

Ethical issues in labour migration

PH338: Philosophy & Politics

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- Last two weeks: Do citizens of a country have a general right to exclude non-citizens from their country?
- This week: Even if there is no general right to exclude, may adverse *brain drain* effects justify some immigration restrictions?
 - (Plus other topics on labour migration.)
- Next week: Even if there is a general right to exclude, all theorists concede that refugees must be given refuge. But who should count as a refugee?

Report of the Secretary-General, 4 August 2016

- International migrants: 244 million in 2015, up from 173 million in 2000.
- About 3% of the world population are international migrants.
- “international migrant”: a person living in a country other than the country in which they were born

Department of Economic and Social Affairs of the United Nations Secretariat, International Migration Report 2015

- 2015: Officially recorded remittances: USD 430 billion
 - This is a multiple of official development aid (USD 132 billion).
- But: brain drain: loss of expertise and talent from already deprived regions.

- 1 Brain drain
- 2 Political representation of migrant workers
- 3 Exploitation of migrant workers

1 Brain drain

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3 Exploitation of migrant workers

The European “New right” or “Identitarian” movement on brain drain

“Immigration kills Europe, emigration kills Africa! For both continents, stopping the transfer of populations is the only solution [...]”¹

¹<https://juergenelsaesser.wordpress.com/2016/10/25/eritreer-zurueck-r>

1 Brain drain

- The challenge and puzzle of brain drain
- Explaining the puzzle of brain drain
- A new puzzle about brain drain
- Does brain drain justify restrictive immigration policy?

Assumption and question

- Assumption: Citizens have no general right to exclude, all people have a general right to migrate where they wish.
- Question: Ought we to now open all borders, then? Ought a given country, e.g. the UK, now drop all immigration restrictions?
- Brain drain concern: Opening all borders might have very bad effects *in migrants' countries of origin*.

Brain drain

- Brain drain: Adverse effects of emigration of skilled workers on their country of origin.

Example: Medical personnel

- Background:
 - 2.5 health workers per 1000 people needed for basic health care
 - Averages: Europe: 10.3, Africa: 1.4
- Examples of medical brain drain:
 - Zambia: 5 out of 600 doctors trained since 1965 remained
 - South Africa: 1/3-1/2 of medical graduates emigrate
 - Ghana: 2001: 500 nurses emigrate, more than 2x the number of graduates

Recruitment practices

- Targeting entire graduating classes of universities for recruitment.
- Targeting entire staff of a given hospital for recruitment.
- UK: 31% of doctors, 13% of nurses are born overseas.

Effects

- Lack of skilled workers leads to lack of their product: health care, education, industry, . . .
- Lack of tax revenue from more productive workers: translates into lack of funds for public goods and institutions, as well as further education and training.
- Emigration of skilled workers can create some benefits due to remittances, i.e. money sent back to the country of origin.
 - But remittances tend to dry up after about 5 years, and lack of skilled workers can be non-substitutable with money.
 - Remittances tend to go towards private, not public goods.
 - Remittances do not address structural poverty, and might even exacerbate it.

So what to do? A puzzle about brain drain

- Per assumption, open borders are required by global justice.
- But due to brain drain, opening borders sustains systemic poverty and hence non-fulfilment of poor people's basic human rights.
- So it seems that, as a matter of beneficence and justice, we may be required to close borders to high-skilled labour migration.
- How to reconcile these two claims? How can it be that something that is required by justice makes the world less just, such that we possibly ought not to do it?

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A picture of ideal global justice

Suppose that in an ideally just global society:

- All people have their basic needs met.
- All people enjoy basic liberties.
- All people are able to live more than minimally decent lives, with resources and space to exercise their autonomy.
- All people are free to migrate wherever they wish.

Measuring progress towards ideal global justice

- To see whether a proposed political measure makes the world more just, we need to
 - determine how the world would look like with vs. without the measure.
 - determine how close each of these states of the world is to ideal justice.
- We need to determine a comparative index of imperfect justice that combines the above components of justice.

A story of how opening borders might make the world more just

- Consider a labour migrant who wants to move to work in a more wealthy country:
 - She will enjoy greater welfare and opportunity.
 - She will enjoy living under better institutions, giving her more liberties and opportunities.
- So *other things equal*, this person's migration makes the world more just.
- So *other things equal*, opening borders to labour migration will make the world more just.

How (starting with) opening borders might not be a good idea

- But other things are not equal!
- The improvement in migrants' welfare, liberties, and opportunities might come at the expense of a worsening of the situation of those left behind, if other injustices remain.
- This worsening might well make the world less just overall.
- So opening borders might make the world less just overall.

Explanation of the puzzle

- Key mechanism: Making one aspect of global justice (opening borders) better can worsen other aspects (welfare rights).
- Hence we should not start with opening borders unless we do something about the other aspects of global justice as well.

So what should wealthy countries do in addition to opening borders?

- Compensate for brain drain.
- Enforce mandatory service agreements of trained workers.
- Ensure fair terms of trade.
- Pay restitution for past wrongs, e.g. colonialism.
- Support human rights and stop supporting rights-violating regimes e.g. through buying natural resources.

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A new puzzle about brain drain

- But if a country does not do the other things required by justice, does this mean that it ought to not open borders?
- I.e. in virtue of acting unjustly, the country does not have an obligation to open its borders anymore?

Resolving the new puzzle

- To resolve the new puzzle of brain drain, we need to look at two ways of being required to do several things.
- “X ought to do a, b, c”, e.g. “The UK ought to open its borders, trade fairly, and compensate past injustices” is ambiguous in ordinary English!

Narrow-scope conjunctive oughts

- “I ought to call my friends and family.”
- Narrow-scope reading: I ought to call my friends, and I ought to call my family.
- Narrow-scope conjunctive oughts have the ordinary form of a logical conjunction “ p and q ”, with p and q each ascribing *one* obligation to the same agent, and the conjunction holds that the agent has *both* obligations.
- Narrow-scope conjunctive oughts logically allow for detachment: X ought to a and X ought to $b \rightarrow X$ ought to a .
- Hence even if I do not call my family, I still ought to call my family, and vice versa.
- The reasons behind the oughts is independent of the fulfilment of the respectively other ought.

Narrow-scope conjunctive oughts are not enough

- “I ought to promise my student to write a reference, and then write it.”
- Narrow-scope reading: I ought to promise my student to write a reference, and I ought to write it.
- It would follow that I ought to promise my student to write a reference, even if I in fact will not write it.
- But that would be a very bad thing to do, that I surely ought not to do! (if I don't promise, then the student can at least get a somewhat less informative reference elsewhere)
- But at the same time it is my professional duty to promise and write references.
- That's exactly like the new puzzle of brain drain!

Wide-scope conjunctive oughts

“I ought to promise my student to write a reference, and write it.”

- Wide-scope reading: I ought to: promise and write.
- Wide-scope conjunctive oughts ascribe *one* obligation to do *two things*.
- If I will write it, it is not true that I should promise to do it, and *vice versa*.
- The reason behind the ought arises from the conjunction of *both* actions, e.g. the good consequences of performing both.
- Wide-scope conjunctive oughts logically do not allow for detachment: $X \text{ ought to } (a \text{ and } b) \nrightarrow X \text{ ought to } a$.

Open borders and wide and narrow scope oughts

- Narrow-scope conjunctive oughts: X ought to (compensate for past injustice), and X ought to (open borders).
- Wide-scope conjunctive oughts: X ought to (compensate for past injustice and open borders).
- The adverse effects of brain drain show us that if a country is not doing other things to remedy global injustice, it may no longer be true that it ought to open borders.
- So an obligation to open borders does not logically detach from the obligation to open borders and do more about global justice.
- So we need to read these obligations as wide-scope conjunctive oughts.

Solving the new puzzle

- Consider the UK.
- Assume that the UK can make up for all negative effects of brain drain that would be caused by the UK completely opening its borders.
- Assume that these compensatory measures are included in what the UK anyway ought to do as a matter of global justice.
- So the UK ought to (open its borders and act justly in other respects).
- Opening borders is part of a package of measures that *together* are required as a matter of global justice.
- It does *not* follow that the UK ought to (open its borders).
- Note the difference: “It is not the case that the UK ought to open its borders.” vs. “The UK ought to not open its borders.”

So what to say about closed borders?

- Since the UK ought to (open its borders and act justly in other respects), if it does not open its borders, the UK violates this obligation.
- So the UK is not off the hook when it does not open borders.
- But if the UK violates that obligation anyway by not acting justly in other respects, then also closing borders might not make the actions more unjust.
- And we can then ask whether the UK ought to (if it does not act justly in other respects, keep borders closed).
- We here have a wide-scope *conditional* ought. And again it does not detach:
 - O:(if a, then b) and $a \nrightarrow O:b$.
- But does the UK have the conditional obligation to (if it does not act justly overall, restrict skilled workers' immigration)?

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Two justificatory approaches

- Quasi-consequentialist justification:
 - Given that the country will not discharge its other duties of justice, restricting skilled labour migration reduces overall injustice.
 - So it is attractive to say that the country then ought to restrict skilled labour migration.
 - The country is then not off the hook: It does not act justly, and closing borders is then just a second-best option to prevent worse harms.
 - cf. “if you have to steal, steal from the rich”
- But: We may want to have a closer look at restrictive immigration again from a non-consequentialist perspective.

What do brain-drain preventing immigration restrictions do?

- Suppose rich country R restricts skilled labour migration from poor country P in order to prevent brain drain in P.
- R then coerces workers from P to work in P.
- By stipulation, restrictive immigration policies are not *generally* justified.
- So the question is if the restriction can be justified precisely because it makes P-workers work in P and make the world more just with regard to rights-fulfilment of people in P.
- Problem: The policy uses workers from P as a means to achieve this end, and restricts their right to free movement for that purpose.
- But: You may not use people as mere instruments. So we need further justification for why the coercion is permissible.

How might a better justification work?

- Coercion stands a better chance of justification if it coerces people to do something that they morally ought to do anyway.

A justification of anti-brain drain immigration restriction

- 1 Skilled workers from poor countries have a duty to help in their country.
- 2 The duty to help entails a duty to stay.
- 3 The duty to stay and help may be justly enforced.
- 4 Rich countries are legitimate agents for enforcing this duty.
- 5 Hence rich countries are justified in restricting immigration of skilled workers.

For the duty to help

- Do skilled workers in poor countries have a duty to help their compatriots?
- Arguably all better-off people have a duty of beneficence to help the world's poorest people (see discussion of Singer et al).
- Being in the country makes (at least some) local skilled workers more effective at helping: local knowledge, cultural and language knowledge.
- We *may* have special duties to aid our compatriots / those geographically closest to us.

The duty to stay

- Granted that skilled workers in poor countries have a duty to help their compatriots, does this entail a duty to stay and work in the country?
- Possible rejection: They could help by sending back remittances.
- Counter-response one: Remittances won't always be able to replace their work, e.g. if there are not enough suitable medical personnel to be recruited.

The duty to stay and demandingness

- Many skilled workers are poor themselves, and emigrating is their best opportunity for a better life.
- Medical workers in poor countries often face dangerous working conditions.
- A duty to stay would be an extremely demanding duty on these people.
- So if we uphold a duty to stay, then we allow ethics to be very demanding.
- We also treat global poverty as imposing demanding obligations *on individuals*, not just states.
- As a matter of consistency, we then have to allow for very demanding obligations on *everyone* to help the world's poorest people.

The duty to stay as a duty to give emergency aid

- A possible way around the demandingness situation:
 - The medical situation in many poor countries can be understood as an emergency.
 - People who are nearby and are the only ones who can help have highly demanding obligations in such situations, e.g. in road accidents, even if the rest of ethics is not so demanding.
 - We can then say that skilled workers in poor countries have a demanding duty to stay, without having to admit similarly demanding obligations for everyone else.
- Objection:
 - Does it make sense to count as an emergency, akin to a road accident, a situation of need that is perpetual, non-exceptional, and not likely to change?

Enforcing the duties to stay and help

- *Even if* there is a duty to stay, it does not logically follow that this duty may be enforced.
- For example: You may have a duty to show gratitude to your parents, but this duty may not be enforced.
- The needs of poor people are so serious that they may justify enforcing the duties to stay and help.
- But: There are alternative ways of helping the world's poorest people that do not require restrictions of basic liberties like the liberty to migrate.
 - Especially the liberty to migrate in order to escape poverty or dangerous working conditions.

Legitimacy of enforcing the duties

- *Even if* the duty to stay and help is enforceable, it does not follow that it is for wealthy countries to enforce the duty.
- Extreme example:
 - Driver A (culpably or non-culpably) runs over a cyclist, and drives on and fails to help.
 - Driver B drives by, and upon seeing the cyclist by the roadside, incurs a duty to help, and this duty may be enforced (e.g. legally).
 - But driver A clearly is not the one to force driver B to help.

Standing to enforce (and to blame)

- Notion of standing to blame: Being in moral situation from which one may blame a blameworthy individual.
- One position: If you are guilty of blameworthy act X yourself, you may not blame others for X, even though they are blameworthy.
- Wealthy states that do not discharge their duties to help the world's poorest people (and possibly are actively harming or have actively harmed the poor) are not in a position to enforce skilled workers' duties to help and stay (if they have any).

Summary: So what to make of brain drain?

- Duty to desist from active recruitment, and possibly to outlaw active recruitment by private parties.
 - This is a duty to desist from actively harmful behaviour, and to hinder others in such actions.
- But no duty or right to restrict immigration.
 - Such restrictions would actively infringe upon workers' freedom to migrate.

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3 Exploitation of migrant workers

The standard case for voting rights

- Standard move about residency and citizenship: If you live in a country long-term, you must be offered participation in policy-making.
- Reasons why such participation is deemed important:
 - Living under laws in whose making you have no say is oppressive: Others decide what you may or may not do.
 - Not being politically represented makes you vulnerable to being exploited.
- Standard solution to offering participation: citizenship / voting rights.

Temporary work migration

- The standard argument for voting rights assumes long-term residents who permanently settle in a country.
- But many work migrants intend to only work abroad for a limited amount of time.
- They deliberately choose to not invest much into their host society, materially, socially, language-wise, qualification-wise.
- Instead, they use working abroad to build up capital for future plans at home.

Why voting in national elections may not help temporary work migrants

- Lack of social integration and investment makes meaningful voting harder.
- Conversely, meaningful voting comes at the cost of learning a lot about politics, learning the language, etc., which runs contrary to the migration plans of temporary migrants.
- Individual temporary work migrants have lower stakes in the country's politics: By the time policies change in response to electoral pressures, they may already have moved back.
- For the above reasons, temporary migrant workers may be hard to mobilise as voters, which then means that people running for office have little incentives to provide a platform for their interests.

What temporary work migrants need

- Non-exploitative, fair, and safe working conditions.
- Predictable work permission.
- Non-discriminatory public space.
- Uncomplicated transfer of funds and frequent travel to their home country.

Alternatives to citizenship to secure temporary work migrant's interests

- Giving temporary work migrants *qua individuals* a right to vote may not be the best way to secure their interests.
- But temporary work migrants *as a group* with frequently changing membership could gain political influence.
- Ways to achieve this end:
 - Union membership and representation for temporary work migrants in national workers' unions.
 - Transnational trade unions and migrant associations, collective bargaining
 - Such groups have stable identity and interests over time, despite changing membership
- Rather than providing voting rights to temporary work migrants, states can support these alternative means.

From temporary migrant worker to permanent resident

- Plans can change, and some temporary migrant workers end up settling in their country of work.
- Any temporary work migration regime needs to allow for such changes of plan.
- We are then back to the standard case for extending citizenship.

Summary: Political representation of migrant workers

- Viewing all migrants as would-be new citizens of their host state is mistaken: Overlooks temporary migrant workers.
- We need to combine social-science informed knowledge of the actual situation and plans of migrant workers with normative analysis of what their rights and morally relevant interests are, and what would best fulfil these rights.
- We then determine what kind of political representation would work best for safeguarding the rights and interests of temporary migrant workers.

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Are migrant workers being exploited?

- Migrant workers often do work that is considered undesirable in their host country.
- Many migrant workers command wages that are low relative to other wages in their host country.
- So we might be concerned that these migrant workers are being exploited.
 - Note: Set aside high-pay sector migrant workers.

Clear cases of exploitation

- There are clear cases of exploitation of migrant workers.
 - See today's Guardian article on worker exploitation in Malaysia.
- Exploitative practices:
 - Withholding passports.
 - Undocumented employment.
 - Physical limitations on freedom of movement.
 - High entry fees into the work that require several years minimum periods of service to be paid off.

But are low wages in themselves exploitative?

- Many migrant workers do not migrate from a position of threatened basic needs.
 - The very poorest people cannot even afford to migrate.
- The lower wages they are offered are still higher than what they would earn at home.
- So we do not have a situation of the employer forcing migrant workers into a deal to which they would not rationally consent.

Re-locating exploitation

- Low wages paid to migrant workers are arguably not exploiting migrant workers.
- But such wages allow employers to pay less than what would be adequate to build one's life in the host country.
- This is not a problem for (temporary) migrant workers, as they do not plan to build their life in the host country.
- But it is a problem for domestic workers who compete with migrant workers!

Exploiting workers as a class

- Lea Ypi: The problem of low-pay migrant work is then a problem of exploiting *workers as a class*.
- Employers use the living cost differential and possibility of temporary work migration to drive down wages.
- Effectively, workers from different countries are being pitted against each other.
- Due to temporary work migration, collective bargaining of workers fails, and negotiation power shifts towards employers.

Summary and outlook

- Work migration requires us to re-think fair wages.
- Existing structures of collective bargaining of workers may not be sufficient to deal with work migration.
- We need improved institutions that take into consideration temporary migrant workers.
 - e.g. transnational unions, or migrant worker membership of existing unions.
 - enforcing minimum wage and work standards, *even where the workers themselves are not exploited and might not complain.*
 - e.g. not relying on workers to lodge complaints.

Seminar questions

- What is the most promising way to attack Kieran Oberman's argument on behalf of the claim that brain drain does not justify wealthy countries in restricting skilled labour immigration?