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**Whither The Interests of Sending Communities In Theories of a Just Migration Policy?**

## **Abstract**

When democratic, liberal, and communitarian political theorists make normative claims about what a just global migration policy should be, they usually focus on issues of admission, undocumented or irregular immigrants, border control, and membership, and ignore the impact of international human capital movement on countries of origin. I scrutinize this neglect with respect to the case of Filipino medical professionals, a particularly astonishing example of human capital flight from a country of origin, or brain drain, since it deprives such countries of returns from investments they made in human capital, deprives them of public goods, and leads them to cumulative disadvantage in development. In light of this empirical example, I then critique Arash Abizadeh, Joseph Carens and Michael Walzer for not reflecting on how accounting for the impact of brain drain would force them to re-evaluate what is a just immigration policy in three ways: 1) They would have to think about social justice not only in nationalist terms as being relevant to those inhabiting the migrant receiving state but also those in sending states. 2) They could no longer ignore the way in which migration and economic development of poorer areas in the world are related. 3) They would have to consider how a just migration policy would require migrant sending and receiving states could work together to maximize the gains sending societies obtain from brain drain. I conclude that if all three thinkers more seriously considered how brain drain harms the welfare of the sending community, they would argue more persuasively for their particular vision of just immigration control.

**Keywords:** community, democracy, development, immigration, inequality, liberalism

### **I. Introduction**

Within both the canon of Western global justice theory as well as policy-making circle, political conflicts over international migration commonly focus on debates over the democratic representation, individual liberal rights, and the welfare of communities in immigrant states.

Human capital<sup>1</sup> movement usually involves a process whereby wealthier states actively recruit the most educated individuals from poorer countries. Human capital movement thus involves economic expropriation within the world system of relationships between economically stronger and weaker states (Wallerstein 2011). Human capital movement typically involves moving educated workers from a dispersed majority of territories where they are scarce to a minority of territories where they are abundant (Mountford 1997; Bhagwati and Hamada 1982; Portes 1976).

Interestingly, despite a brief debate over the ethics of international human capital movement in the late 1950s to early 1960s, its impact on sending communities is now not very controversial. In the debates amongst elites and academics about immigration reform in wealthy countries, this impact usually relatively ranks low if at all in the long list of migration related matters on the political agenda. Rather, the interest of state elites is to develop a policy that attracts migrants who will most economically benefit the immigrant community, particularly in countries where maintaining office depends on democratic elections. Economists have demonstrated that these migrants are usually highly educated and skilled migrants, because they will provide professional services, often for less than native citizens, greatly increase the public welfare, and earn incomes that raise tax revenue. The growth in international competition, particularly in the science, technology, engineering and mathematic (STEM) fields, further intensifies the need for already wealthy countries to remain “competitive” by attracting the “best and the brightest” (Kapur and McHale, 2005). As I will show later, from the perspective of the sending community and those who have studied it, the process does not often appear nearly so beneficial.

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<sup>1</sup> Following Adam Smith (1776), I define human capital as “acquired and useful abilities of all the inhabitants or members of the society. The acquisition of such talents, by the maintenance of the acquirer during his education, study, or apprenticeship, always costs a real expense, which is a capital fixed and realized, as it were, in his person. Those talents, as they make a part of his fortune, so do they likewise that of the society to which he belongs. The improved dexterity of a workman may be considered in the same light as a machine or instrument of trade which facilitates and abridges labor, and which, though it costs a certain expense, repays that expense with a profit.”

The low salience of normative concerns about human capital movement raises questions about why receiving countries consider it unimportant. A realist might quickly conclude that this relates merely to how sending communities rationally weigh their economic interests differently than the interests of receiving communities. States handle issues of human capital movement like they would any other policy domain—in terms of their self-interest. Yet over the past 200 years states have increasingly recognized that they benefit more through commerce and exchange in international trade (Kant 1970, Keohane and Nye 1994) rather than through protectionist mercantilism (List 1884). One therefore one may critically evaluate human capital movement in terms of how it is framed in nationalist interests rather than cosmopolitan interests, its long and short term costs and benefits in terms of economic development of sending states, and how to most effectively maximize its benefits for all parties, rather than impossibly trying to eliminate it due to the losses sending states suffer from it.

In this article, I want to address how in the above three respects, three of the most thoughtful political philosophers of migration do not evaluate the impact of human capital movement on the sending community when they formulate what an ideal migration policy would be. I focus on what many consider to be the most positive case

and the most negative case of human capital movement in order to help scholars critically assess other cases situated between the two. The most positive case often cited is the “brain circulation” of Indian engineers and the most negative case often cited is the “brain drain” of Filipino medical professionals. While I address both cases as specific instances of “human capital movement” elsewhere, I conclude that “brain drain” at least thus far has prevailed “brain circulation.”

In this respect, the paper exposes three assumptions of these thinkers: 1) that we should only be concerned by how human capital movement affects those inhabiting receiving societies, 2) that migration policies of sending states does not help or hinder the economic development of sending states and therefore is of little importance, and 3) that even while states would commit more harm than good in trying to stop human capital movement, they should not acknowledge it as a fact and struggle to find ways that sending states can maximize their gains from it. I will suggest states deal with human capital movement by synthesizing suggestions that these theorists make: Arash Abizadeh’s idea of a border policy- making institution globally representing all those affected by coercive borders, Joseph Carens’ endorsement of amnesty, and Michael Walzer’s suggestion to adopt bilateral guest worker rights agreements between sending and immigrant communities. I will show how acknowledging and addressing human capital movement as a policy issue would help states address Abizadeh’s concerns of democratic representation of all affected parties, Carens’ demand for individual rights, and Walzer’s value of a cohesive community.

## **II. The Impact of Human Capital Movement: The Case of Filipino Medical Professionals and Indian Engineers**

Let's begin by acknowledging that human capital movement does have an impact on sending communities. Immigrants usually come from another society, and from the perspective of that society they are emigrants. Their absence in sending communities has just as great of an impact as their presence does in receiving communities. I will describe how human capital movement has an impact on sending communities in three distinct but related ways: 1) It temporarily or forever deprives such societies of human capital they have cultivated over the course of 12-18 years through primary to tertiary educational institutions. Such institutions in poor countries are typically financed with taxpayer money, private savings or internationally borrowed funds that are often so scarce and mishandled in developing economies that their governments are typically in debt. 2) This in turn has the consequence of temporarily or forever depriving them of the public goods, such public health and a dynamic economy that emerge from a sufficient supply of expertise in fields like medicine and engineering. 3) Lastly, this leaves them in a state of temporary or chronic cumulative disadvantage, due to the spread of health epidemics and a lack of public infrastructure.

First, human capital movement involves poor and heavily indebted countries spending significant resources to train professionals, the best of who will move wealthy countries where both the private economy and the government coffers lose most of the profit from this investment. Whatever benefit the sending country accrues will depend on the percentage of remittances that migrants decide to transmit to the sending community, where the private-public distribution of the benefit will depend on how much of this the inefficient tax system of the government is able to capture. An astonishing example of such brain drain is Filipino medical professionals, who constitute

25% of foreign healthcare practitioners worldwide, and by 1989 constituted the majority (73%) of foreign nurse graduates in the U.S. (Choi 2003, p. 2, Cao 1996). Their emigration began in 1947 when US government, through the U.S. Information and Education Act established the Exchange Visitor's Program (EVP) as part of its Cold War propaganda campaign. By 1983, the foreign debt of Philippines had rose to 42.8 billion dollars, and Marcos issued Executive Order 857, which required that 70% of nurses salary would return as remittances of the Filipino banking system, with fines for those who failed to remit their earnings. While this may have discouraged outmigration, he later rescinded this measure after many protests from both migrants and those generally opposed to his rule (Rodriguez 2010, pp. 13, 83). This led to more nurses to emigrate, as over a third of nurses in Philippines were either underemployed or unemployed and many could not recover cost of their training from local wages (Ongkiko and Suanes 1984).

As Choy notes, even if exchange nurses returned to the Philippines, the vast majority who did return planned to go back to the U.S. and later did as their U.S. hospitals recruited them to return and they were lured away by advertisements for overseas employment, which take up more than 90 percent of the classified section of Filipino newspapers every Sunday (Gueverra 2010, p. 2, Choy 2003, pp. 86, 100). Often they migrated as cohorts, applying for visas and arranging travel schedules together, and even came to U.S. without prearranged employment, relying on friends and family to help with adjustment process. Hence, this process led to a redistribution of a vital economic factor of production from an area where it is needed to where it is in surplus.

Second, such human capital movement reduces vital public amenities, such as public health and medical education. Human capital movement has significantly harmed the Filipino healthcare sector as much as other developing countries, where on average two thirds of the world's population has only 15% of the world's nurses. While Philippines had 8 nurses for every 10,000 people and 1 nurse for every 33,000 people in rural areas, Canada has 57 for every 10,000 and the U.S. had 49 for every 10,000 (Choy 2003, 2, 108). Barbara Brush and Julie Sochalski (2004) note how in the Philippines the ratio of rural to urban healthcare providers has fallen so low that

healthcare provision has become extremely poor outside Filipino cities. According to Dr. Irineo Bernardo, executive officer of the Philippine Hospital Association, since many small towns lack doctors, if the only nurse available “is an idiot, then better not open the ward altogether. You’ll be putting the patients at risk.” A National Institutes of Health (NIH) survey has noted that since the most highly skilled nurses emigrate, “patients in hospitals and other health institutions in the Philippines can expect a higher incidence of cross-infections, adverse events after surgery, accidents, injuries and even increased violence against the staff” (Estella, 2005). Furthermore, some economists argue in general that the loss in government revenue due to the inability to tax such productive workers can be as high as 0.6 of annual GDP (Desai, Kapur and McHale 2003). This gives the government less resources to spend on physical infrastructure for healthcare, creating a vicious cycle whereby the most skilled medical practitioners migrate abroad in search for better facilities and technology, further reducing resources for healthcare.

Furthermore, despite the high demand for nursing education, the shortage of medical practitioners has led to a decline in quality of medical school instruction and therefore the capacity to regenerate human capital as well. Most schools became run by what Brush and Scholaski (2007) refer to as “portable deans (deans with administrative responsibilities across a number of schools) and ghost faculty (individuals who were listed as faculty but were never seen, nonexistent, or unavailable to students with inadequate curriculum.” Perhaps due to substandard education that might harm the professional reputation of Filipino nurses, the government closed 23 of these nursing programs in November 2004, thereby increasing demand on those remaining. Recently, hundreds of poorly paid and rural Filipino doctors have begun entering Manila nursing programs with hopes of earning more abroad (Brush and Scholaski, 2007).

Lastly, while other states might follow the U.S. to diversify their sources of nurses to countries such as India, Korea, and Africa and thereby spread out the harm caused by brain drain, the Philippines has developed such a comparative advantage in providing medical professionals that for both those on the ends of supply and demand shifting the professional course of brain drain is likely to be difficult (Brush, Sochalski and Berger 2004, Carpenter 2006). The Philippines government, by developing a culture of



skilled emigration also has a cumulative disadvantage in finding it difficult for policy makers to make structural changes to its economy, even as greater competition from more structurally balanced developing economies like South Korea and Thailand leads to the relative benefit of exporting medical expertise to decline. International institutions may also reinforce the form of dependent development the Philippines had chosen for itself. Bach (2006) raises a concern with how the World Trade Organization's negotiations over General Agreement on Terms of Trade-4 rules may allow the W.T.O. to adjudicate against states that try to prevent the free flow of skilled employees amongst states. This might only further liberalize health service provisions between states, aggravating brain drain and possibly preventing and ruling against state regulation of it. Ironically, the EVP began offering nurses such opportunities with hopes that nurses would become "ambassadors of good will" who would gain useful knowledge and skills that would enrich nursing when they returned to their own countries, though most never did (Broadhurst, 1962). While the bulk of empirical literature on global human capital movement is pessimistic and negative, many, like EVP, have made a popular counterargument that harm from brain drain is sometimes mitigated or even overcome in the long run by economic benefits of both remittances and brain circulation (Saxenian 2002; Cao 1996; Rosenzweig 2008, Le 2008). Brain circulation is the return of foreign skilled workers from developed economies back to their community of origin, benefiting it in three ways. First, through brain circulation, the lost returns to investment in human capital are only temporary as migrants return to reinvest such capital, skills and knowledge to start companies, create jobs, and movement technology, benefiting that economy in ways that would not be possible if they stayed. Second, this transfers skills and expertise, stimulating technological development. As Anna-Lee Saxenian, an expert on IT worker migration from India and Taiwan, describes it, "When foreign-educated venture capitalists invest in their home countries, they move first-hand knowledge of the financial institutions of the new economy to peripheral regions... These cross-regional technical communities have the potential to jump-start local entrepreneurship," (Saxenian 2002, p. 36) presumably in ways that would not be possible had that they left their country for education, training and work abroad. American venture capitalists typically had neither interest in nor the ability to invest, though brain circulation created whole industries that might otherwise not have existed for a long time. Saxenian

(2002, p. 34) notes how, "The risk for these particular entrepreneurs was less because as Native-born investors they had the cultural and linguistic know-how needed to operate profitably in these markets." Though India has been a much more challenging environment for these entrepreneurs to work and invest in than these previous countries, after the dot com bust in Silicon Valley, Indian entrepreneurs returned to India due to rising unemployment in the American labor market, which is frequently a strong trigger of brain circulation and new domestically oriented industries in India. Third, such positive public externalities in turn have led to a well-known cumulative advantage of India in the global IT sector, allowing at least a part of the Indian economy to ascend the value-added chain in the global economy. The more investors establish infrastructure for new industries and amenities for expats, the easier it was to attract more migrants to return, so that investments tended to snowball. Eventually, when the regional economies of these companies offered both high wages and high cost-of-living, the migration circuit becomes a mutually beneficial conduit for new ideas. In the words of Saxenian (2002, 55), "Silicon Valley producers no longer view locating or sourcing from India or China as an efficient way to reduce costs; rather, they argue that the only reason to work with producers in those locations is to gain access to the talent."

However, though many recently argue that the benefits of brain circulation outstrip losses due to brain drain, even with India, the economic benefits of brain circulation are limited. Economist Pranab Barhan (2012) notes that while the fast growing IT industry has greatly increased to Indian GNP, economists calculate that the services sector only employs 7% of the workforce, still trailing far behind the number of jobs created by the stagnant agricultural sector (60%). Furthermore, Saxenian highlights three conditions under which brain drain is not likely to become brain circulation. First, Saxenian (2002, 56) notes how this opportunity is benefiting countries that are relatively economically open, "have invested heavily in higher education, typically technical education," and are politically and economically stable enough that immigrants would return home (Saxenian, 56). Second, she also notes that Japanese-style capitalist systems, such as South Korea, have large business groups with which small entrepreneurial and experimental firms are unlikely to be able to form transnational partnerships on equal terms. Third, countries that have grown as recipients of foreign direct investments (FDI) in

low wage manufacturing, like Malaysia and Ireland, are laggards at technological innovation and company creation due to low number of local entrepreneurs and so are unlikely to create opportunities for brain circulation (Saxenian, 2002, pp. 56-57). In sum, at least in the short term, the probability of brain drain becoming brain circulation is small in countries that are politically or economically unstable, not big investors in education, economically closed, not based around small companies, and not major recipients of FDI, which is unfortunately the majority of developing economies in the world. Therefore despite some instances of brain circulation, in the near future most countries have more to lose from human capital movement than they do to gain. And while some individuals, particularly medical and scientific professionals may be able to more effectively employ their advanced skills in immigrant countries than in the authoritarian, overpopulated and poor countries from which they came (brain gain), migrants with advanced degrees frequently also end up in a low skilled occupation in which they cannot employ skills they attained in their education (brain waste), particularly in medicine where national associations have made it difficult to enter the profession without domestic licenses (Ong et al. 1994, pp. 82).

Given the prevalence of brain drain, one might expect normative theorists and policymakers of international migration to be more concerned about it, but this is not so. I analyze three distinct but highly influential normative theorists of international migration argue for a more just migration policy, and show how they do not account for brain drain because they 1) are only concerned with how migration affects individuals in the immigrant society, 2) do not consider how it can inhibit or facilitate the economic development of sending societies, and 3) do not think of how policies might better help them cope and gain from a human capital movement. All three issues will be theoretically vital for states to craft policies that maximize the global welfare from international human capital movement.

## **II. How the concerns of Western political theorists about international migration stop at the border's edge**

Within the canon of global justice theory, Arash Abizadeh, Joseph Carens and the Michael Walzer respectively represent the normative perspectives of democratic, liberal and communitarian philosophy toward international migration. While all in their distinct ways take on what many would

describe as progressive, idealistic or radical stances toward migration, the impact of international migration on sending communities is not a variable in their vision of a more just migration policy, because they do not consider sending community interests to be relevant in formulating a policy. But I will demonstrate how if Abizadeh, Carens and Walzer extended their own values and conceptions of justice to sending communities, they would more seriously consider the impact of brain drain.

First, Abizadeh, a democratic theorist, boldly argues in “Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Borders,” that the demos to which states owe democratic legitimacy is potentially unbounded by state borders, and so state border policy should be determined by all parties affected by the control of state borders. He conceptualizes closed borders as coercive state practices that limit not only independence of native citizens and foreigners who attempt to migrate and fail and succeed, but even prospective migrants who might otherwise migrate if borders were open. He concludes “the democratic justification for a regime of border control is ultimately owed to both members and nonmembers” (Abizadeh 2008, 44-60).<sup>2</sup>

However, Abizadeh seems to emphasize such consequences for prospective mobile migrants, rather than for the whole sending community. Would the majority in the unbounded demos, after accounting for the impact of brain drain, still vote for the same level of border porosity? While he might convincingly claim that prospective migrants who were excluded from the bounded demos would prefer to have more porous borders, nonmembers harmed by brain drain might be opposed to more porous borders than he might presume. After all, the Filipino migrant-origin community does not benefit in terms of public health from the human capital they have cultivated by paying of taxes and investing private savings. Likewise, parties that benefit disproportionately from more porous borders and the resulting brain drain would include both citizens of developed economies who benefit from a cheap surplus of already prepared human capital and immigrants who benefit from developing states’ educational systems, leave, and never pay taxes to sustain the system from which they later profit.

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<sup>2</sup> Abizadeh defines “nonmembers” as those that do not belong in the particular bounded community, or “precisely those whose will, views, or interests the bounded democratic polity claims to be able legitimately to ignore.”

Abizadeh might examine more deeply how much brain drain may ultimately harm the sending community. He would then qualify the criteria according to which the state must justify how “porous” its borders are—and be even more consistent with his unbounded demos thesis, since a unbounded demos would include all the world’s people. To his credit, Abizadeh goes further than any of the three thinkers surveyed here in overcoming what Wimmer and Glick-Schiller (2002) term “methodological nationalism,” one of the three characteristics of which they say relates to how nation-states ignore the interests of nonmembers. Since he takes the rights of nonmembers seriously, he suggests in the article’s appendix that he is also interested in the nonmembers who do not migrate and may be most affected by brain drain. Whether he uses the term nonmember to avoid accounting for the fact that immigrants are also members of a foreign community, he does not explicitly mention this community in his discussion. While he convincingly demonstrates how the liberal values embraced by Western society greatly support the right of aliens to migrate and thereby affirm the communal identity of such societies, his nationalist lens allows him to ignore the impact such a liberal policy would have on community of sending societies.

In regards to family migrants, Carens claims that states have a moral obligation to accept the families of past immigrants, “since no one should be forced by the state to choose between home and family” (Carens 2003, p. 95). However, economists have long demonstrated that the relatives of highly educated and skilled laborers also typically have high human capital due to associative mating (Becker 1976, p. 241, Blinder 1976).<sup>3</sup> Consequently, if the state follows his view that “numerical limits on the entry of immediate family members is not morally defensible” then this will likely accelerate brain drain trends, since demographers find economic immigrants tend to sponsor their family members to immigrate as well (Guillermina and Rosenzweig 1986, pp. 291-311). Importantly, Carens notes how some liberal democratic states act as though they have a moral obligation to permit family reunification, “even when they do not think it is in their interest to do so” (Carens 2003, p. 96). He overlooks how this deprives sending communities of families that include and will give birth to the

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<sup>3</sup> Associative mating is the tendency for individuals to sexually reproduce with individuals that have similar levels of education, which may lead to them have children with similar levels of education and aggravate inter-familial inequalities.

most productive members in sending societies. Furthermore, while Carens seems concerned primarily with the individual rights of the immigrants, he does not address how the resulting brain drain may harm individuals who are members of the sending community by depriving them of those that could contribute most to their individual welfare. This is ironic, because a primary assumption of his liberal argument is "we should treat all human beings, not just members of our own society, as free and equal moral persons" (Carens 1995, p. 256).

Lastly, the communitarian thinker Michael Walzer in "Membership," the second chapter of *Spheres of Justice*, thinks in more nationalist terms much more consciously than the others because Walzer's places primary value on the national community, "for it is only as members somewhere that men and women can hope to share in all the other social goods that communal life makes possible" (Walzer 1983, p. 63). Yet this nationalist paradigm causes him to not consider how debates about membership also might be an issue of distributive justice for sending communities, an implication of his assumption that, "The idea of distributive justice presupposes a bounded world within which distributions take place" (Walzer 1983, p. 31), rather than a more accurate portrayal of countries as partially bounded worlds where people frequently enter and exit. He says a theory of distributive justice should be based upon the right to be a community member, but he implies this only applies to immigrant countries (Walzer 1983, p. 63, 42).

However, brain drain decreases the total amount of human capital sending communities possess and reduces the capability of a country like the Philippines to educate and offer health care to its citizens and developing countries also have communities. Therefore, Walzer should find human capital movement could also be harmful. While Walzer claims that the value of membership is "fixed by our work and our conversation, and then we are in charge (who else could be in charge?) of its distribution," (Walzer 1983, 31) this is clearly not the case with sending communities. For sending states, the "who else" might include the disproportionate numbers of educated individuals who tend to emigrate (Borjas, 1991). Since citizens of developing states have far greater incentives to migrate toward developed states—or in Walzer's words, emigration and immigration are "morally asymmetrical" (Walzer 1983, 41)—then only developed states, to a limited extent, have an actual right to determine the membership of their

community in terms of its interests. For example, Walzer laments the non-inclusive manner in which Germany treated Turkish guest workers, “finished with education, not yet infirm... a minor drain on welfare insurance” (Walzer, 1983, 57). But he seems not to consider what Turkey lost from the absence of immigrants at the productive prime of working age, the best manpower Turkey had invested its national resources to develop despite Mustaf Ataturk’s campaign encouraging expatriates to return (Akcapar 2009). Walzer, since his focus is on the immigrant state, does not recognize that those who remained in Turkey and especially those who emigrated also lost a sense of communal identity. While he judges life for such migrants in European cities to be “like a self-imposed prison term” (Walzer 1983, 57), their presence suggests that this is better than being trapped in the state from which they come. Unless they were gravely misled, their presence in such a society and their choice not to leave would seem to suggest otherwise.

As illustrated above, the political theories of Abizadeh, Carens, and Walzer are indeed consistent with their values if we consider those values only to apply to at least to the citizens and inhabitants of immigrant states (for Walzer and Carens) and at most also prospective migrants (for Abizadeh). Yet if we are concerned with all the people in the world, then their nationalist arguments are incomplete. They might also want to develop their theories by considering how their prescribed migration policy prospectively affects sending states before concluding how a positive that policy would be.

### **III. How human capital movement can inhibit or aid economic development of sending states**

As Stephen Castles (2009) and others have increasingly emphasized, international migration and economic development are two processes that are so intricately endogenous to each other that research into which causes what are unfruitful. We know from economic historians that the tendency to migrate above tends to first rise and then fall as incomes rise, which explains why the vast majority of the world’s prospective migrants reside not in the wealthiest or poorest countries in the world but middle income countries, where they have both the desire and resources to move across borders (Hatton and

Williamson 2004). Scholars also increasingly find that remittances are having a heterogeneously beneficial economic and political impact on the development of sending societies (Taylor 1999, Duquette-Rury 2014). Yet the benefits and costs, depending on how they become channeled through private or public sources affect economies inequitably.

Abizadeh, Carens and Walzer neglect the issue of how the impact of human capital movement also can hinder or aid the economic development of sending countries. If the level of economic development is indeed correlated by the rate of emigration, then all the border-bound migration issues that so preoccupy Abizadeh, Carens, and Walzer are potentially in the long run implicated with how the migration policy of immigrant states also affects sending societies. Even if remittances<sup>4</sup> did not offset the economic benefits from human capital, this would generally harm the economy of sending communities like the Philippines even more than it might otherwise under the current regime of limited immigration. If brain drain inhibits economic development, then the undocumented migration, which is one of the most vexing concerns these scholars and immigrant states have, will continue.

First, Abizadeh (2008, 49-55) brilliantly critiques five arguments against open borders<sup>5</sup> in terms of how immigration affects the community of the immigrant community. Yet he might formulate a more compelling critique of long run impact of unilateral border control if he considered the impact of migration on the sending community via economic development in these five respects. As Abizadeh himself points out, the tendency in the literature is “to frame debates in the ethics of borders in terms of a conflict between the individual ‘liberal’ right to freedom of movement and the collective ‘democratic’ right to self-determination, and then to weigh the liberal and democratic reasons for and against open borders.” For Abizadeh, this “misconstrues the role of democratic theory” because it assumes that the demos is limited to the bounded migrant-destination community, while Abizadeh claims that the demos, if unbounded, consists also of *all* those who are affected by border policy. Consequently, democratic theory implies that “border restrictions should be addressed in democratic

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<sup>4</sup> Admittedly, if one compares remittances to counterfactual domestic income in sending countries from more human capital, this assumption is open to debate, and raises questions of who benefits from the remittances, which is mostly private non-taxable income.

<sup>5</sup> These arguments are the 1) the pluralist (or diversity) argument, 2) the dispersion-of-power argument, 3) the boundary-preferences argument, 4) the subsidiarity argument and 5) the minority protection argument.



forums in which foreigners, on whom such restrictions coercively fall, also have a standing to participate” (Abizadeh 2008, 54). Yet a further utilitarian matter is how brain drain is affecting global economic welfare and affecting economic development. He needs to account not only for direct effects of border porosity, such as entry, but also its indirect effects, like brain drain via economic development, to fully account for how they coerce non-members of the immigrant society.

Abizadeh advises that control of borders should be “delegated to differentiated polities on the basis of arguments addressed to all,” within an institutional forum in which all affected parties can deliberate. While some of these harms happen on a day-to-day basis, they also may in the long term affect economic development. The impact of brain drain provides an opportunity for Abizadeh to present the concerns of potential immigrants for economic welfare not only individualistically, but in collective democratic terms too. In terms of weighing stake-holder interests Abizadeh sophisticatedly suggested

giving the weakest rights of participation to foreigners for whom the option of entry is of little value; a greater participatory say to foreigners for whom entry actually represents a valuable option; even greater say to those for whom the option of entry is necessary to have an adequate range of valuable options; and perhaps the greatest say to the citizens themselves. (Abizadeh, 2008, 55)

Yet Abizadeh weighs opinions of all impacted parties about a given policy merely in terms of how valuable the option of *entry* is to them.<sup>6</sup> If he thinks any policy should be evaluated according to how much it affects the unbounded demos, then not only the option of entry but also the impact of brain drain on economic development should give the nonmembers and the sending community a greater stake in the openness of borders. Such a framework would provide a powerful forum for both sending and receiving states to collaborate on how they could harness the force of international migration to promote economic development, and thereby increase future global welfare. Since brain drain harms sending communities as evidence suggests, after considering its impact, based on the above formula, Abizadeh should suggest such institutions increase the weight of opinions of non-migrating individuals in sending states who will most benefit from economic development.

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<sup>6</sup> I take Abizadeh here to be weighing the democratic influence of various parties in terms of how much border policy affects them. This measure of influence is important in order to ensure the policy is democratically representative.

Carens also seems to overlook the migration-development nexus when he claims that point systems, which tend to encourage immigration of highly skilled immigrants, “does not raise any issues of justice” and the fact that a country “is guided by its own interest in its selection of some for admission cannot be a decisive objection” (Carens 2003, 107, 114) He does acknowledge in passing that when a country nakedly pursues its economic interests, it may be excessively harming the interests of individuals in sending countries. Yet he does not address in detail how the point system may exacerbate brain drain, particularly for sending states like the Philippines that through policies actively directs its economy toward technical education system, labor exportation, and remittance dependence. This may discourage the Philippines from developing an educational system that encouraged more analytical thinking skills, research, and investment in stronger and less corrupt institutions (Kapur and McHale 2005), which in the long run would likely generate greater economic growth and development.

Carens recognizes that immigrants gain far more in wages at their immigrant country than in origin country and draws upon the John Rawls’ difference principal that any policy change, including the expansion of immigration flows, should be acceptable to liberals, as long as it does not make the citizens of developed countries worse off. This may seem to allay the concerns among low skilled natives who worry about losing their job to immigrants willing to work for less. However, Rawls has acknowledged himself in *The Law of the Peoples* that applying the difference principle internationally may be a productive way to think about international inequality, the economic development of poor countries and what sort of international policies most people would prefer if they did not know which country they would be born into (e.g. free and competitive trade, an international bank, a confederation of nations, etc.) (Rawls 2001, p. 43) To the extent that he embraces the nationalist assumption, Carens seems to assume that under a “veil of ignorance” in which no one knows with what nationality or other characteristics with which they possess that most people would prefer to have free migration because this would benefit humanity in aggregate. While economists have demonstrated that aggregate global economic output would triple if states reduced immigration control (Hatton and Williamson 2005), in some respects, such as health care, the majority of people, who are poor and live in poor countries,

would lose much public health professionals due to human capital movement. When Carens writes, according to Rawls' first principle of justice, before states choose to restrict immigration, "it would be necessary to show that immigration would reduce the economic well-being of current citizens below the level the prospective immigrants would enjoy if they were not permitted to immigrate," (Carens 1995, 262) he does not consider how it may affect citizens' well-being in sending states through depriving them of human capital needed to advance economic or political development.

Finally, since Walzer considers that the cohesiveness of communities is universally valuable and not just for migrant-destination community, then he would consider the development-migration link to be critical. Theorists of sovereignty claim that while many sending states obtained juridical sovereignty through anti-imperial independence movements, they still lack substantive sovereignty and self-determination because of a low level in economic development, so that they remain economically colonies of wealthier countries, for which the benefits of exiting are great (Anghie 2006). Hence, while Walzer might insist "the distribution of membership in...any society...is a matter of political decision," the political decision is quite different for sending communities and immigrant communities. Certainly, if "the right to restrain the flow remains a feature of communal self-determination," (Walzer 1983, 41) from a standpoint of justice forbidding exit to emigrants is the only way states could do so. Yet while states in international law have the right to deny migrants entry, most nations recognize that states have no right to prevent a citizen from emigrating.<sup>7</sup>

Due to this constraint and human capital movement, sending states lack the self-determination in regulating membership in the way that Walzer considers essential to have a cohesive community. When Walzer claims "we can still say that the common life, at least, is their own and that their comrades and associates are theirs to recognize or choose" (Walzer 1983, 48) he does not seem to fully understand that this is not true for a sending community. The remaining alienated members of sending states, consisting of so many that would rather emigrate, does not seem at all to reflect his vision of what a community where people can choose to belong or not to belong. Yet to attain that community for all societies would

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<sup>7</sup> Universal Declaration of Human Rights, Article 13: "(1) Everyone has the right to freedom of movement and residence within the borders of each state. (2) Everyone has the right to leave any country, including his own, and to return to his country." <http://www.un.org/en/documents/udhr/> accessed on 3/8/2012

seem to require all countries to be developed economically enough so that people decide to be a member based on matters like language or culture, not economic considerations. To quicken progress toward that goal, states may want to more carefully consider how they can manage human capital movement in a way that is beneficial to sending states. Fortunately, this does not require they try to achieve the seemingly impossible goal of stopping it altogether.

#### **IV. Minimizing what sending societies fail to gain from international human capital movement**

A powerful critique of brain drain is the possibility that if highly intelligent people, such as Filipino medical practitioners, did not have the rewards of a more lucrative work abroad, they would not have been motivated to obtain the education from which others benefit. As Jagdish Bhagwati (1979) notes, developed states are only draining brains that otherwise would not have existed due to lack of incentives in developing economies to invest in education and acquire skills in order to reap greater economic rents abroad (Bhagwati 1979). In fact, possibly the situation would have been worst in a counterfactual world where no countries as relatively wealthy as receiving states existed. For this reason Bhagwati rightly emphasizes that the harm stemming from brain drain stems not from what sending communities lose, but what they fail to gain.

This is important because one reason many academics and policy makers do not address brain drain may be that it seems depressingly impossible to stop. But if they recognize that international migration of highly skilled is not bad, but just must be better managed, suggests that the proper policy response is not to stop it, but to find ways in which states could capture a greater share of the returns to human capital mobility. States also should not think about the benefits of human capital mobility in narrow, economic terms. Political scientist Kapur and economist McHale (2008) stress that what migrant origin countries lose is not only extensive loss of highly skilled labor, but the skills, leadership, and ingenuity that is necessary to build not only businesses, which tend to acquire the most educated labor due to higher wages, but also viable institutions that can provide better infrastructure, reduce corruption, build trust, and provide leadership necessary to increase public wealth. Fortunately, Abizadeh, Carens, and Walzer each have imaginative policy ideas with which to build such a policy, if states would only extend them beyond their nationalist framework to consider more dynamically how migration policies

could contribute to the economic development and future welfare of not only migrant destination states, but migrant origin states as well.

First, Abizadeh advises that control of borders should be “delegated to differentiated polities on the basis of arguments addressed to all,” within an institutional forum in which all affected parties can deliberate upon and respond to the harm inflicted by brain drain, as noted earlier. Since brain drain harms sending communities as evidence suggests, after considering its impact, based on his formula, Abizadeh should suggest such institutions increase the weight of the opinion of non-migrating foreigners, even though if by how much would be another issue to democratically determine. Since even across xenophobic European countries a negative correlation exists between the percentage of immigrants eligible to vote and government policies that protect both immigrant rights and entry (Koopmans et al. 2005), if states could coordinate in institutionalizing such an framework, the policies adopted would probably ensure that sending communities benefit more from human capital movement. Whether or not states take his advice to form global institutions that determine or delegate admissions policy, if they wished to represent the interests of both migrants and citizens of all states, they would probably want to consider the impact of human capital movement before deciding how porous borders should be. Such a weighting would better ensure the interests of the home community prevail by a majority, even with cases like Filipino medical professionals or Indian engineers, who as part of a relatively large expatriate community<sup>8</sup> would have considerable and even greater democratic influence in the unbounded demos than other less dispersed diaspora. In conclusion, Abizadeh should take into account the indirect harms of human capital movement, which has the implication that his unbounded demos may not support such porous borders. Yet it would more democratically take into account all parties’ interests affected by border control policy by richer criteria than that of a mere interest in entry.

On the policy front, Carens seems most invested in offering amnesty for anyone who has remained in an immigrant country for a certain amount of time. Many might fear this would only accelerate brain drain, as many people would migrate to the U.S. with knowledge that they could, if they remain in the

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<sup>8</sup> The Filipino government has last estimated about 11 percent of Filipinos now live abroad. [Stock Estimate of Overseas Filipinos As of December 2009](http://www.poea.gov.ph/stats/Stock%20Estimate%202009.pdf)". Philippine Overseas Employment Administration. <http://www.poea.gov.ph/stats/Stock%20Estimate%202009.pdf> Retrieved 3/9/2012

shadows long enough, become citizens. Some might even claim that it would make the very meaning of immigration control meaningless. However, studies show both that in fact undocumented migrants do not return home even though they really wish to because they fear that they will not be able to return (Massey and Durand, 2003). Such movement frequently involves human capital circulation and the growth of transnational capital, so that amnesty as well as policies promoting dual nationality may be vital in promoting both private sector investment and NGO work in sending countries.

When Carens claims that, since Western societies form their communal identity around liberal principles, that “To commit ourselves to open borders would not be to abandon the idea of communal character but to reaffirm it. It would be an affirmation of the liberal character of the community and of its commitment to principles of justice” (Carens 1995, 271) he should ask whether open borders in immigrant countries undermine the communal and liberal character of sending society, and whether that differs if the society is liberal or non-liberal. If the society is not as liberal as the immigrant country, liberal immigrant states might advance their interests more not only being a model for the non-liberal states, but also supporting efforts of the diaspora amongst their citizens to liberalize such societies. If they were liberal like the Philippines, immigrant states have even more a reason to consolidate their alliance of common values by ensuring that individuals in sending states are not suffering collectively in the name of the liberty due to so many needed experts having the right to leave their country. Though Carens argues that generally, restrictions on immigration, like feudal barriers to mobility, “protect unjust privilege,” (Carens 1995, 249) he should also think critically about ways to avoid simply enhancing this first-world privilege of immigrant states by drawing human capital away from poor countries. After all, this would seem to violate his principle that the “individual is prior to the community” (Carens 1995, 249) in terms of moral worth, since the health of these individuals in the sending state suffers through contagion due to their arbitrary fate of belonging to a disadvantaged community deficient in human capital. In conclusion, Carens should take human capital movement into account while evaluating his proposed policy, and think more about how to avoid allowing individual liberty become simply a ground for allowing those with enough expertise to afford to exercise their rights to abandon the community that needs them most.

As noted earlier, Walzer seems most preoccupied by the way in which the entry of immigrants into communities weakens the cohesive bonds within the community, as their lack of rights creates inequalities within the immigrant society. In the only passage where he refers to the sending communities, he seems primarily concerned with the immigrants as individuals, for whom he suggests host countries could negotiate formal treaties with the sending communities, “setting out in authoritative form a list of ‘guest rights.’” (Walzer 1983, 60). This could also contribute to migrant’s gaining more from human capital movement than they currently do. Yet sending country governments have collective political interests other than sincerely protecting their rights or appreciating the tremendous remittances they receive from expatriates. Incorporating other concerns into these bilateral treaties will be vital to increasing the global gains from human capital movement. Furthermore, he ought to carefully consider the finding of economist Martin Ruhs, who has shown in cross-sectional studies of wealthy countries’ immigration and immigrant rights policies that openness to immigration and the extent of immigrant rights appear to be inversely correlated (Ruhs 2013). The Philippines economy has also become enormously dependent on such remittances and therefore job opportunities offered by developed countries (Rodriguez, 1996). Many Filipino activists and legal advocates have quickly learned that the Filipino government not much more leverage than they do in negotiating bilateral worker accords. In these cases where a host government will not make the guest worker rights that Walzer suggests, the receiving country will not demand them. The best tool of sending states may be to use leverage in policy domains that they have in other policy domains vis-à-vis immigrant states in order to prioritize migrant rights and broker such bilateral accords. More broadly, Brush and Sochalski (2004) argue that bilateral treaties to regulate the migratory flows of nurses while committing to improvements in education, career structures, and working conditions in each of the agreeing partners are generally not likely to work due to greater competition from recruiters in other countries. The relatively affluent labor market of immigrant countries is still an oligopsony, though economic development could change this in the future (Bhasker et al. 2002) Cuba has provided another model of almost completely state-controlled migration in its policy of exporting Cuban doctors to Venezuela and other countries in exchange for commodities like oil in which it has a low supply and taking much of their wages, although many doctors have fled to countries

like Colombia. While states could also just appropriate a portion of the wages of professionals as a transitional temporary measure, this would likely lead to more or less the same result depending on the migrants' time horizon and how much the migrant discounts his future wages.

Whether or not Walzer would acknowledge that such treaties seem to serve Filipino migrants less than legitimize the Filipino state's policies, their failure and their continuing harm of brain drain would also seem to undermine what Walzer values: "communities of character, historically stable, ongoing associations of men and women with some special commitment to one another and some special sense of their common life" (Walzer 1983, 61). Furthermore, the falling availability of quality medical instruction mentioned earlier and the decreasing percentage of educated and skilled people in a given community seems to work against what Walzer has wrote elsewhere: "Education expresses what is, perhaps, our deepest wish: to continue, to go on, to persist in the face of time. It is a program of social survival" (Walzer 1983, 197). Since he deems that the proportion of educated citizens is an important component of a community's character, he would perhaps be more critical of the rich wealthy communities have to determine their membership if he considered how this deprives poor communities of their most educated and skilled citizens. In sum, Walzer, like Carens and Abizadeh ought to think carefully how policy could maximize the benefits of international migration not only for migrants within the sending state but also those in the sending society.

## **VI. Conclusion: The Critical Relevance of Human Capital Transfer For Developing**

### **A Just International Migration Policy**

Leading theorists of global justice and migration in the past seem to have limited their thinking in three respects: 1) they have framed the cost and benefits of human capital movement in narrow, nationalist terms, and therefore do not consider its impact on sending country; 2) they have not considered how states could harness human capital movement to bolster economic development and therefore reduce the type of migration that in the long run contributes to the problems that vex many states; and 3) they do not consider that while it would be unproductive for states to stop human capital movement, they could focus more on minimizing what migrant states fail to gain through the process.



Yet all three theorists offer policy ideas that could provide strong pillars for a policy that would be responsive to the interest of sending states, propel economic development, and reduce the exploitation of migrant workers. Since wealthy states have been key actor in permitting the harms caused by brain drain, the phenomenon and its detrimental impact on the sending community would seem to be a key concern in the political theory literature on how to design a more just immigration policy.

Sending states have already responded on a policy level to mitigate the harm brain drain has caused. Policymakers in immigrant states both bring more attention to and alleviate the problem further by introducing more democratic forums for international coordination on policies, amnesty for undocumented citizens, and bilateral workers rights protection. By drawing on the complementary and widely shared values that Walzer, Carens, and Abizadeh embrace, sending states might be better at convincing receiving states that it is in their interest to coordinate with them on designing such policies. States could then move away from having a clash of nationalist migration policies, with all their harmful and unintended outcomes for both sending and receiving societies, and toward finally constructing a more mutually beneficial and truly international migration policy.

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