

# Moral Cosmopolitanism and the Right to Immigration<sup>1</sup>

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**Abstract.** This study is devoted to the ways and means to justify a ‘more’ cosmopolitan realization of certain policy implications, in the case of immigration. The *raison d’être* of this study is the idea that the contemporary debate over open borders suffers from indeterminate discussions on whether liberal states are entitled to restrict immigration. 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 opportunity sets of members of sending countries. Therefore I offer a moral cosmopolitan account of immigration which takes the interests of would-be immigrants, the residents in receiving, along with the residents in sending countries in respect to their opportunity sets because of the way arbitrary border control represents the inequality of opportunity. I do not provide a well-formed immigration policy here, yet I believe the account provided here is more feasible in considering phenomena such as brain drain.

**Key words:** cosmopolitanism, immigration, open borders, brain drain.

World-wide suffering from deprivation, famine, wars and human right violations constitute some major features of current global politics. These features are also recognized as the one of the main root causes of the mass movement of people across globe (Cole 2000, 3). Out of a *humanitarian* concern, global or local humanitarian institutions address issues such as deprivation and famine through calling, collecting and distributing aid. Nevertheless, it has become clear that conventional modes of governance (nation-state and international regulations) are somewhat not able to compensate for the global challenges including worldwide pollution, humanitarian crises and global security threats (Risse and Lehmkuhl 2006).

The issue of migration is not only one of the global challenges; but also it presents itself as an outcome of the challenges as such. Most emigrants 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 (Brock 2010, 192). In the meantime, most politicians in the Western world, independently of their political affiliations, demand a certain form of restriction on migration; and the admission policies show a great deal of convergence which points out to the increasing resemblance among labour-importing states in terms of border control (Cornelius and Tsuda 2004, 4). Especially in the last decade, migration has become a highly charged political issue in most societies in the Western world (Miller 2005, 193). Immigration can doubtlessly be considered as “a driving force behind the rapidly growing ethnic, racial, and religious diversity of Western welfare states” as Gary

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P. Freeman claims (2009, 1). The continual diversity and the increasing demand for immigration have gradually created a fear that such a flow is detrimental to social solidarity and economic welfare of the host countries. Strictly speaking, however, the admission policies evolved in such an arbitrary and exclusive manner have required more and more resources in order to have effective control over immigrants. Following Levi, Sacks and Tyler, I suspect that the lack of legitimacy and compliance has led to increasing spending on enforcement and monitoring in the case of immigration control (2009). Regardless of such empirical considerations, it is clear that the international system of nation-states and the local political bodies are struggling to delineate policies towards migration, and the ethical part of the question gains more and more significance correspondingly. As Veit Bader claims, "migration policies involve highly contested normative judgments" (2005, 331), and one of them is the absolute right of a state to exclude immigrants upon her discretion. Therefore, in last decade, scholars have questioned the morality of migration policies under the framework of 'open versus closed borders' debate in which exclusive right of the states to exclude immigrants has been discussed. Scholars have mainly diverged on their understanding of the best way to discharge our duties of justice, and the significance of different liberties which should outweigh the other. Thus the debate has accumulated two focal points in which instrumentality and right-based arguments have been developed. However, I believe that this debate has no determinate conclusions on the subject since it suffers from indeterminate discussions over which liberal principle outweighs the other.

I primarily argue that immigration, as one of the global challenges, clearly creates a more robust case for global justice; and the principles addressing to the issue should be the governing criterion behind the global and local just institutions. My general view is that moral cosmopolitanism is an important alternative as a moral theoretical standpoint while reasoning about just immigration policies. Although different interpretations exist, I argue that the features of moral cosmopolitanism will best reflect on morally significant reasons in the development and justification of just immigration policies to the all addressees of justification. This is because, the international voluntary<sup>2</sup> immigration signifies an inequality of opportunity between individuals; and inequality of opportunity combined with arbitrary border control does vindicate a perspective of cosmopolitan justice towards the issue. In this paper, I shall not argue for substantive policies, yet some implications of my argument will be presented. In this paper, firstly I will argue that current open versus closed borders debate fail to take all addressees of justification of immigration policies, such as the citizens of the sending countries, into its account. Secondly, I will encapsulate the significance of inequality of opportunity signalled by both the current immigration flows and arbitrary border control into the defence of my moral cosmopolitan perspective and the political implications I presuppose from such an account.

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2] In many recent cosmopolitan approaches to the issue of immigration, scholars such as Jonathan Seglow and Lea Ypi adopt this 'economic voluntary migration' approach (Seglow 2005; Ypi 2008).

## I. OPEN VERSUS CLOSED BORDERS

Overall, the issue of restriction on migration has aroused interest in recent years, and scholars like Phillip Cole, Christopher I. Wellman, Joseph H. Carens, Jonathan Seglow, Michael Blake, Veit Bader, Thomas Cristiano, and Mathias Risse, either by being cosmopolitan or not in their outlook, have turned their attention to the morality of migration in last decade. The question; to what extent states' exclusive right to exclude immigrants can be justified, has inevitably created the debate over the 'open borders vs. closed borders'. In brief, the main debate is about whether the states should have open borders or not. To the extent that the scope of our duties of justice is either territorial or global, scholars have relied on the significance of two different moral rights, which are freedom of movement and freedom of association (Wellman and Cole 2011). Thus the debate has mostly revolved around the tension between freedom of movement and freedom of association/sovereignty. Beyond doubt, the entitlement to control borders and the distribution of membership is perceived as one of the main tenets of state sovereignty (Altman and Wellman 2009, 158). Since the argument for open borders poses a threat to the states' exclusive right to decide over their border control/admission policies, the discussion has created and also aimed to mitigate the tension between open borders and protecting state sovereignty.

### *Closed Borders*

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 to their country. Freedom of association is the right to join with other individuals to collectively express ideas, or to share, defend and pursue a common interest (Wellman and Cole 2011). 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 affluent countries (2009, 158-58). 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 Kubrick lovers club, associate with the members of my religion, or even promote 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 have the right to not to associate with any person in the form of a marriage. Yet in the context of immigration, freedom of association does not directly presuppose the right not to associate unlike Altman and Wellman claim (2009, 159). 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” (Guttman 1998, 5) 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. Although, every individual has a right to exit, this does not imply a right to entry, since statelessness is considered as an anomaly in our contemporary world.

### *Open Borders*

On the other hand, 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 (Carens 1987; Hampton 1995). The value philosophers appeal to is the freedom itself (Miller 2005, 194), 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 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 [Nozickian] state’s business. (Carens 1987, 253)

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 (2009, 175). 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 Nozickian government would have no grounds for preventing them from entering the country” (1987, 253). 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, no appeal to equality or any shelter whatsoever for the individual. I believe that freedom

of movement should be appealed as an instrumental value to increase opportunity sets in life, considering that most of the people demand immigration in order 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.

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 (2003, 16). 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 affluent countries 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 (Higgins 2008, 528). 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. (Brock 2010, 191)

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 global justice, this tells us really “little about what our non-ideal world current policy on immigration should be” (Brock 2010, 191).

### *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 our attention, the current framework has neglected the fact that immigration from the poor countries might leave the

poor countries worse off (2005). 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 (Kollar 2012). Any cosmopolitan account of justice in migration should be justified to all individuals respecting their life-choices and opportunities, and the principles derived on this basis would serve to regulate global or local institutional arrangements on migration.

## II. MORAL COSMOPOLITANISM AND IMMIGRATION

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 I am interested in the conditions and the reasons that enable us to be uneasy about justice in migration; and the addresses of duties of justice. In this section, I will start my inquiry with a very short conceptual/empirical review of the issue of migration and I will put 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.

### *Immigration and Inequality of Opportunity*

The report of International Organization for Migration (IOM) estimated that in 2010 there were 214 million international migrants in the world (2012). The movement of people have various motivations behind, and there are different categories of migrants, yet 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. Only the %15 of international immigrants is refugees (IOM, 2012). On the other hand, from the perspective of states, although the beginnings of 1990s had experienced a transnational public debates on immigration politics, Richard Black noted that “the right to immigrate appears everywhere on retreat” mostly because of the negative public attitude towards immigrants especially in Europe (1996, 64). In the meantime, the figures, in terms of both the number of migrants and the sending countries, are also rising (Seglow 2005, 318). 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 to emigrate from the country than to immigrate into) North Africa has will be preserved (see Table 1).

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

*Table 1. Positive/Negative Immigration Pressure Estimates until 2020 (in thousands)<sup>3</sup>*

There might be different socio-economic explanations of this phenomenon, yet 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 (Black, Natali and Skinner 2005). Cavallero also asserts that “the normative significance of immigration pressure is that it indicates inequality of opportunity” (2006, 98). 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 (Blake and Risse 2006, 14).

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 (Chojnicki and Oden-Defoort 2010). 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 (Brock 2010, 200).

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 (2008, 414). 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.

3] Source: (Borgy and Chojnicki 2009).

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 (Esquivel and Huerta-Pineda 2007, 49). This might also imply that labourers from non-poor households are more likely to immigrate into affluent countries. Overall, I believe that moral cosmopolitanism is an important alternative which will include abovementioned concerns into its formulation.

### *Moral Cosmopolitanism*

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” (Beitz 2005, 17). 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 (Cabrera 2010, 15). Additionally, direct egalitarian approach in general holds that people should not face inequality of opportunities for morally arbitrary reasons such as their nationality, class, ethnicity and status (Caney 2009, 394). 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 affluent 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.<sup>4</sup> 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 (Christiano 2008, 933). 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 for approximating justice in global scope, and massive unrestricted immigration flows might be detrimental to the territorial justice (2008, 961). This is a compelling objection to open borders. However, such an argument still does not vindicate an absolute and arbitrary control over borders.

However, my concern is about the possible consequences of open borders on the members of poor countries (see brain discussion above) which might be detrimental for

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4] 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 (2010).

the countries as such to approximate territorial justice. Thus, I oppose to the open borders argument from a moral individualistic 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.

### *Cosmopolitan Justice in Migration*

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.

In my view, this perspective requires an immediate attention. 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" (2010, 313). I believe the moral individualism 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.

### III. CONCLUSION

Hitherto, some form of cosmopolitan approaches have been offered scholars like Jonathon Seglow, Raffaele Marchetti and Arash Abizadeh; either in the form of a quota application, in which the both freedom of movement and freedom of association have been respected; or in the form of a global citizenship, in which citizens of the world may enjoy minimum rights in a global level; or in the form of a global democratic participation and decision-making right on the policy proposals regarding the immigration (Seglow

2006; Marchetti 2009; Abizadeh 2008). I will not argue for a substantive immigration policy here. As a liberal cosmopolitan, I still believe that our duties of justice should be discharged in a global scope, yet the question still remains about: How? What kinds of immigration policies are just? I cannot give a substantial answer to this question here, yet one possible implication of my framework would be some form of compensation for the individuals in the sending countries, required either by the receiving state or the immigrant herself. Such a policy application becomes more meaningful when one considers the countries such as Hungary or Colombia from which high skilled health care workers increasingly immigrate to more affluent countries. The countries as such clearly benefit from the flow of high skilled workers, who benefited from the education and all other benefits of cooperation in their home countries, into their own countries. Putting restrictions on emigration would be some form of enslavement, yet compensating for such flows would be justifiable. I should remind that this is not only the problem of less affluent countries considering that most of the affluent countries in the EU have started to suffer from brain drain due to the global financial crisis. Therefore, brain drain, or brain circulation as some may put it, appears a significant problem of our contemporary world and clearly the open versus closed borders debate can say a little about this phenomenon.

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