

GILLIAN BROCK

## Feasibility, Nationalism, Migration, Justification, and Global Justice: Some further thoughts

I am very grateful to Holly Lawford-Smith, Christoph Broszies, Patti Lenard, Christian Barry, and Louis Cabrera for providing such stimulating commentary on the work begun in *Global Justice: A Cosmopolitan Account*. In this article I try to address the major challenges raised by each author. In the first section I attend to criticisms about how I tackle the feasibility of global justice issue. In the second section I address critiques around the method of justification for my account of global justice. The third section deals with concerns about reconciling nationalism and global justice. There I begin the response to critics of my position on migration, and a more developed response continues in the fourth and fifth sections. In the final section I also clarify the role concerns about cultural diversity play in my criticism of global equality of opportunity as an ideal of global justice.

### **Rebutting skepticism about feasibility**

#### *The feasibility skeptic revisited*

In this section I first explain some central ideas concerning skepticism about feasibility. These remarks will be useful in addressing the important challenges Holly Lawford-Smith poses in her thought-provoking article. The basic idea behind feasibility skepticism is that whatever we may think about models of global justice, especially cosmopolitan forms of global justice, making progress in realizing the goals of global justice is unrealistic in practice. The concern may take several forms and here are eight:

Skepticism about the feasibility of global justice is warranted because (it is claimed):

1. There is a lack of understanding or consensus about what global justice might consist in, that is, of what the goals of global justice should be.
2. There is a lack of clarity about how we might transition to the goals, assuming we can identify them, from where we are now.
3. We do not know what works, and what does not, in trying to help the worst off, especially in helping them escape poverty.
4. We will not know sometimes, indeed often, whether we have made progress with respect to the goals (rather than, say, making things worse).

5. It is difficult to motivate parties to pursue global justice, especially when this requires sacrifice and runs counter to perceptions of self-interest.
6. There is a notable lack of institutions or agents that have power or moral authority to act to secure or promote global justice.
7. It is difficult to see how we would enforce any agreements to work towards global justice in the absence of a global sovereign or bodies that can act that have recognized authority to do so. (Relatedly, there are concerns about the administrative and institutional feasibility of any attempts to implement global justice policies.)
8. It is difficult to see how we would sanction noncompliance in the case of those who do not play their required part, especially if the noncompliant are powerful states.

This list covers some of the central skeptical concerns. They can be summed up in the following more manageable set of four questions:

*Goals:* What are the goals of global justice? (Point 1)

*Transition:* How can we make progress toward these? (Combining points 2 and 3)

*Measurement:* How can we track progress? (Point 4)

*Motivation:* How will we create the motivation to pursue global justice or otherwise deal with the issue of global authority (or lack thereof)? (Combining points 5, 6, 7, and 8)

In my book, I indicate briefly some key strategies I use in responding to these concerns. I argue that global justice requires that all are adequately positioned to enjoy prospects for a decent life, understood in terms of what is necessary for us to meet our basic needs, along with certain guarantees about basic freedom, fair terms of cooperation in collective endeavors, and the social and political arrangements that can ensure and underwrite these important goods. I argue why these goals are reasonable, why they should command support and that there is widespread agreement on such targets, as we see by surveying a number of international agreements and declarations.<sup>1</sup> So, complete skepticism about what to aim at in pursuing global justice is shown to be unwarranted.

Moving on to skepticism concerning making any progress towards meeting such goals, I note that while several theorists emphasize the importance of our lack of knowledge as to what works, and therefore what this entails about our obligations, we should not ignore the mechanisms that we know to be facilitative. As I argue, there is much that we, as outsiders, can do to help foster the right institutions, so

---

1. See, for instance, the Millennium Development Goals, available at <<http://www.un.org/millenniumgoals/>>.

that poor countries are better enabled to help themselves, especially in creating or maintaining the sorts of institutions that will be conducive to local fairness and to development. This would include promoting good governance by encouraging a culture of accountability, such as through fortifying the hand of international justice and by supporting the local capacity to foster free expression. We could facilitate the collection of state revenue through reforming double standards on reporting requirements on the sale of resources, and by implementing other changes recommended in Chapter 5 concerning our taxation and accounting arrangements, such as practices which facilitate massive tax escape (including prohibiting exploitative practices of transfer pricing). Strengthening developing countries' abilities to retain healthcare workers would shore up health resources. The recommendations of the ICISS all promote a peaceful and secure environment, and we should support measures aimed at implementing them.

The response to skepticism about measuring progress is to show how my account can assist in giving guidance as to appropriate measures that can track relevant progress with respect to global justice. I argue in Chapter 3 that our basic needs are for: (1) a certain amount of physical and mental health, (2) sufficient security to be able to act, (3) a sufficient level of understanding of what one is choosing between, (4) a certain amount of autonomy, and (5) decent social relations with at least some others. I argue that a number of empirical measures are available to assess the meeting of such needs. We can also track progress with respect to protecting basic liberties by making use of the widely respected Freedom in the World Surveys conducted by Freedom House, which provide annual reports on the state of global freedom individuals enjoy in various countries. Keeping track of our progress with respect to global justice is not as difficult as some imagine.

Dealing with the issues I have labeled under 'Motivation' presents us with what I regard as the most formidable of the feasibility challenges. Disarming the concerns involves several layers of responses. Here I outline a few (with more details discussed in Chapter 13).

First, we should not underestimate the role self-interest can play in moving us in the right direction. Consider how we all have an interest in ensuring there is accountability in all countries. Where a culture of non-accountability, impunity, abuse, and corruption prevails, threats to our collective security can flourish, including threats posed by organized crime, terrorism, money laundering, and arms trading. The appeal to self-interest should also assist in making some changes to our international tax and accounting regime, since clamping down on tax evasion and eliminating transfer pricing schemes that do not reflect fair market value should help states collect more of the taxes that they are owed, taxes with which they could do much to address domestic problems, including the structural

causes of poverty. As developed and developing countries have a common interest in collecting more of the taxes they are owed, this could motivate some important action. Most states have now come to appreciate that it is in their interests to agree on common standards in financial and taxation arrangements. Opaque tax and financial systems, and lack of cooperation, make it difficult to stop money laundering, financing of terrorist organizations, and tax evasion. Many forums that aim to eliminate harmful tax practices have been put in place, including the Forum on harmful tax practices of the OECD and the Financial Action Task Force. Action to target terrorist financing has strengthened these initiatives.

Second, we can also harness the power of interlocking and linked incentives created by skilful institutional design. As an example, consider how we could link compliance in tax and accounting matters with participation in organizations or institutions thought desirable, such as the World Trade Organization or being able to list on major international stock exchanges. Failure to comply with the necessary policies thus yields obvious ways of sanctioning noncompliance, such as denying membership to the noncompliant or imposing penalties, which can be easily administered through the linked organization.

Third, we need to tackle a myth which has an especially strong hold on many, namely that no progress on many issues is possible without universal agreement. But this is just plain false. In the absence of universal agreement, considerable progress is still available. Consider, for instance, that we only have 105 states (roughly half the total number of states in existence in the world) signed up to the International Criminal Court, but the ICC has been able to make some progress in stopping atrocities and bringing perpetrators to justice for those in-states that are signatories.<sup>2</sup> Progress on implementing the Air-Ticket Tax (a tax on airplane tickets to fund health improvements for those in developing countries) constitutes another example. Those countries that are implementing the tax are making an important difference to health in areas such as the prevention of malaria, tuberculosis, and HIV/AIDS, for many in developing countries that receive assistance. Moreover, once a policy initiative is implemented, pressures often come into play for others to co-operate. Citizens may pressure governments to join in, as might the international community. Those who are not part of the initiative often lose influence in related policy areas. Reflecting on changes over the last 100 years, we have made advances on many fronts. Indeed, some initiatives that have secured considerable progress often had little support at first. We should not ignore the significant achievements that have been possible even in the face of initial setbacks, and these might include smallpox eradication,

---

2. Maggie Gardner 'In Uncharted Waters: Seeking Justice Before the Atrocities Have Stopped', *Citizens for Global Solutions*, (June 2004), p. 29, <[www.globalsolutions.org/programs/law\\_justice?icc/resources/uncharted\\_waters.pdf](http://www.globalsolutions.org/programs/law_justice?icc/resources/uncharted_waters.pdf)>.

ozone layer repair and recovery, mandating double hulls in oil tankers to prevent toxic oil spills, Tsunami warning systems, and the fact that in the last 60 years no nuclear weapon has been used in war.<sup>3</sup>

I argue for the creation of several institutions with authority to promote global justice, such as an International Taxation and Accounting Organization, organizations to promote press freedom and free expression, institutions that can effectively contribute to international justice, an organization that can monitor the flow of migrants (especially health care workers) and ensure movements result in mutually beneficial exchanges, and institutions that can oversee and promote improvements in working conditions for the worst off. Given several institutions with authority to promote global justice, how will this all work in practice? This brings us to a fourth kind of response which is that sometimes things work reasonably well in practice, even though, theoretically, potential difficulties abound. So to take up the issue of divided authority more particularly, we have examples of divided and delegated authority that work reasonably well in practice. States in a federation (such as in the US), local and regional authorities within a state, and the European Union all involve divided authority and function effectively on a day-to-day basis.

I have argued for a form of global governance that is diffuse and overlapping, though with clear sites of accountability. How well is this likely to work in practice? It is worth drawing attention to the fact that, whether we like it or not, we already have a system of global governance that is just like this, given all the international bodies (such as the United Nations, World Trade Organization, World Health Organization, World Bank, or International Monetary Fund) that have authority over various domains that govern our lives. So the question is more one about how to reform this system to make it more responsive to the goals of global justice than whether we can establish a set of institutions to enact global governance. What is being urged, rather, is that at least in the transitional phase we currently occupy, this set of global governance institutions aims to be more legitimate, by being more responsive to everyone's needs rather than only those of the global advantaged.

How will people come to demand more legitimacy of the institutions that dominate their lives? 'Consciousness-raising' is surely a significant part of creating the right conditions. The idea that people should come to see themselves as world citizens has a place in creating the necessary motivation.<sup>4</sup> The school curriculum could be revised to promote understanding of our global problems and there is a flourishing movement in the world to do exactly that.<sup>5</sup>

3. Scott Barrett, *Why Cooperate? The Incentive to Supply Global Public Goods* (Oxford: Oxford University Press, 2007).

4. Martha Nussbaum, 'Patriotism and Cosmopolitanism', in Joshua Cohen (ed.), *For Love of Country: Debating The Limits of Patriotism* (Boston: Beacon Press, 1996), 3-17.

5. See, for instance, the Council for Education in World Citizenship, <<http://www.cewc.org>>.

*Lawford-Smith's challenges:*

In 'Cosmopolitan Global Justice: Brock v. the Feasibility Sceptic', Holly Lawford-Smith accuses me of failing to provide an account of the conditions under which a proposal is to count as feasible. She says:

One might expect that in a book addressing sceptics about the feasibility of cosmopolitan global justice there would be some kind of criteria given for what a victory, or a defeat, might consist in. In other words, one might expect at least a sketch (and at most an explicit account) of the conditions under which a cosmopolitan proposal is to count as feasible. But Brock resists an explicit account, instead choosing (we may assume) to rely on a commonsense or pre-theoretical notion of feasibility' (p. 1).

Though I wonder whether this is correct (do you really need to provide an account of X in order to rebut common objections to X?), even if at least a sketch of feasibility is desirable, there is enough said at various places throughout the book that one can be assembled, as I indicate below.

Lawford-Smith aims to defend a concept of political feasibility that not only accommodates my view and is more philosophically useful, but also 'stands a better chance of providing a clear victory against the feasibility sceptic' (p. 2). I suggest below that while her position may provide a clear account of victory, no victories are foreseeable as the bar for rebutting the feasibility skeptic is set too high and not entirely in the right place. But first I attend to her criticisms of my view.

She begins by describing what she takes to be my two main strategies in addressing the feasibility skeptic. The first strategy involves 'something like an *a fortiori* argument': some proposals 'the feasibility sceptic claims to be infeasible are in fact actual'. If something is actual it is clearly feasible. The second strategy, she claims, uses 'something like an argument extrapolating from part to whole. A given proposal is feasible because part of it has already been achieved, or because it has been achieved on a smaller scale than it ideally requires' (p. 3). While I do make use of the first strategy, I think her account of the second strategy does not adequately describe what I am doing when I indicate that some success in a given domain has been achieved. Some of the scope for misdescription arises because I think we have different conceptions of what the goals are and what the skepticism is *about*. Let us take the target feasibility skeptic to say that no progress is possible on any of the eight issues outlined at the beginning of section 1. Technically, all that is needed to rebut such a skeptic is to show that *some* relevant progress has been made, preferably on all eight issues. Even if the feasibility skeptic is taken as maintaining that *no robust, important and enduring progress is likely*, since

we can point to examples of important, enduring progress that has been made on all eight concerns, the skeptic is defeated (without even having to indicate, as I sometimes do, that more such progress is available in various places).

Gathering together threads from what she says, it seems that Lawford-Smith's target skeptic holds that without ways to ensure universal agreements and full compliance, it is unlikely that (or irrational for) any state to bind themselves to an agreement aimed at securing an objective of global justice, or to meet their commitments. (In defense of this reconstruction consider the following of her views. Lawford-Smith says that the skeptic holds that global justice requires 'international agencies capable of creating binding agreements and sanctioning agents in the event of violations of said agreements' and this is 'one of the main obstacles to international cooperation in many different' domains. The 'most important part of the comprehensive solution' is the establishment of such international agencies. 'The inability to hold states to their promises is likely the common mechanism that prevents many kinds of international agreements from being binding in practice.')

In describing this alternative skeptic, it seems then that Lawford-Smith is working with a different idea of what the goals of global justice are, for here and now. Though an ideal might be that everyone complies with all the requirements of global justice in their many forms, I am assuming that this cannot be the goal when we are talking about global justice in a non-ideal world. (In fact, the *problems* of global justice perhaps only make sense in a non-ideal world.) Indeed, I rather assume this is not achievable and ask what progress is possible *in the absence of universal agreements and full compliance*. Here my approaches are many-faceted. One important strategy is to tackle the myth that important progress is impossible without universal agreement. We do not need universal agreement to make the right kinds of meaningful progress. We did not have universal agreement for many measures that have made important strides in pursuit of the goals of global justice (as I indicated above), nor is such agreement needed to continue to make progress.

Let me tackle next the issue to which she points in various passages concerning the absence of relevant institutions with the right kind of authority. The more respectable the institutions involved in public policy initiatives, the more likely it is that they will gain the necessary authority to implement sanctions. So the more institutions of reasonably high standing and esteem are involved, such as, the World Health Organisation, United Nations Development Program, International Organisation for Migration, Financial Stability Forum, International Accounting Boards, and so on, the better the prospects of successful implementation and compliance. Also, I think the relevant authority may come in more diffuse ways

through multiple institutions with governance mandates, and this is actually desirable given fears about concentration of power in one kind of institution (with associated fears and skepticism surrounding abuse of power). So what she points to as a requirement (albeit one that is elusive, at least on the skeptic's position), I do not necessarily see as something required or even necessarily desirable. We want institutions that are accountable and responsive to relevant human interests but we can get these through multiple institutional configurations.

In addition, the voluntary route has met with notable successes – the International Criminal Court is some proof of this. Furthermore, the fact that all member states of an international organisation have signed agreements to be bound by certain standards provides considerable power and scope for enforcement. We should not underestimate the soft power in play as well, such as the power of reputational effects, which are not inconsiderable. The fact that governments have signed various agreements gives us some important evidence that governments will keep their agreements. Almost every state wants to be perceived as a member in good standing in the international community. This gives the international community considerable power over states to hold them to their agreements and promises.

Lawford-Smith also describes my argumentative strategies as amounting to:

[R]oughly the same thing, namely the conclusion that progress is good evidence of eventual success. Such reasoning is problematic, because it might just as well turn out that the features that make the first steps toward some goal feasible are exactly the features that make achieving the goal infeasible. An internationally-implemented luxury goods tax, or currency exchange tax, for example, is on a different scale and with a different scope to a thirty-eight government strong air-ticket tax. The fact that the carbon tax has success only among countries in the European Union (EU) might be one feature that makes it more likely to succeed within the EU and less likely to succeed internationally – the EU has a governing body that the wider global community does not (p. 6).

A couple of points should be mentioned in response to the line of argument in this passage. First, I think progress is evidence of progress. No more, no less. But evidence of the right kind of progress is all that is needed to rebut my target skeptic, as discussed above. Second, what does 'eventual success' mean? For me, success is measured by making significant progress towards global justice, not *achieving* perfect global justice, which is unattainable, just as perfect domestic justice is. I emphasize there is much we can and should do on the road towards achieving global justice. Taking important steps along the road is the goal, since the ideal towards which we are aiming is just that – an ideal to which we should



aim. Third, while I take her point that first steps do not by themselves necessarily show that later steps are more likely, showing first steps have been taken is important for a number of reasons, but notably, this provides clear indications and practical examples of how progress might be achieved in the world, especially when discussions have been largely theoretical. Furthermore, an important point I want to stress is that there is a myth in thinking we need universal agreement, or a set of steps *needs to be completed*, in order to make any important progress. Progress can and has been made in the absence of universal agreement. So to continue to express doubts that universal agreement is feasible misses one of the important argument strategies, which is to show what progress is possible and happening *in the absence of universal agreement*. Full compliance is not something I either assume or take to be essential on the road to making enduring, relevant progress.

It is possible that judging feasibility may require different criteria in different domains. Perhaps a generalizable account may not work for all domains: giving an account of psychological feasibility may involve a different set of useful criteria than giving an account of (say) a feasible tax proposal. At any rate, as an example, let us consider the issues of feasibility in the area of taxation arrangements in order to draw out some of the criteria that will determine feasibility in public policy proposals.

Throughout Chapter 5 I suggest various considerations are relevant to whether a tax should be considered feasible. These include: (1) *Support*: (i) there is good public support for the tax, at least in good pockets well positioned to influence implementation decisions, or (ii) there is strong backing from influential figures well placed to make progress in advancing tax proposals; (2) *Administrative ease*: the tax can be collected easily, which can ensure administrative simplicity (and also good compliance); (3) *Precedent*: how many other similar kinds of tax proposals have already met with success, showing that similar taxes work reasonably well in other domains; and, relatedly, (4) *Institutional assistance*: that there are already existing, or partially existing, institutional mechanisms that could facilitate compliance or enforcement. Of these, (1) is probably the most important, since if there is good support, institutional structure and administration of the tax can easily be created. Using these kinds of criteria, one can show that air-ticket taxes or Tobin taxes (for instance) are *feasible*, since all of (1)-(4) are relevantly present.

It seems a more general account of feasibility in public policy arrangements might then look something like the following:

Various considerations enhance the feasibility of a policy, *p*. Four such considerations are:

(F1) *Support*: (i) there is good public support for *p*, at least in good pockets well positioned to influence implementation decisions, or (ii) there is strong backing from influential figures well placed to make progress in advancing *p*, or (iii) there is already important commitment from those whose co-operation is necessary to secure *p*;

(F2) *Administrative ease*: *p* can be easily administered, which can ensure administrative simplicity (and also good compliance);

(F3) *Precedent*: how many other similar proposals have already met with success, showing that proposals similar to *p* work reasonably well in other domains; and, relatedly,

(F4) *Institutional assistance*: there are already existing, or partially existing, institutional mechanisms that could facilitate compliance or enforcement of *p*.

Of these, (F1) is probably the most important, since if there is good support, institutional structure and administration can easily be created. Note as well that even in the absence of meeting (F1)-(F4), a policy might be considered feasible, because momentum is building towards generating the relevant support, or some such. The criteria are not individually necessary but rather, when satisfied *can be jointly sufficient to indicate feasibility*. Though feasibility comes in degrees, the presence of all of (F1)-(F4) indicates that a sufficiency threshold has been reached to demonstrate that a particular policy can be considered feasible.

It is also important to note that my account differentiates sharply between 'feasibility' and 'likelihood of success' (or anything else concerning predicting outcomes). To say something is feasible is to make a very different claim from one about likelihood of implementation success, (especially where probability is estimated about outcomes) – it is a judgment about whether something is capable of being carried out, not whether it is reasonably likely that it will succeed. 'Capable of being enacted' is used not in the sense of 'mere possibility', but rather means to convey the idea that *a proposal could be implemented, here and now, given a confluence of factors working in its favor*.

The alternative account Lawford-Smith introduces is interesting and useful in several ways. According to her, 'feasibility is a package made up of stability, accessibility and cost analyses, calculated probabilistically' (p.9).

While there is much in the alternative account that is quite worthwhile I find the link to predicting outcomes – as would be required in estimating probabilities – not to be one of the helpful expansions. First, I suspect Lawford-Smith's account, defined as it is probabilistically, gets at a slightly different notion to feasibility, something like 'probability of implementation success'. Second, assessments

of probability of implementation success are notoriously unreliable. As Nelson Mandela has remarked: 'It always seems impossible until it is done'. If that bias is indeed real, most perfectly feasible options will erroneously appear not to be so.

**Justifying an account of global justice: The role of the original position, empirical evidence, and normative views**

In 'Brock on Justification', Christoph Broszies inquires about the best justificatory strategy for normative political philosophy and how it should proceed, noting a resurgence of interest in the idea of the social contract as a way to reach justified moral principles. I agree with Broszies that the original position is designed to produce a fair agreement among free and equally situated individuals and that the procedure is fair when bargaining advantages and disadvantages which would distort deliberation are removed. Broszies says:

Those who want to question the principles can either deny the meta-ethical contractual position, according to which fair agreement between free individuals is morally relevant; or they can question certain features of the set-up of the original position, such as the rationality of the parties or the information made available to the parties. Importantly, whether real people agree with the principles arrived at in the original position has no bearing on their justification (p. 17).

In what follows I explain what is relevant about the experiments in which real people's views are tested. I also explain why these are not straightforwardly empirical results that are being appealed to. Rather, they are experimental results derived from modelling the impartial situation of the original position, in ways even Rawls approved of, and hence carry some substantial normative weight. In this way I address Broszies's central challenge that I either need to criticise the set up of the original position and provide a more convincing version than Rawls does if I am to challenge his views more convincingly, or else dismiss the idea of the original position altogether.

Which rules would we choose to govern the basic structure as rational people in the original position? What connection, if any, is or should there be between the arguments made for what it is rational to choose in the original position and empirical evidence derived from experiments such as those conducted by Norman Frohlich and Joe Oppenheimer that aim to model the original position? (These experiments yield numerous interesting results, such as that the Difference Principle is chosen in only 1 percent of cases, whereas the most popular choice is a mixed principle that guarantees a social minimum, which is endorsed in almost 80 percent of cases).<sup>6</sup> Broszies suggests that there is no connection. Empirical evidence cannot undermine normative arguments for what one ought

---

6. These experiments are discussed more fully in *Global Justice*, Chapter 3.

rationally to choose in the original position. Consider some ways in which the evidence might be relevant. When we notice that the empirical findings are different from the ones Rawls argues it is rational to choose, we have a variety of options for interpreting this result: it might tell us that people are not rational (they do not choose as they rationally ought); it might reveal some feature that we have overlooked in considering what we take to be rational;<sup>7</sup> it might expose alternative ways in which we can choose rationally – perhaps there is more than one rational choice, and more generally, it might teach us something about the nature of rationality. Broadly speaking, there are two possible ways to interpret the results. If people do not choose as we reason they should, then it might show defects with their reasoning (e.g. they do not reason rationally or the conditions are not right) or it might cast doubt on our account of what it is rational to choose, perhaps prompting us to re-evaluate whether what we assumed to be rational was really straightforwardly so. I am suggesting that we might learn something of the second kind. In particular, when deliberating, the delegates are balancing several important considerations and, mindful of the force of several competing considerations, they are not looking to maximize or minimize any one of these. Rather they are looking to balance several salient considerations and, if anything, are using a strategy involving optimization. This brings a useful insight to discussions overly dominated by ‘maximin’ as the decision-making strategy.

There are many other ways in which the experiments might be revealing. Rawls’s normative theory has to be consistent with human nature (as Rawls himself recognizes and stresses). Of course, that is no uncontroversial matter. However, performing the experiments in a variety of cultures (some socialist, some capitalist, for instance) suggests that there might be something cross-culturally robust about the findings that can give us some insights about pervasive features of how we are constituted. It is no good if Rawls gives us a theory for saints if human beings, as actually constituted, could never realize the utopia presented. So I do not think that these experiments are irrelevant. They give us some important insights about what is a realistic utopia for beings like us, which is Rawls’s expressed goal as well.

There is yet another important way in which the experiments can be thought useful. Broszies recognizes that there are resources within the Rawls’ corpus that can be used to challenge his own results such as the idea that justification must always proceed from premises that we and others recognize as acceptable. For Rawls, justification is always second-personal; it is necessarily justification to someone.<sup>8</sup> If others do not accept the premises of the justification there is no

7. For instance, they show that compromise is a dominant feature of the discussion. An individual’s first preference and the eventual group preference endorsed is very often quite different.

8. John Rawls, *A Theory of Justice* (Belknap: Harvard University Press, 1971), 506-514.

justification. While Broszies notices the way in which the idea that justification must be made to someone could be relevant, he again does not see scope for the experiments to tell us much of interest. But this seems strange. Justification must be made to someone, as Rawls and Broszies appreciate. We have data to suggest that when people understand the Difference Principle and the case for it, they choose it in only 1% of cases. Does that not suggest that the justification for the Difference Principle at least needs some revamping given that, when the case is made to people, they reject it so resoundingly?

I suspect there might be some basic differences here concerning the answer to the following question. Can numerous actual conversations (under good conditions, with well informed, reasonable deliberants of good will, and so on) about matters of justice ever shed light on what we ought to do? I think the answer is yes, whereas some critics, such as Broszies, seem to think this is not the case. Importantly, I think actual conversations (under good conditions, etc.) about justice issues can provide a sufficient basis from which to derive the normative force that is much needed in translating our ideal theoretical models about global justice into public policy prescriptions for what we ought to do here and now.

There are numerous ways to phrase our central question for consideration in the original position. Here are two:

1. What principles of justice might we agree to if we are ideally rational, in ideal conditions that model a fair bargaining situation?
2. What principles of justice might we agree to given the way we are now constituted – our human nature, as a short hand – which includes multiple and complex motivations, in ideal conditions that model a fair bargaining situation?

Arguably, the second question can provide the most compelling answer to why one should feel the normative force of any of the agreements made. After all, why should I care about what an ideally rational creature might choose? I am not that creature. Rather, I am a flawed and imperfect human being. A case can be made that this second question helps provide the most persuasive answer to someone who wonders about why one ought to translate the insights of ideal theory on global justice into prescriptions for what one ought to do here and now to bring about more global justice. Indeed, there are some important precedents for appreciating the value in asking this second kind of question.<sup>9</sup> Arguably, this is the question I need most to answer in providing compelling replies to the feasibility and pro-nationalist skeptics who are a central focus of my attention in the book.

---

9. James Fishkin's extensive program of conducting Deliberative Polls is one example. See, for instance, James Fishkin *The Voice of the People* (New Haven: Yale University Press, 1997); James Fishkin and Peter Laslett 'Introduction' *Journal of Political Philosophy* 10/2 (2002): 125-128; Bruce Ackerman and James Fishkin 'Deliberation Day', *Journal of Political Philosophy* 10/2 (2002): 129-152.

What did Rawls think of Frohlich and Oppenheimer's experiments? Rawls knew about these experiments and saw some preliminary results. In personal communication, including at workshops where the experiments were discussed, Rawls said that the simulation was very useful and interesting, and the results 'are indeed challenging and instructive'. Rawls believed the work was crucial and that 'as we empirically approach the ideal of a veil of ignorance, there should be convergence with the theoretical argument as to what would happen behind the veil. This assumption of 'continuity' was morally relevant and needed for any theory of justice to have political meaning'.<sup>10</sup> Rawls believed that if the results held up (he was commenting on preliminary drafts – and the results became stronger than the versions he read) 'they would force him (and justice theorists) very seriously to reconsider the distributive justice part of his theory. Indeed, he thought he may have to reformulate the theory'.<sup>11</sup> Frohlich also recalls Rawls saying that 'if the results hold up, it may be that the Difference Principle cuts across the grain of human nature'.<sup>12</sup>

Indeed, in Rawls's later works, we notice that he is much more tentative about the status of the Difference Principle and he often presents it as one suggestion of what might be agreed to among other possible options.<sup>13</sup> Also, it is quite clearly featured in *Justice as Fairness* that he considers the option of maximizing income after setting a minimum 'floor' income – chosen by people 78% of the time – to be the strongest rival to the Difference Principle.<sup>14</sup> So it would seem that Rawls, at least, took seriously the possibility that principles similar to the ones I endorse are not implausible interpretations of what equally situated parties might select as principles of global justice.

### **Reconciling Global Justice with Nationalism**

In Patti Lenard's essay she poses three central questions for me:

1. How should we conceive of the content of the discretion that national communities have when they fulfill their duties of global justice?
2. If human relationships are an important element of any plausible account of basic human needs, should cultural relationships be included and if not, why?
3. Is my concern with out-migration from developing countries on the grounds that this would erode the productive capacity of developing countries consistent with a 'rejection of the liberal nationalist thesis'?

---

10. Joe Oppenheimer, personal communication.

11. Joe Oppenheimer and Norman Frohlich, personal communication.

12. Norman Frohlich, personal communication.

13. See for instance John Rawls *Justice as Fairness: A Restatement* (Cambridge: Belknap Press, 2001), p. 49.

14. *Ibid.*, p. 120.

I address these questions shortly, but first some relevant background will assist. I take as a point of departure that many people value their attachments to cultural and national groups. My purpose is to show how such attachments can be consistent with a commitment to global justice. So long as people are playing their part in fulfilling their obligations of global justice, there is room for legitimate attachments, such as those to compatriots. The emphasis in my view is on showing when and how the attachments are compatible with a commitment to global justice, leaving considerable discretion for nationalists to then pursue nation-strengthening projects and the like. So long as nations are playing their part in the regulatory reform and construction necessary to undergird global justice – such as ensuring the necessary tax and accounting reforms are enacted in their jurisdiction or that global institutions of accountability, such as a free press and the International Criminal Court flourish through their relevant support – it is permissible for additional resources to be spent also on further fortifying local institutions of accountability or indeed other legitimate projects that strengthen nations.

One of the important features of my account that I want to stress is that there is much that we can do to secure global justice that in no way threatens compatriots' interests, on the contrary it can help fortify these. Supporting various global institutions (such as the International Criminal Court) or regulatory reforms (such as those that would reduce tax evasion and escape), not only works to protect non-compatriots interests, but also those of compatriots. A world in which more accountability and tax compliance and collection are promoted benefits everyone in important ways. Too much is made of the conflicts, and I want to emphasize rather the considerable scope for harmonization. To answer Lenard's first question, then, the content of the discretion nations have can be conceived of in any way nations like, so long as nations fulfill their global justice obligations as specified in more detail in *Global Justice*.

I move on to address the second question: if human relationships are an important element of any plausible account of basic human needs, should cultural relationships be included and if not, why? The needs I endorse as basic are derived from the prerequisites of agency – what it is to be a human agent. Analyzing these preconditions produces the following list: Sufficient physical and psychological health, security, understanding, autonomy, and decent social relations. All of these are argued to be integral to being a human agent in a number of ways. Conceptual and empirical support is offered for these claims. Enjoying decent social relations with at least some others is integral to meeting needs: as I argue, on plausible accounts of what it is to be able to function minimally well as a human agent, we have social needs, and social relations also help us meet needs, notably psychological ones, such as for connectedness, intimacy, recognition,

esteem, or respect.<sup>15</sup> Lenard asks why the decent social relations that I see as so important cannot take the form of cultural or national affiliations. The quick answer is that they can. But the point is that they need not. Consider needs such as for recognition, intimacy, esteem and connectedness. Typically these needs are satisfied, at least initially, from small-scale interactions with a few highly involved people. For some people meeting the needs might expand to include whole cultural communities, but they need not do so, and can be well satisfied by just a handful of people both initially and throughout one's life. So, the need for decent social relations can be satisfied in many and varied forms. But what of those who, for whatever reason, now find their psychological health intimately bound up with their nation's fortunes? Perhaps they chose an identity as fully autonomous adults that has the implication that cultural relations or national standing matters greatly to that identity, and their psychological health is badly undermined when their culture is under physical or existential threat. Such cases are unproblematic because I concede that my account of global justice makes room for legitimate affiliations. In so far as such cultural attachment meets a fairly low acceptability threshold – of the kind Lenard endorses (p. 26, n. 9) – there is no problem in finding room for such attachment in an account of global justice.

On to her third question: is there some important tension between my concern with detrimental effects of out-migration and a failure to wholeheartedly endorse the liberal nationalist position? Let me explain why I do not think so. In many cases the losses that I identify as associated with out-migration take the form of setbacks to fundamental identifiable interests such as setbacks to health for remaining citizens, institutional losses, or lost opportunities for development. We can understand these variously as political, economic or health losses rather than cultural ones. Frequently, what is being lost is opportunities for institutions to be developed or strengthened. These are serious losses because many of the important reforms that are needed to address poverty are of an institutional nature. According to the institutional view, a key factor in addressing poverty is improving the quality of local institutions, for instance the rule of law that operates in the country, which includes institutions that provide dependable property rights, can manage conflict, maintain law and order, enable social and political stability, and sustain its regulatory capacity.<sup>16</sup> Institutions that promote the rule of law make for an environment conducive to growth and innovation (which some maintain are key drivers of prosperity),<sup>17</sup> but also make for an environment conducive to

---

15. See *Global Justice*, Ch. 3, especially pp. 63-69.

16. For discussion of the institutional view and some rival hypotheses see *Global Justice*, Chapter 5.

17. Douglas North *Institutions, Institutional Change, and Economic Performance* (Cambridge: Cambridge University Press, 1990); Daron Acemoglu, Simon Johnson and James Robinson, 'The Colonial Origins of Comparative Development An Empirical Investigation', *American Economic Review* 91/5 (2001), 1369-1401.



investment in education, health, and infrastructure, all key ingredients for lifting people out of poverty. Creating better institutions is a significant component in helping people out of poverty. As proponents of the institutional view, we can object then to those activities that undermine institutions of the relevant kind without any kind of commitment to liberal nationalism.

Lenard attempts another strategy in trying to show how my concern with detrimental effects of out-migration entails a commitment to liberal nationalism. She thinks we cannot understand the desire of migrants to want to stay home without postulating the importance of the value of national or cultural environments to people. But this seems to overstate the issue – leaving essentially ‘everything one knows’ is hard for any migrant. ‘Everything one knows’ will include a familiar cultural environment. But this has no normative implications per se. It would have been hard for a persecuted Jew who had lived her whole life in Nazi Germany to leave it without this entailing ‘a commitment to the moral relevance of national and cultural communities and the relationships to which they give rise’ (p. 28).

Furthermore, we might observe that given the way the world is now, people are deeply connected to their national communities. This can be conceded without commitment to a view that national communities must have enduring value. Alternative configurations of human societies have certainly produced other attachments (to the tribe, the band, the village, the clan, and the like). And future innovations could certainly inspire others. Though I think it important to make space for national affiliation in the world we live in, I remain open to the possibility that this is but a temporary phase and may yield to another set of attachments in some transition to more cosmopolitan possibilities. National identification is not necessarily an enduring feature of the human condition, as is obvious when we reflect on the history and variety of forms of human attachment that have existed and exist today.

### **Policy proposals concerning migration, remittances, and brain drain**

In ‘Immigration and Global Justice’, Christian Barry also takes issue with my position on immigration, remittances and brain drain. As he rightly points out, many of my conclusions about public policy are ‘much more tentative than is common amongst theorists of global justice. And surely this is the appropriate attitude for a philosopher to take, given the extent of honest disagreement about these matters among experts!’ (p. 30). So it is a bit surprising that in his own essay Barry may perhaps be guilty of not following his own advice sufficiently, when he argues that increasing the flow of immigrants from developing to developed countries is much more promising than I suggest as a way to enable people to meet their basic needs, especially because of the role remittances

play in facilitating need satisfaction. I do not disagree with the thrust of Barry's position that remittances can have positive effects. This is entirely consistent with their also having some negative effects which are also worthy of attention and mitigation. At best, we need to weigh up both welcome and detrimental effects before coming to an 'all things considered' view about whether remittances are an overall good or a conclusion about which policies to support. We need to take into account all those relevantly affected if we are doing such calculations, notably those – indeed, the vast majority – who are left behind, especially those who are not supported by a remittance sender and do not necessarily feel much of the trickle down positive effects. Moreover, we need to undertake a comprehensive review of all the relevant factors, such as damage to institutions that may have a more fundamental and long-range impact on developing countries' abilities to help themselves.

I elaborate on these points below, but first I offer some background to understand better the motivation for writing the chapter on immigration in the way I did. Since much had been written (by cosmopolitans, in particular) about the ways in which increasing immigration to developed countries can be such an enormously progressive step, part of my aim in drawing attention to some detrimental effects is that I was hoping to make more visible some of the undesirable features of such movement that should give us pause, especially as cosmopolitans, in wholeheartedly supporting increased immigration, without considering the rich possibilities for more nuanced options. My ultimate aim is to stimulate thinking about what I unimaginatively call 'win-win' situations, namely better policy proposals that work for all key stakeholder sets: source and home countries along with migrants (and these sets can be more finely dissected as well, since there are multiple stakeholders in each of the three main groups). I try to give some examples of what might count as such policies in Global Justice (section 8.2.4.), where important losses are addressed in the details of the policies that are endorsed. So while remittances may well be one worthwhile tool in addressing poverty, we should not think that by themselves they will work magic, and moreover the particular proposals we adopt should hopefully accommodate concerns about some of the detrimental effects (or at least be adopted in the light of keen appreciation of drawbacks).<sup>18</sup>

As I noted above, many of the important reforms that are needed to address poverty are of an institutional nature. According to the institutional view, a key factor in addressing poverty is improving the quality of local institutions, for instance the rule of law that operates in the country, which includes institutions

---

18. One such effect which Barry does not mention is that remittances tend to drop off the longer the migrant has been away from the source country. The peak years for remitting are 3-5 years after departure. With this in mind, I suggest, it may be quite fruitful, if we really want to harness the power of remittances, to devise migration programs that require return to the source country after (say) five years, with returns to the host country still a possibility in the future.

that provide dependable property rights, can manage conflict, maintain law and order, enable social and political stability, and sustain its regulatory capacity. Institutions that promote the rule of law make for an environment conducive to growth, innovation, investment in education, health, and infrastructure, all important in addressing poverty. So if creating better institutions is a significant component in helping people out of poverty, it may be that what helps particular groups of migrants meet their basic needs in the short term actually undermines the meeting of more profound or fundamental ways to meet needs for those left behind in the longer run. These are the sorts of trade-offs we must squarely face if there is compelling evidence concerning such tensions.

High rates of migration can undermine the ability of those in source countries to meet their needs and promote other essentials of global justice, in securing basic liberties, fair terms of co-operation and social and political arrangements that support core ingredients for justice. Some of this failure happens through institutional damage but other damage occurs more directly, for instance, when fewer nurses are left in a country who are then able to attend to the needs of developing country citizens. Another central complaint is about the unreliability of remittances in securing core ingredients for global justice. I note the following negative effects which are observed for home countries: (1) the inflow of funds can create dependence for recipients; (2) dependence can encourage further migration, especially among the working age, productive adults; (3) both home and host countries can become dependent on continuing the arrangements; (4) economic activity can become depressed in countries of origin, which encourages more immigration; (5) needed economic reforms can be neglected, as are the creation of rewarding opportunities in the home country; (6) remittances decline over time -- remittance flows are at their strongest between three and five years after departure; and (7) remittances may have a positive effect on transient poverty, but do not by themselves reduce structural poverty. While one might concede the value of remittances, one can also, quite consistently, express concerns about observed negative effects. I then suggest ways in which some of the negative effects can be addressed through skillful policy design.

So I do not see Barry's criticisms as either unwelcome or inconsistent with my position. Indeed I note a number of the positive effects of remittances that he highlights in more detail: remittances put money directly in the hands of those who need assistance, consumption choices can have multiplier effects that spillover to others, the sheer magnitude of remittances (in many cases greater than the total for Foreign Direct Investment and other major exports) suggests that they are a considerable force, and so on. I focus on how remittances can be better harnessed to help those in feeder states, but also note that they can be a

mixed blessing. Overall, my aim is to stimulate better policy design which takes account of positive and negative effects.

Barry appears to think I favor a heavy emphasis on development aid. I too am quite skeptical about development aid for the kinds of reasons Barry outlines, so on this issue there seems to be a misunderstanding of my position. As I observe, it seems that remittances may have a positive effect on transient poverty, but do not by themselves reduce structural poverty. I then go on to cite Devesh Kapur who says that ‘the long-term impact of remittances may be more questionable, especially if few productive assets are being created’.<sup>19</sup> I then note that to address structural poverty, wide-ranging economic changes are needed and these may ‘still require external financial resources in the form of budgetary support to governments in many poor countries’.<sup>20</sup> I add that there is also much more that can be done to improve the situation in the home country, and to move more desirable jobs to the people rather than moving the people to more desirable jobs. I believe the error can be located in this set of claims, especially in the cited portions from Kapur who says that financial resources in the form of support to governments may still be required to stimulate the changes needed to address structural poverty. Here there is a qualified endorsement of a role for limited assistance to governments in some cases. I would imagine even Barry could endorse this heavily qualified view. I certainly do not trumpet the virtues of development aid per se. In fact, that is quite contrary to my overall view about how to address poverty effectively, though budgetary support can surely play a limited, useful role in certain circumstances.

I agree with Barry that the appropriate response to detrimental effects of brain drain is not to limit migration generally. Instead policies that are ‘win-win’ for all relevant stakeholders need to be endorsed. Nuanced policy analysis needs to ensure everyone does gain adequately from migration policy and frequently this means more attention needs to be paid to the losses developing countries will sustain, losses which in many cases can be addressed through compensation. (This will not always work, because while loss of service and funds are easier to compensate for, it is not easy to see how to remedy institutional damage. I discuss these issues in more detail in the next section.)

I think, on balance, we are probably in rough agreement on what the general position should be. Barry describes this as that liberalization policies we endorse concerning immigration should occur in stages with close attention to adverse effects on vulnerable people. I think this is right, especially if we add to the set of items that should be closely monitored, detrimental institutional effects conducive

---

19. Devesh Kapur, ‘Remittances: The New Development Mantra?’, Paper prepared for the G-24 Technical Meeting, <[www.unctad.org/en/docs/gdsmdpbg2420045\\_en.pdf](http://www.unctad.org/en/docs/gdsmdpbg2420045_en.pdf)>, p. 30.

20. *Ibid.*, pp. 30-31.

to assisting the long-range interests of vulnerable people. So if we include a larger set of items, entities and stakeholders to be closely monitored, I think there is much scope for agreement between our views.

### **Accommodating culture, and concerns with unfairly burdening the already disadvantaged**

Louis Cabrera's general positive solution strikes me as quite compelling: we should aim for more integrated political systems to better secure everyone's interests. Here I have space to address two central concerns raised by Cabrera: (1) The role culture plays in my criticisms of Moellendorf's ideal of global equality of opportunity and (2) whether specifying terms of exit unfairly disadvantages those already disadvantaged by unfairness in the global lottery. (Relatedly, he also generally raises issues of freedom of movement and the roles it can play in better securing people's opportunities.) For continuity with the previous section's focus on issues of immigration, I address the second issue first.

While freedom, especially freedom of movement is important, just how it must be weighed against a variety of other equally important goals requires significant discussion. Does specifying terms of exit undermine our legitimate freedom of movement? My overall position is that while everyone should share the costs associated with remedying global injustice, skilled professionals from developing countries can also be called upon to play their parts. Giving back a year of service, paying back funding received for tertiary education and the like, can be viewed as fair policies and, moreover, ones that do not importantly undermine freedom. Let me explain why.

As already noted, there is compelling evidence to suggest that institutions matter greatly in improving prosperity, whatever other factors are also significant.<sup>21</sup> One of the most worrisome setbacks developing countries suffer from emigration is damage to institutions, institution-building, and therefore the loss that is sustained in opportunities for development and escape from poverty. Absent human capital can have important detrimental effects, including important fiscal consequences.<sup>22</sup> Skilled workers typically contribute more to a country's tax receipts than they get in government expenditures.<sup>23</sup> The loss of such workers can mean significant loss of revenue and opportunities for more progressive

21. See, for instance, Dani Rodrik (ed.), *In Search of Prosperity: Analytic Narratives on Prosperity* (Princeton: Princeton University Press, 2003).

22. For some excellent surveys by economists of these types of effects see Devesh Kapur and John McHale, *Give us Your Best and Brightest: the global hunt for talent and its impact on the developing world* (Washington: Center for Global Development, 2005); Devesh Kapur and John McHale 'Should a Cosmopolitan Worry about the 'Brain Drain'?', *Ethics and International Affairs* 20/3 (2006), 305-320; Devesh Kapur and John McHale 'What is Wrong with Plan B? International Migration as an Alternative to Development Assistance?', in Susan Collins and Carol Graham (eds), *Brookings Trade Forum 2006: Global Labor markets?* (Washington: Brookings Institution Press, 2006), pp. 137-186.

23. Kapur and McHale (2005), Ch. 6.

taxation regimes. Second, there are knowledge spillover effects.<sup>24</sup> Skilled workers' knowledge spreads to others in the economy and in a context where knowledge about best technical practices, organization methods, and so forth is scarce, the loss of workers with highly specialized skills can be quite devastating.<sup>25</sup> Third, higher skilled worker migration 'reduces income levels and long-term economic growth'.<sup>26</sup> But, fourth, the most worrisome effects are institutional. Highly skilled people are 'close to indispensable' in building domestic institutions.<sup>27</sup> As institutions are crucial in promoting development, when those most likely to contribute to institution building are absent, development suffers. People build institutions, and the skilled people who leave are potentially important institution builders. Skilled and talented citizens are both important sources of demand and supply for institutional reform. Generally, for institution building to occur, you need a critical mass of people with high levels of human capital.<sup>28</sup>

So, there are at least three fairly distinct types of harms that result from compatriots' departure for those left behind: (i) purely financial loss (such as costs of training or loss of tax revenue); (ii) loss of skills and services; and (iii) loss of institution-building assets. In many ways, harms identified in (iii) are the most difficult to address, but all of these losses are not insignificant and can anyhow affect (iii). When a highly skilled citizen of such a community leaves to take up employment elsewhere, there are a number of costs she now imposes on the community she leaves. Notably, there are the training costs which are frequently heavily subsidized by the community, but there are others that are likely to have just as important an effect on development, such as the stream of services she would have provided, the loss of income from taxed wages, the loss of progressivity in fiscal arrangements, the fact that worse off citizens must now bear more of the cost of public goods, the contribution that person would have made to a well-governed community including participating in civic and political affairs, and, in general, the loss of people likely to be both important sources of demand and supply for better institutions. The departing individual

---

24. Francis Fukuyama, *State Building, Governance and World Order in the 21st Century* (Ithaca: Cornell University Press, 2004); Albert Hirschman, *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations and States* (Cambridge MA: Harvard University Press, 1970); Dani Rodrik 'Institutions for High-Quality Growth: What they are and how to acquire them', *NBER Working Paper 7540* (Cambridge MA: National Bureau of Economic Research, 2000); Lant Pritchett and Michael Woolcock 'Solutions when the Solution Is The Problem: Arraying the disarray in development', *World Development* 32/2 (2004), 191-212.

25. Kapur and McHale (2005), p. 95. See also Ch. 6, for more detailed treatment.

26. *Ibid.*, p. 97.

27. *Ibid.*, p. 96. See also, Daron Acemoglu and James Robinson, *Economic Origins of Dictatorship And Democracy* (Cambridge: Cambridge University Press, 2006); Edward Glaeser, et al. 'Do Institutions Cause Growth?', *Journal of Economic Growth* 9 (2004): 271-303; Edward Glaeser, Giacomo Ponzetto, and Andrei Shleifer 'Why Does Democracy Need Education?', *NBER Working Paper 1218* (Cambridge MA: National Bureau of Economic Research, 2006); Hirschman (1970); Rodrik (2000); Fukuyama (2004); Pritchett and Woolcock (2004).

28. Kapur and McHale (2005), p. 97; Hirschman (1970); Fukuyama (2004).

therefore imposes burdens and as a beneficiary of the community's hospitality, nurturance, and protection, she has a duty to address the loss she has created for the community that helped her become the person she now is, notably, one who has been educated to a sufficiently high level that she is able to take up well-paying opportunities in a global employment market. She has clearly derived benefits here and therefore has incurred some relevant duties.

By leaving without compensation, emigrants create disadvantages for others. Those left behind are made more vulnerable by the emigrants' decisions, as the viability of their enjoying a decent society could be under threat, so they deserve protection from the disadvantages the emigrants have now created for them. Second, when governments invest scarce resources in creating human capital to provide for the needs of their citizens, they are entitled to fair returns on their investment and so they are entitled to claim compensation from those who will benefit from their investment; indeed, not to do so would be to squander public resources.

The key issue, then, is how to allocate responsibility for that compensation. While everyone should play their part in taking a share of responsibility, especially developed countries, it is not unfair to expect departing skilled professionals to play a role as well. It can be fair to impose, say, exit or ongoing taxes or expect a short period of compulsory service. Indeed, in some ways compulsory service requirements provide a good fit between what the skilled prospective emigrant can offer and some relevant losses that would be born – indeed, perhaps a better fit than simply handing over money. The considerations discussed above build a case as to why it might be reasonable to specify compulsory service conditions in tertiary funding agreements.

By specifying terms of departure – such as the permissibility of developing countries implementing compulsory service programs or that developed countries may be required to pay compensation – are we undermining the freedom of emigrants unfairly, or unfairly limiting their opportunities? In response, I note that this kind of objection focuses on the freedom of those who choose to leave, rather than the freedom of those left behind. Should they not also be able to enjoy the freedom to live and work in their home country? Without compensatory or interventive measures, members of the developing country face important losses which we should not reasonably ask people to accept. We should try to secure for all a genuine opportunity to live and work in their home country. Failing to take action or 'doing nothing' is not in fact 'doing nothing' but rather ignoring the disadvantages the most vulnerable must face, and favoring the interests of the better-off over the less well-off. Equal consideration of the interests of the less well-off, requires that their needs and interests be given at least equal weight to

the interests of the emigrants.

Would imposing costs on those who wish to leave not be a way of unjustly limiting the freedom of movement of these people? Though freedom of movement is an important liberty that we should be allowed to enjoy, even within the most well-functioning communities this liberty always has various limits attached to it. I may not freely move about in ways that conflict with people's property rights, for instance, I may not freely move into your house without your permission. Other cases where limiting freedom of movement can be justified include: quarantining people for public health reasons or limiting people's abilities to use particular threatened habitats in efforts to protect them. The limits of my freedom of movement often coincide with harms or setbacks to others' important interests, and so it is precisely an open question if we have identified setbacks to others' important interests which should have some appropriate weight.

While we do generally think freedom to dissociate should have some considerable force, notice that we do sometimes think exit costs are appropriate. Our practices around fair dissolution of marriages recognize the permissibility of specifying terms under which dissolution may proceed, especially the permissibility of requiring financial transfers to be made to parties whose important interests would otherwise be compromised and requirements concerning ongoing care for vulnerable parties, notably children.

I turn next to the other issue Cabrera raises: the role culture plays in critiques of the ideal of global equality of opportunity. Cabrera slightly misstates my concern with culture in securing opportunities and also the function of my argument and the dynamic of the complaint against Moellendorf's position. But Cabrera's remarks, and several other complaints of a similar nature from other critics, lead me to now think that perhaps my position has not been sufficiently well expressed. Let me try and clarify my position.

My main aim in the passages Cabrera cites is to show that Moellendorf's version of the ideal of global equality of opportunity should not give us the confidence we are entitled to have about instantiating the ideal. For some years now, Moellendorf and I have been engaged in a discussion about the importance of equality of opportunity in ideals of global justice.<sup>29</sup> In the last round of debate, like Cabrera, Moellendorf indicates that by specifying a list of cross-culturally valuable goods, my skepticism about whether equality of opportunity can be achieved in the global sphere has been addressed. I think the skepticism can linger and is not

---

29. See, for instance, Gillian Brock, 'Ideals, Egalitarianism, and Cosmopolitan Justice', *Philosophical Forum* 36 (2005) 1-30; Darrel Moellendorf, 'Equality of Opportunity Globalized', *Canadian Journal of Law and Jurisprudence* XIX/2 (2006), 301-318; *Global Justice*, Ch. 3; Darrel Moellendorf, *Global Inequality Matters* (New York: Palgrave MacMillan, 2009), Ch. 4.



rebutted through this strategy. The worry is not that we cannot come up with some plausible list of cross-culturally valuable goods, as some critics, including Cabrera, maintain. Rather, the difficulty concerns determining when situations are sufficiently similar that we can be confident we have instantiated the ideal. Given our current world, there are plenty of cases where we know the ideal is not achieved, of course, such as the comparisons between Mali and the USA, which are frequently cited. My worry is perhaps entirely theoretical, but still not out of place in philosophical reflections on the matter.

Evaluating whether *opportunities* are equal is much harder than judging whether outcomes are equal. Without almost identical educations, formal and informal (such as cultural immersions) it will be difficult to assess whether opportunities really are equal. But we cannot have identical education as a reasonable goal (as Moellendorf and others appreciate), so already we must relax the idea of equal opportunities to something like equivalent opportunities or ‘equal enough’ opportunities. According to Moellendorf:

Equality of opportunity in the global economic association, then, is directed toward ensuring that differences in initial condition [particularly socio-economic condition] do not affect the opportunities of persons (of the morally relevant equal endowments) across a range of goods, including *income, wealth, meaningful productive activity, leisure time, health, security, housing, education and basic liberties*.<sup>30</sup>

Let us look at some outcomes as a way of trying to examine whether the opportunities that typically produce them are sufficiently equivalent. (This will be an easier way of making the parallel point about opportunities.) The businessman in New York might score well on some of the listed goods, such as income and wealth, and poorly on others, perhaps leisure time, meaningful work, and health (because of high stress and long hours of work). And the businessman in Kolkata, might score reasonably well on all five of the goods just listed, though much less well on income and wealth than leisure time or health. In aiming at equivalence, would we be aiming to aggregate over ‘life packages’, i.e. trying to aggregate scores across all goods on the list? If so, the businessman in Kolkata may well be better off than the New York businessman, depending on how we aggregate (for instance, if each category is weighted equally).

If we are aiming to equalize over each good, we face the problem of people themselves not caring about some dimensions and being willing to make trade-offs for the sake of gains in other areas (such as foregoing a higher income for the sake of more leisure time). This problem can perhaps be easily overcome, in theory at

---

<sup>30</sup> Moellendorf (2009), p. 75 (emphasis mine).

least: we position individuals so they can adequately choose to make such trade-offs by ensuring high sufficiency in capability for each category. However, on this strategy, we will confront the problem posed by *the role that unequal cultural background conditions play in influencing capability*. Consider an example: Arguably, the Indian businessman, surrounded by a culture which emphasizes the importance of non-material goods, may be at a significant advantage in securing some goods over others, such as psychological health, the importance of a meaningful spiritual life, friendship, and so forth. The New York businessman, surrounded by a culture that emphasizes assertiveness and aggressive pursuit of material goals, will probably be at an advantage in securing others (such as income and wealth). Which, if any, interventions are permissible *to equalize background conditions provided by these two different cultural influences?*

It seems, then, we either have a problem as a result of aggregation (with some possibly counter-intuitive results about who is better off in the global sphere), or if we aim for equalizing in each individual dimension of well-being (or capabilities or some such), we have a problem deciding about which (if any) *cultural background conditions to neutralize or strengthen in pursuit of equality*. I state the problem in terms of a dilemma next, moving from considering outcomes and back to the issue of global equality of opportunity more directly. A dilemma would seem to present itself in attempting to determine whether we have adequately instantiated the ideal of global equality of opportunity: Either we assess opportunity for equivalent life packages (bundling up dimensions of well-being), then we face a problem of aggregation (with some possibly counterintuitive results depending on our metric for aggregation), or we assess opportunity for each dimension of a good life, then problems concerning intervening in cultural background conditions seem relevant. (There are multiple problems associated with such intervention, such as: Which cultural background conditions may be the target of interventions? Do we aim to neutralize their effects? Should we aim to strengthen some cultural influences that facilitate securing various capabilities, while diminishing those that corrode capabilities? And so on.)

Though I am a bit skeptical about an over-emphasis on equality of opportunity as a stand-alone target goal of global justice, I believe equality does matter in certain important kinds of cases, especially fostering relational equality – standing in relations of equality with one another. My critical views about equality of opportunity entirely surround the confidence we are entitled to have in our being satisfied that we have achieved the goal of genuinely equal opportunities – which, admittedly, is a fairly theoretical worry given our current circumstances. The concerns expressed are about the way in which cultures' influences make difficult the calculations about whether equal opportunities are even approximated, and

this is problematic for theories that make central the goal of ensuring global equality of opportunity.<sup>31</sup>

---

*Gillian Brock*  
*University of Auckland*  
*g.brock@auckland.ac.nz*



---

31. In my own account that does not rely on equalizing opportunities but rather aims to ensure that everyone has genuine opportunities for a decent life – where high sufficiency is what is needed for a decent life (rather than some bare minimum), I think we can (and do) make judgments all the time about ways in which culture secures or impedes these goals. Though there is certainly scope for legitimate cultures to flourish, this scope must be consistent with other requirements of global justice.