as the Danish Immigration Service's "24-year-rule," in this work, important as these issues are.

one might also think for this reason that societies can adopt more restrictive rules for taking in spouses than parents and children of citizens.

Yet even granting these differences between parent-child relationships and spousal relationships, they should be treated similarly by a society's immigration policies because of the value of these relationships for persons in them. The bond between a parent and child is one of the closest types of relationships that people can stand in with other human beings. Just as relationships with one's parents and children are often especially important in one's life, a genuine romantic relationship with one's spouse can provide value in one's life that is rarely found elsewhere. Indeed, it is precisely because romantic relationships are chosen that they are capable of providing a distinctive kind of affirmation – through finding that someone else whom you wish to commit to as your romantic partner reciprocates those feelings and commitments. Marriage is not a perfect criterion for establishing that such a deep and mutually rewarding bond exists, but it provides a civic form of recognition for relationships between persons that are often especially valuable for them and tied to their fundamental interests as persons.

While there are important differences between parent-child and marital relationships, then, they are particularly close relationships for many citizens and non-citizens. Participating in and maintaining these close relationships is often tied to their fundamental interests as persons, the interests that must be fulfilled in order to have a meaningful and worthwhile life. From the perspective of the interests-based approach, we have an explanation of why these relationships should be treated as similarly important by states in their immigration policies.

Of course, it may be objected that if citizens and non-citizens wish to live together in a state, the citizen in question doesn't have to bring that non-citizen in, but can immigrate to the state where the non-citizen lives instead. This objection ignores the fact that, in many cases, it is

not possible for the citizen to immigrate to the state where their non-citizen family member lives. The non-citizen's state may have a very restrictive immigration policy that would not allow them to enter. Additionally, it may be unsafe for a citizen to live in the state where their family member lives. For instance, a homosexual citizen of a liberal democracy who needs to care for an aging parent will not be able to safely immigrate to a state that oppresses homosexuals. The response that both the citizen and their parent, child, or spouse can usually find a third country that both can immigrate to will also not be true of many cases. Further, citizens often have interests in living near more than one person that would be willing to immigrate to their society, for instance a parent and their spouse, where their fundamental interests could only be fulfilled by bringing one or more of these persons into their own society.

I should emphasize that these responses are by no means accessions to the whims of citizens and their non-citizen family members. If this were the case, it might be regrettable but not morally impermissible for a state to keep these family members of its citizens out. Rather, they are more accurately seen, I hold, as the commitments that any just state must take on. It is a plausible general principle that if a state imposes a policy that frustrates the fundamental interests of both its citizens and non-citizens, the state must be able to point to a strong reason in favor of the policy that is of greater moral weight than these interests. The view that citizens should have to leave their society for their own and their family members' fundamental interests to be satisfied when these interests can all be easily accommodated within the society violates this principle.⁶

⁶ The same point would go through if one were to hold that states can give lesser weight to the fundamental interests of non-citizens than those of citizens. As mentioned above, my own view is that the fundamental interests of citizens and non-citizens should be given equal weight by states when considering policies that affect these interests, but my argument here does not depend on this commitment.

It also may be objected that this view gets our intuitions wrong about cases where a given family member would pose a threat to the receiving society if admitted. My response to the previous objection, however, makes it clear that in cases where there is a strong countervailing reason in favor of keeping family members out, in this case particular family members, I am not against doing so. To give some examples, if a given family member can be plausibly shown to pose a threat to national security or dangerous health risk (i.e. if they have a highly-morbid, contagious illness for which there is no effective treatment) to the receiving society, it is fully consistent with my view that this family member need not be admitted. Of course, it must really be the case that the state has strong evidence for a claim of this sort, and citizens should be on guard for instances where their state would use this type of claim as a cover for discriminatory attitudes and intentions. The intuition, then, that there may be good reasons to exclude particular family members of citizens can be fully accommodated by the interests-based approach to justifying unification admissions.

3. Contrasting Unification Admissions and Skilled Worker Migration

According to the view I have put forward, states must admit the parents, children, and spouses of their citizens because of the importance of their doing so for the fundamental interests of persons. We have fundamental interests in participating in and maintaining certain kinds of close relationships with other persons, and relationships with our parents, children, and spouses are among the key examples of these close relationships. Unification admissions on this view are “obligatory admissions” (Carens 2013, p. 185). States must let the parents, children, and spouses of their citizens in, unless there is a strong countervailing reason against doing so in a particular case.

By contrast, however, the fact that a person is a skilled worker does not, in itself, seem to put states under a moral obligation to allow them in. Why would the fact of being skilled make this the case? Some other fact must obtain in addition to having various abilities or trainings to generate this obligation. This difference between unification admissions and skilled workers provides a *prima facie* reason for states to prioritize unification admissions over skilled worker migration.

A number of arguments can be given, however, for the opposing conclusion that states should instead prioritize skilled worker migration over unification admissions. I have noted that the interest-based approach is sensitive to potential strong countervailing reasons against policies that require states to admit family members. We must now ask whether reasons obtain that recommend prioritizing bringing in skilled workers over unification admissions as a matter of general policy. Some of the arguments in favor of prioritizing skilled worker migration focus on the interests of citizens, while others focus on the interests of non-citizens. I will argue that none of these arguments unseat the conclusion that unification admissions are obligatory and should be prioritized over skilled worker migration.

3.1 Skilled Worker Migration and the Interests of Citizens

Beginning with the interests of persons in the receiving country, it is sometimes argued that the admission of skilled workers is very important to the fulfillment of domestic interests. When a society needs more medical professionals, computer programmers, or engineers, to take some examples, it may be beneficial to have an immigration policy that incentivizes non-members who can fill these roles to join. Stephen Macedo has argued along these lines that the United States should move away from its current immigration system, which prioritizes

unification admissions, towards one more like the Canadian system, which places more emphasis on attracting skilled workers (Macedo 2007).⁷

In addition to the benefits brought about by skilled worker migration, Macedo believes that the admission of low-skilled immigrants is generally detrimental to a society's economy. Skilled worker migration should take priority over unification admissions because family members are likely not to work in the high-skilled professions that a society needs more people in. Macedo suggests that the United States should decrease its unification admissions, although he allows that perhaps this should involve "limiting that preference to spouses and minor children" (Macedo 2007, p. 77). On Macedo's proposal, it's not clear that the U.S. would be required to take in parents, children, or spouses, and only spouses and minor children among family members would be given a preferential immigration status as compared to the general pool of prospective newcomers. It's also not clear that the immigration status given to these family members would be equal to the status given to skilled workers.

In response to Macedo's argument, I first want to note that we should be skeptical of the appeal to domestic interests as a reason to implement policies that would prioritize skilled worker migration over unification admissions. First, the distribution of at least some of the benefits of skilled worker migration that Macedo cites may be highly unequal. Because the increased capital generated by skilled worker migration tends to accrue to high-earning agencies and businesses, domestic groups that have disproportionality less capital than others may be disadvantaged further by skilled worker migration in terms of their relative shares of the social

⁷ In the year 2000, 71% of the immigrants legally admitted into the United States were unification admissions while 21% were admitted on the basis of skilled or other employment criteria that they met. By contrast, 31% of the immigrants legally admitted into Canada in that year were unification admissions and 68% were admitted on the basis of skilled or other employment criteria. The total numbers of immigrants legally admitted to the U.S. and Canada in the year 2000 were 660,477 and 196,871, respectively. See Dovidio and Esses (2001).

product.⁸ This is consistent with higher overall and average levels of wealth and health in the society, but the most disadvantaged groups domestically may still be harmed by skilled worker migration in terms of their relative socioeconomic position.

Secondly, there may be ways in which skilled worker migration fills needs that would not exist if a state's public funds were collected and distributed in line with the demands of domestic justice. While there may be temporary periods in which a society needs more workers in a given industry than it can train, it is not always the case that societies need non-citizens to take on roles in the domestic economy at high-skill levels. It is often instead the case that obligations to help build domestic infrastructure through tax payment and allocation are being shirked, where discharging these obligations would have included improving domestic education and training in these fields. Insofar as the availability of skilled workers abroad that can be brought in quickly provides an incentive for states to ignore these responsibilities, skilled worker migration may harm members of the receiving state. These considerations, as I suggested, will not hold in all cases. They do, however, provide reasons to be skeptical of the view that an immigration regime that prioritizes skilled worker migration over unification admissions is generally morally preferred because of the domestic interests that are served by doing so.

None of this should be taken to suggest that skilled worker migration doesn't typically provide important benefits to receiving societies. Economists generally agree that the effects of immigration, including skilled worker migration, on the economies of receiving countries are

⁸ George Borjas has noted this, although he generally argues that the United States should move to a system that puts skilled worker migration ahead of reunification. See his *Heaven's Door: Immigration Policy and the American Economy*, Princeton: Princeton University Press, 1999, Chapter 5.

positive overall.⁹ As mentioned earlier, this may be the case even if many of the benefits of high-skilled worker migration generally accrue to high-earning members of society.

We also should not underestimate the benefits to both citizens and non-citizens created by the ability of societies to bring highly qualified and talented people in given fields together on a lasting basis. Existing skilled worker categories are often distinguished from one another in terms of rarity of skill or accomplishment and the kind of field that the prospective newcomer works in. Part of the point of having these different categories that give preferential treatment to non-citizens with special talents and abilities is to give the state a chance to bring these people to its leading universities, businesses, and other organizations, sometimes referred to as “centers of excellence,” where their productivity can be maximized. Members of the societies where centers of excellence exist often benefit in many ways from their presence, such as through improved institutions of higher education and increases in economic growth made possible by better business performance.¹⁰ Non-citizens also benefit from the existence of these centers through the productivity that they make possible and the opportunities that some non-citizens will have to join them, a point that I return to in Section 3.2.

Nonetheless, the ability of a state to pull talented non-citizens in through immigration does not seem to require that state to prioritize skilled worker migration over unification admissions as a general matter. When we consider the United States as an example, it is clear that a society can both prioritize unification admissions and stand as a global magnet for many of the most talented individuals working in a vast array of fields and industries. I will return to this

⁹ See, for instance, the Open Letter on Immigration to U.S. President George W. Bush and Congress in 2006 written by Alexander Tabarrok and David Theroux with the signatures of over 500 economists with diverse perspectives in the field, <http://www.independent.org/newsroom/article.asp?id=1727>.

¹⁰ I am grateful to Stephen Darwall for mentioning the importance of centers of excellence in considering the benefits of skilled worker migration.

point in connection with the interests of non-citizens shortly. While the positive effects of skilled worker migration on the interests of citizens do not establish a strong case against prioritizing unification admissions, they help us to see that societies often have good reasons to set up their immigration policies in such a way that they are able to bring in at least some skilled workers.

3.2 The Interests of Non-Citizens

How do the interests of non-citizens figure into the relative statuses that unification admissions and skilled worker migration should have in the immigration policies of a society? Earlier I argued in favor of the moral requirement to admit certain family members by appealing to the fundamental interests of citizens and the non-citizens that they wish to bring in. It may be argued, however, that there are similarly pressing interests of other non-citizens that make it the case that skilled worker migration should be prioritized over unification admissions.

In considering the most pressing interests of non-citizens related to this question of prioritization, we should distinguish between policies that merely allow skilled workers to immigrate and policies that incentivize their immigration. Kieran Oberman (2013) has argued that excluding skilled workers altogether or imposing restrictions on their entry is morally problematic in most circumstances. I do not necessarily disagree with Oberman on this point. However, the question that I am interested in here is whether appealing to the interests of non-citizens can justify a society prioritizing the admission of skilled workers over parents, children, and spouses of citizens.

Non-citizens may have compelling interests in entering affluent countries if they do not have opportunities to fully develop their talents or receive reasonable compensation for their skilled work at home (Oberman 2013). There is also a more general interest that is sometimes

invoked in this context that persons have in being able to exercise freedom of movement. Some have argued that this freedom extends beyond the domestic sphere to cross-border movement (Carens 1987; Carens 1992; Carens 2013; Oberman 2013). Most theorists, however, do not interpret freedom of movement so broadly as to place any particular society under the obligation to take in persons seeking admission. Still, some of the motivation for the position that I'm arguing against may be thought to follow from a commitment to the value of these opportunities and freedoms in the fulfillment of the interests of non-citizens.

However, the flight of skilled workers out of poor societies often has harmful effects on the people that they leave behind. This is typically referred to as the problem of "brain drain." Many developing societies desperately need more medical professionals, in particular, but doctors and nurses trained in these societies face strong incentives to leave. In what follows, I want to be careful to distinguish between the duties of skilled workers from developing societies to their conationals and the duties of developed societies and agents within them that recruit these skilled workers. I will focus predominantly on the latter given that my discussion focuses on the immigration policies of societies rather than the choices of individuals, although the responsibilities of skilled workers have indirect implications for the moral evaluation of immigration policies that I will discuss.

As noted above, it is often the case that developing societies have serious shortages of medical professionals, who are typically the largest group of skilled workers leaving these countries. Theorists on both sides of the debate concerning the morality of brain drain agree that the statistics are staggering (Brock and Blake 2015). Just 50 of the 600 doctors who trained in Zambia since the country achieved independence in 1964 have remained to practice medicine there (Bundred and Levitt 2000). In Ghana, 500 nurses left in 2001, which is more than twice

the total number of graduates from nursing programs in the country in that year (Zachary 2001). Many more figures attest to the magnitude and effects of the recruitment of medical professionals from developing societies.

Among the philosophers working on the ethics of immigration, Gillian Brock has prominently argued that the drawbacks of skilled worker migration for developing countries, and particularly the problem of brain drain, are serious and may justify restrictions on emigration (Brock 2009; Brock and Blake 2015). Outright prevention would not be justified on her view, but permissible restrictions could take the form of a public requirement that if a prospective emigrant wishes to receive some of the limited training opportunities in their country of origin, they agree to provide services in their chosen occupation for one year before leaving (Brock and Blake 2015, p. 61). If the emigrant violated this requirement by leaving at any stage, Brock envisions that they may be required to pay an ongoing “Bhagwati tax” (Bhagwati and Partington 1976; Bhagwati and Hansen 2009) back to their home society for a period of five years.

I am skeptical about the justifiability of restrictions on emigration other than in exceptional circumstances. But to make my case, it is not important to establish anything as wide-ranging as Brock’s conclusion. For the purposes of this paper, it is important to note that the status quo involves not merely a lack of restrictions on entry of skilled workers into developed societies but preferential treatment in immigration policies and recruitment of skilled workers from these regions by developed societies and agencies within them.

In addition to the direct negative effects of brain drain on persons in developing societies, we should take note of the fact that many skilled workers receive their training in the developing societies that they end up leaving, among other benefits of societal membership that they receive. If their reasons for leaving a given society include persecution or severe poverty, there are

independent reasons to help them, potentially by allowing them to immigrate, that apply to all persons in such circumstances.¹¹ In cases of persecution, some of them might qualify as refugees seeking asylum. The question remains, however, whether pulling skilled workers, in particular, away from developing societies does justice to the duties that these persons have to their conationals, given the training and other benefits that they have received in their home country. I will simply grant for the sake of argument that members of developed societies wouldn't be justified in enforcing the obligations of these skilled workers for them by preventing them from immigrating altogether. But given the negative effects of brain drain, it is not defensible for developed societies to actively implement policies that pull talent away from developing societies where, in the absence of compensation for their training and education, the duties of these skilled workers to fellow members of their home societies go unfulfilled.

Of course, skilled worker migration from affluent societies and some developing societies does not contribute to harmful brain drain. One might argue then that developed societies should retain an emphasis on skilled worker migration but discontinue their policies of incentivizing skilled workers to leave societies where brain drain is an existing or foreseeable problem. It is noteworthy, however, that the largest patterns of skilled worker migration originate from developing societies. These societies also have the highest percentages of their native-born skilled worker living abroad (Docquier and Marfouk 2006). Skilled worker migration is largely driven by the interests of agents in affluent developed societies in bringing in workers from developing societies and the interests of these workers in leaving their own societies. If developed societies discontinued their policies of incentivizing skilled worker migration from societies where brain drain is a problem, they would effectively stop incentivizing a large

¹¹ See Pogge (1997), Miller (2005), Wellman (2008), Ypi (2008), and Brock (2009) for skepticism about immigration as a way of addressing severe poverty.

proportion of the skilled workers that they receive to immigrate. In that case, there would be far less overall skilled worker migration to compete with unification admissions. Thus, the suggested change to the status quo does not threaten my view that unification admissions should be prioritized over skilled worker migration in the immigration policies of developed societies.

Some theorists have pointed to remittances that immigrants to developed countries send back to developing countries as both a compensating factor for brain drain and a justification for focusing on skilled worker migration. Recent data suggests that remittances often exceed official development assistance to these countries and there are a number of other benefits that remittances provide (Ratha, Mohapatra, and Silwal 2009). Remittances often have positive effects for individuals and communities (Rapoport and Docquier 2006) and the practice of sending remittances is widespread enough that many people in developing countries depend heavily on remitted funds. While workers across the skill spectrum send remittances, our current discussion is more narrowly focused on skilled workers. Workers in high-skill jobs will tend to be paid more and have more money available to them to send, and so their ability to immigrate to developed countries and enter new labor markets quickly may seem particularly important for helping those in developing countries. It has been argued on this basis that the problem of brain drain also brings some benefits (Barry 2011) and that affluent societies, insofar as they are failing to discharge their duties to the global poor, may even be morally required to give remittances a preferential tax status (Barry and Øverland 2010).

While remittances may have certain positive effects on persons who remain in the societies that skilled workers leave, they do not provide a conclusive reason for prioritizing skilled worker migration over unification admissions. This is largely due to the fact that it is implausible to think of remittances as an appropriate form of compensation for the harms of

brain drain in countries that suffer from it.¹² To count as an appropriate form of compensation with respect to brain drain, at least two necessary conditions would have to hold that do not hold in the case of remittances. First, a developed society's compensation for brain drain should not be accomplished by funds sent by the skilled workers that they bring in.¹³ If affluent societies bear compensatory duties to societies suffering from harmful brain drain that is explained, in part, by their recruitment of skilled workers from these societies, it does not seem that transfers from the skilled workers should count as discharging these duties for them. It is generally thought that the costs of compensation should be born by the parties that have the relevant compensatory duties, or at least some agent that has been authorized to compensate other parties on their behalf. Perhaps it is the case that societies that have pulled skilled workers away from developing societies where they are needed should directly transfer funds or take other measures to compensate for doing so, but funds sent by the skilled workers do not seem like the right kind of compensation for these policies.

Second, the fact that remittances are discretionary transfers also casts doubt on whether they should be thought of as an appropriate form of compensation for the effects of brain drain. Not only do remittances seem to originate from the wrong source. We also generally do not think that compensation for harming others is discretionary. This point holds even if it can be reliably anticipated that remittances will continue to be sent by skilled workers from all of the societies negatively affected by brain drain. The point is that if we have compensatory duties, it is morally obligatory, not optional, to discharge them. A plausible condition for some form of

¹² Brock argues instead that the goods that remittances produce are not substitutable for the goods that a society is deprived of by brain drain (Brock and Blake 2015, pp. 44-45). My argument implies that, even if these goods were substitutable for one another, remittances would not be appropriately thought of as compensation for brain drain.

¹³ Of course, temporary workers also send remittances, but this is not my topic here.

compensation to be appropriate is that it must take the form of deliberate action by the responsible party. In the case of remittances, the compensation will or will not occur at the discretion of skilled workers, and so this second plausible condition for remittances to count as appropriate compensation for the problem of brain drain does not hold.

Given these points, developed societies cannot justify implementing immigration policies that incentivize skilled worker migration from countries affected by brain drain on the basis that these workers will send remittances. They should discontinue their practices of actively pulling skilled workers away from countries where they are greatly needed, and cannot point to the fact that these persons remit funds that they earn as an appropriate form of compensation for the negative effects of these practices. Moreover, the case for prioritizing skilled worker migration over unification admissions cannot rely on the argument that remittances compensate for the harms that result from brain drain.

4. Concluding Remarks

In this paper I have argued that states should prioritize allowing in the family members of their citizens over bringing in skilled workers in their immigration policies. What concrete policy proposals are recommended by this argument? While I cannot fully address this interesting question here, we know that certain types of immigration policies are taken off the table if what I have said is right. Immigration policies that prevent family members from unifying within a society in order to make room for skilled workers to be brought in, as a general matter, are morally impermissible. Unification admissions are obligatory admissions, and cannot be displaced by the considerations that speak in favor of allowing in skilled workers.

At the same time, I have pointed out that skilled worker migration does bring some benefits to both citizens and non-citizens, even if these benefits do not support a strong enough

reason to prioritize bringing in skilled workers over family members. The benefits of the existence of centers of excellence, where the most talented people in fields or industries can be brought together, are widespread in many cases. It is also not the case that immigrants arrive in pairs, where it would be easy to implement a strict policy of never choosing to admit a skilled worker when one could admit the parent, child, or spouse of a citizen instead. Because of the benefits of skilled worker migration, my argument recommends a balanced approach. States must bring in parents, children, and spouses of their citizens but may also incentivize skilled workers to immigrate, so long as their doing so won't contribute to harmful brain drain in the workers' countries of origin.

Additionally, in emergency circumstances where skilled workers are urgently needed, such as to solve a public health crisis, it is compatible with my approach to hold that states may give a priority status to skilled workers in the needed areas. For instance, if a given state desperately needs more doctors and nurses after an earthquake has devastated one of its major cities, and these workers will not come if they are only given temporary migration statuses, the state may temporarily override the policy of giving priority to family members rather than skilled workers. This is because a strong enough countervailing reason obtains, the need to solve a public health emergency, in order to justify frustrating the fundamental interests of at least some persons seeking to unify in the state during the period when the crisis is being dealt with. As soon as possible, however, my approach recommends that the state return to a policy of prioritizing the admission of family members, which may involve expediting the admission of parents, children, and spouses who were not taken in due to the pressing need to bring in skilled workers.

Much obviously remains to be said about the implications of the moral arguments presented here for real world policies. Nonetheless, assessing the moral landscape with respect to immigration and the relative moral significance of unification admissions and skilled worker migration is a needed step towards evaluating more specific policies and ways of balancing these two types of admissions. Any morally acceptable ways of setting up immigration policies that divide prospective newcomers into these categories will have to respond to the moral priority of unification admissions over skilled worker migration.

References

Christian Barry, "Immigration and Global Justice," *Global Justice: Theory, Practice, Rhetoric*, Vol. 4, 2011, pp. 30-38.

Christian Barry and Gerhard Øverland, "Why Remittances to Poor Countries Should not be Taxed," *NYU Journal of International Law and Politics*, Vol. 42, No. 4, 2010, pp. 1181-1208.

Jagdish Bhagwati and Martin Partington, *Taxing the Brain Drain*, Amsterdam: North Holland Publishing Co., 1976.

Jagdish Bhagwati and Gordon Hansen, *Skilled Migration Today: Prospects, Problems, and Policies*, Oxford: Oxford University Press, 2009.

Michael Blake, "Immigration, Association, and Antidiscrimination," *Ethics*, Vol. 122, July 2012, pp. 748-762.

George Borjas, *Heaven's Door: Immigration Policy and the American Economy*, Princeton: Princeton University Press, 1999.

Gillian Brock, *Global Justice: A Cosmopolitan Account*, Oxford: Oxford University Press, 2009.

Gillian Brock and Michael Blake, *Debating Brain Drain: May Governments Restrict Emigration?*, Oxford: Oxford University Press, 2015.

Peter E. Bundred and Cheryl Levitt, "Medical Migration: Who are the Real Losers?," *Lancet*, Vol. 356, No. 9225 (2000), pp. 245-246.

Joseph H. Carens, "Immigration and the Welfare State," in *Democracy and the Welfare State*, ed. Amy Gutmann, Princeton: Princeton University Press, 1987, pp. 207-230.

Joseph H. Carens, "Migration and Morality: A Liberal Egalitarian Perspective," in *Free Movement: Ethical Issues in the Transnational Migration of People and of Money*, eds. Brian Barry and Robert E. Goodin, University Park: Pennsylvania State University Press, 1992, pp. 25-47.

Joseph H. Carens, *The Ethics of Immigration*, New York: Oxford University Press, 2013.

Phillip Cole and Christopher Heath Wellman, *Debating the Ethics of Immigration: Is There a Right to Exclude?*, New York: Oxford University Press, 2011.

Frédéric Docquier and Abdeslam Marfouk, "International migration by education attainment, 1990-2000," in *International Migration, Remittances and the Brain Drain*, eds. Çağlar Özden and Maurice Schiff, New York: Palgrave Macmillan, 2006, pp. 151-199.

John F. Dovidio and Victoria M. Esses, "Immigrants and Immigration: Advancing the Psychological Perspective," *Journal of Social Issues*, Vol. 57, No. 3, 2001, pp. 375-387.

Luara Ferracioli, "Family Migration Schemes and Liberal Neutrality: A Dilemma," *Journal of Moral Philosophy*, Vol. 13, No. 5, 2016, pp. 553-575.

Sarah Fine, "Freedom of Association is Not the Answer," *Ethics*, Vol. 120, January 2010, pp. 338-356.

Matthew Lindauer, "External Relationships in Political Philosophy," Doctoral dissertation, Yale University, 2015.

Matthew Lister, "A Rawlsian Argument for Extending Family-Based Immigration Benefits to Same-Sex Couples," *The University of Memphis Law Review*, Vol. 37, Summer 2007, pp. 745-780.

Stephen Macedo, "The Moral Dilemma of U.S. Immigration Policy: Open Borders versus Social Justice?," in *Debating Immigration*, ed. Carol M. Swain, Cambridge: Cambridge University Press, 2007.

David Miller, "Immigration: The Case for Limits," in *Contemporary Debates in Applied Ethics*, eds. Andrew I. Cohen and Christopher Heath Wellman, Oxford: Blackwell, 2005, pp. 193-206.

Kieran Oberman, "Can Brain Drain Justify Immigration Restrictions?," *Ethics*, Vol. 123, No. 3, April 2013, pp. 427-455.

Thomas Pogge, "Migration and Poverty," in *Citizenship and Exclusion*, ed. Veit M. Bader, Houndmills: Macmillan, pp. 12-27.

Hillel Rapoport and Frédéric Docquier, "The Economics of Migrants' Remittances," in *Handbook on the Economics of Giving, Reciprocity and Altruism*, eds. Serge-Christophe Kolm and Jean Mercier Ythier, Amsterdam: Elsevier North-Holland, 2006, pp. 1135-1198.

Dilip Ratha, Sanket Mohapatra, and Ani Silwal, "Migration and Remittance Trends 2009: A Better-Than-Expected Outcome So Far, But Significant Risks Ahead," Washington, D.C.: World Bank, 2009.

Hillel Steiner, "Hard Borders, Compensation and Classical Liberalism," in *Boundaries and Justice: Diverse Ethical Perspectives*, eds. David Miller and Sohail H. Hashmi, Princeton: Princeton University Press, 2001, pp. 79-88.

Alexander T. Tabarrok and David J. Theroux, "Open Letter on Immigration," Independent Institute, 2006, <http://www.independent.org/newsroom/article.asp?id=1727>, accessed January 30, 2017.

Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality*, New York: Basic, 1983.

Christopher Heath Wellman, "Immigration and Freedom of Association," *Ethics*, Vol. 119, No. 1, October 2008, pp. 109-141.

Lea Ypi, "Justice in Migration: A Closed Borders Utopia?," *Journal of Political Philosophy*, Vol. 16, No. 4, pp. 391-418.

G. Pascal Zachary, "Poor Nations Lose Nurses to Rich Ones, Showing Globalization of Labor Market," *Wall Street Journal*, January 24, 2001, <http://www.wsj.com/articles/SB980286890237235127>, accessed February 10, 2015.