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Economic Migration and Justice

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ABSTRACT: Our main thesis is that the U.S. has a duty of justice to adopt an open border policy with regard to economic migrants because it is significantly responsible for the unjust social and economic conditions that bring such migrants to its borders. From this perspective, President Bush's recent "guest worker" proposal is morally objectionable because it is designed more to serve U.S. business interests than the interests of the migrants. We address three objections to opening borders: it will worsen the economic condition especially of low-skilled native workers; it will harm developing countries by increasing the so-called "brain drain"; and it is preferable to discharge our responsibility to the global poor by increasing development assistance instead of adopting an open borders policy.

Since the early 1990s, the United States has sharply increased its effort to keep temporary or permanent economic migrants from entering its territory. The Clinton administration doubled the size of the Border Patrol, built heavily fenced corridors along widely traveled segments of the U.S.-Mexico border, and, by the late nineties, spent around \$5 million per day policing this border. In response to the security concerns raised by 9/11, the Bush administration has further stepped up the enforcement of our borders. It is doubtful, however, that these attempts to restrict illegal immigration have been very effective. Apprehensions along the border with Mexico increased from less than 1 million in 1994 to more than 1.5 million in 2000, but this may simply reflect an increase in the number of attempted entries rather than real success in preventing unauthorized immigration. Apprehensions dropped sharply after 2000 and picked up again during 2004, mirroring such factors as fluctuations in the strength of the U.S. labor market and initial fear among migrants after 9/11 that visits back home would be unwise due to a greater probability of being caught upon return. It is estimated that there are close to 10 million undocumented immigrants in the U.S., as many as half of them from Mexico, while total legal immigration during 1991–2000 was around 9 million and is at present around 1 million per year.¹ The budget and efforts spent on preventing the hiring of illegal immigrants has always been small, which suggests that the purpose of more intense border policing is at least partly the political goal of giving voters with anti-immigration sentiments the idea that "something is done."² Increased border control has, however, brought significant costs to the economic migrants themselves. It has made it more difficult for illegal migrants to visit their country of origin; it has created a lucrative market for professional smugglers of people, with fees ranging from up to \$2,000 to merely cross the U.S.-

Mexico border to tens of thousands of dollars to make the journey from China to the U.S.; and, it has forced migrants to take more dangerous routes in order to escape detection, leading to several hundred deaths each year.³

Opening the borders of the U.S. to labor migrants from the South and then providing them, after some years of work, with the option to become permanent residents or citizens would bring significant economic and social benefits to these migrants, as well as to their local communities and families at home. Our main purpose is to argue that the U.S. has a duty of justice to adopt such an open border policy because it is significantly responsible for the unjust social and economic conditions that bring economic migrants to its borders. We hold that many wealthy countries of the North have a similar obligation, but we will focus on the U.S. partly in order to keep the empirical part of analysis within limits. Our justice argument further implies that the U.S. should grant amnesty to its undocumented workers. From this perspective, we will briefly criticize President Bush's recent guest worker proposal.⁴ The details of this proposal are still to be worked out, but its main features are that three year work visas, renewable up to at least six years, will be offered to undocumented workers residing in the U.S. as well as to new migrants with pre-arranged jobs for which U.S.-based companies could not find native workers. The proposal makes no commitment to greatly increase the very small number of permanent resident slots open each year to workers without special professional skills and it seeks to deport workers who become unemployed.

Within the philosophical literature, the most common argument in favor of open borders is the liberal defense of an individual right to freedom of movement across the globe, as articulated, for example, by Joseph Carens. In this paper, we will briefly compare our normative grounding for open borders with this account. We will not try to address all the objections that have been raised against open borders but rather focus on objections particularly pertinent to our justice argument, including the arguments that there are better ways to improve the situation of the economically disadvantaged in the South and that open borders would harm developing countries due to increasing the so-called "brain drain."

Section I

In *Globalization and Its Discontents*, Saskia Sassen argues that U.S. policy makers and the public at large wrongly see the causal responsibility for the immigration process as mainly lying with the immigrants themselves, while the role of the U.S. as receiving country is viewed as passive in this regard and as basically limited to asserting authority over entry. Sassen offers an alternative perspective that constitutes a good basis for developing our justice argument for open borders. On her account, the U.S. is actively involved in bringing about labor migration in that the globalization of the economy promoted and led by the U.S. facilitates,

encourages, and directs this migration. The crucial causal links are that foreign investment in commercial agriculture in the South displaces subsistence farmers and that foreign investment in large-scale manufacturing for export further uproots traditional modes of life and creates even more workers willing to migrate. To be sure, foreign investment in export-oriented industries creates new local employment opportunities, especially for women, but these are often temporary in that after a few years younger workers are hired to replace more experienced workers who are more expensive and may encounter job-related health problems. Moreover, Western manufacturing plants tend to move after some years to more profitable locations in other countries. The overall result is that in many regions, notably in Southeast Asia, the Caribbean, and Latin America, global capital has created a large pool of potential immigrants. What makes migration to the U.S. a real option is that through foreign investment many potential migrants have become culturally, economically, and ideologically familiar with the U.S. and the West. By working in for-export industries, the migrants are exposed to capitalist production methods and consumption values, and envision a similar but better paying job in the U.S. The industries also have a broader ripple effect in making the general population more acceptant of Western culture and values. What settles the decision to migrate is that during the past few decades the U.S. has seen a huge growth in low-wage jobs in the service sector and also to some extent in the area of manufacturing. In the words of Sassen, “the internationalization of the economy has contributed to the *initiation* of labor migration flow to the U.S., their *continuation* at high and ever-increasing levels is directly related to the economic restructuring in the United States.”⁵ The recent decrease in labor demand in the U.S. (which might have bottomed out) does not really refute this point since the long-term expectation is that the demand, especially for low-skilled labor, will greatly pick up in the years ahead (partly due to demographic factors).

Sassen holds that there are other factors that explain the emergence of specific immigration flows. She mentions past military interventions (e.g., Vietnam) and the impact of subsidizing sugar prices in the U.S., leading to 400,000 lost jobs in the 1980s in the Caribbean Basin.⁶ We may add that the current selling of subsidized agricultural products from the U.S. on the world market may have the same impact in developing countries that have moved (often under pressure of rich countries) toward greater import liberalization. A prime example of this is Mexico in the era of the North American Free Trade Agreement (NAFTA), where cheap and subsidized corn from the U.S. has forced many small and mid-sized Mexican producers out of the internal market.⁷ Sassen also does not discuss how the need for farm labor pulls many rural migrants to the North or how resource extraction by Western companies displaces farmers from the South. What matters most for our justice argument, however, is that her analysis shows that it is not simply poverty, economic stagnation, or cultural changes in the South that lead to labor migration, but rather poverty, economic development, and culture as they are significantly shaped, modified, and caused by the U.S. and its policies. Sassen

concludes that the failure by most policy makers to grasp this point “has greatly hindered the fashioning of a fair and effective immigration policy.”⁸

Sassen does not elaborate what a fair border policy would require. In our view, the U.S. should open its border to labor migrants and provide them after some years with the option of seeking permanent residency or citizenship, while undocumented workers should receive amnesty on the same terms. To provide illegal immigrants with work without providing them with basic protections against discrimination, wage exploitation, and unsafe work and living conditions is morally inexcusable. To show the moral bankruptcy of our current immigration policy one need only to note with Peter Stalker that the U.S. government does not seriously try to clamp down on undocumented migrant employment because migrant labor is essential to the economy, and thus we allow a policy to continue that “criminalizes millions of people—employers and workers alike.”⁹

It is a merit of the Bush guest worker proposal that it recognizes that the present situation of undocumented workers is unacceptable, but the proposal fails morally and pragmatically both in how it seeks to change their situation and how it addresses the problem of illegal border crossings. It may seem that it is better to be a legally-recognized temporary worker than an undocumented worker, but the Bush proposal offers no guarantee that migrants will not be deported when they become unemployed or after their visa has been renewed more than once. Nor are they offered a good chance to obtain permanent residency or citizenship. So there is a clear disincentive to officially become a guest worker, for it is easier to deport such workers than undocumented workers. Also, the gain in terms of worker rights and protections might be less significant than it appears at first sight: temporary workers will only receive a visa renewal if they have an employment sponsor, and this makes them, and their very status as “legal,” unduly dependent on their employers. The dependency will be even greater with respect to new migrants whose admittance is conditional on having prearranged jobs. Further, the Bush proposal seems to ignore the fact that many migrants work in the informal economy, making it hard to get employer sponsorship for temporary visas. The upshot is that many new migrants may not opt for legal guest worker status and will continue to enter the U.S. illegally or they may simply overstay their visa, while many current undocumented workers may not apply for a temporary work permit in the first place. The only way that the Bush proposal might become reasonably effective is if laws prohibiting the employment of undocumented workers were strictly enforced, even in times of labor shortage. Considering the impact of corporate and business interests on U.S. policy-making, this development is not to be expected.

Most importantly, the Bush proposal is morally objectionable because it ignores Sassen’s point that our economic, agricultural, and international security policies are considerably responsible for leading labor migrants to our borders.

Allowing entry only to migrants with pre-arranged jobs seems to be motivated by what serves U.S. business interests rather than by recognition of this responsibility. Unjust policies of the U.S. trigger migration and admitting only workers with sponsors would add to this injustice, as would the deportation of temporary workers (and their families) that have become part of, and have contributed to, society. These workers also should not have to labor under the threat that such a deportation is always a possibility.

It may be objected that since both the governments of developing countries and other wealthy countries share in the responsibility for initiating migration flows to the U.S., the case has not been made that it is incumbent on the U.S. to open its borders. In reply, it should be noted that in our view all wealthy countries in the North should open their borders and that many of these countries have migration flows to their borders for which the U.S. also bears some responsibility. Only if economic migrants would go to the U.S. in hugely disproportionate numbers could a case be made that the shared responsibility may be a ground for the U.S. to restrict admission after it had tried to convince other wealthy countries to adopt open border policies. It is doubtful that such a disproportionate migration pattern would develop in light of the fact that currently about one half million illegal migrants enter the European Union every year and that many European societies anticipate shrinking and graying populations in the decades ahead.¹⁰

Further, the fact that the U.S. shares some responsibility with developing countries for the migration linkages to its borders does not count against the moral argument for open borders because the U.S. could have successfully pursued alternatives that would have led to much smaller migration flows. The range of options available to developing countries in this regard is much more limited and does not negate the responsibility of the U.S. The crucial point is that immigration patterns to the U.S. emerge from a background of political and economic hegemony of the U.S. and other wealthy countries of the North over most developing countries of the South. The hegemony involves a virtual monopoly on information, new technology, and scientific innovation, resources, and investment, and has led to a radical and growing inequality in incomes, wages, consumption, and wealth between the North and the South. During the past two decades, some of the mechanisms of maintaining and even increasing hegemony have been unfair trade agreements and the imposition of "structural adjustment" programs on developing economies by the U.S. dominated International Monetary Fund. The programs were initiated for improving debt repayment and have left the developing economies with a reduced public sector, curtailed social programs, and more production for export only rather than for local need. The unfair trade agreements include that wealthy Western countries have much higher tariffs on products coming from the developing countries than from one another and that they subsidize their domestic farm producers with large exports to the developing world, as we have noted with regard to U.S. corn exports to

Mexico.¹¹ Another unjust and beneficial arrangement for the affluent North is the “international resource privilege,” entitling transnational corporations to ownership over resources obtained from dictatorial regimes in the South.¹² And, not least of all, the rich countries of the North, and in particular the U.S., have achieved their hegemony through the use or support of military force against struggles of resistance. With regard to all these mechanisms of hegemony, available alternatives are geared more toward promoting the interests and respecting the basic rights of the people of developing countries. Some of these are debt relief, fair trade agreements, upholding labor standards, increasing wages with increased productivity, treating resources as national wealth, and seeking investments with links to the local economy rather than limited to export zones. The cumulative effects of these alternatives would have been that only a fraction of the present number of economic migrants would have arrived at our borders.

In sum, the U.S., its transnational corporations, and its citizens are morally connected to the vast majority of economic migrants arriving at its borders: the migrants often are direct victims of a U.S. dominated global capitalism, and certainly most of them have not been integrated into the global economy on fair terms. For practical reasons, the public policy of open borders should include all labor migrants from the South. (We will later address the issue of privileged labor migrants from the South.) The U.S. and its citizens have amassed a moral debt to the developing countries that grows each day with the deepening of global inequality. Of course, different people share in vastly different degrees the responsibility for the world’s deep inequality, but it would be a mistake to place the responsibility upon policy makers and corporate leaders alone. Most citizens share some responsibility in that they elect the policy makers and that, as consumers, they seek the lowest possible prices, thus placing pressure on companies to move to developing countries and exploit labor and resources.¹³ Also, since the majority of the citizens of the U.S. benefit from its position of dominance, it is incumbent on them to seek to change the situation. Opening our borders to economic migrants is an important, even though far from perfect way, of slowing down the growth of our moral debt. It will economically benefit the migrants themselves, while their remittances will help their families or communities at home. A significant percentage of migrants may return to their countries of origin with newly acquired work skills or capital. They may also contribute to the democratization process in their home countries as a result of their exposure in the U.S. to pluralism, tolerance, and democracy, a benefit which is only likely to occur if the U.S. indeed extends fair treatment to migrants and lets them experience these values and practices first hand.¹⁴

Section II

Our argument for open borders is based on the premise that we have a duty of

justice to assist people who seek to address an unjust situation for which we are partly responsible and from which we benefit. The duty itself is hardly controversial and has been discussed elsewhere, and so our focus in this paper is on such questions as whether the migration flows to the U.S. are indeed an injustice for which we are responsible and whether there may not be better ways to discharge the duty than to open borders.¹⁵ Our argument differs from how most liberals have argued for open borders. Their basic claim is that people have an individual right to freedom of movement and that it is unjust to deny entry to labor migrants; it is a violation of their rights. The problem with this view concerns the normative grounding of this right. Some liberals maintain that the right is a basic right, but there is no support for this claim in international law and it also lacks definite moral support.¹⁶ As Immanuel Kant argued, there is a universal right to visit other countries, rooted in the original common possession of the earth, but this does not imply, or should not be confused with, a right to settle. Kant applauded Japan for keeping out strangers with colonial designs and in our time a basic right to settle in any country would provide people from the North with even more opportunity to displace people in the South and deepen economic inequality.¹⁷

A more tenable liberal defense of open borders, offered by Joseph Carens, is to view the right to freedom of movement as derivative from, and conditional upon, the liberal commitments to equal opportunity, freedom of lifestyle, and minimizing economic and social inequalities. He compares the U.S. and other rich countries with closed borders to medieval feudal societies, in which the nobility (the citizens of highly-developed countries) permanently deny upward mobility (entry) to the peasantry (labor migrants from the South).¹⁸ His conclusion is that opening borders to the North is imperative because it would reduce the morally contingent inequalities in opportunity across the globe arising from one's location of birth.

At the outset, Carens's approach may seem more attractive to supporters of open borders than our justice argument because he does not need to show that the labor migrants at our borders are deserving of admittance due to any injustice done to them by the U.S. No doubt, the very fact that the migrants arrive at our borders means that they anticipate improving their economic opportunities by entry and, on Carens's account, they should be admitted if their expectations are realistic. Also, his approach can be used to support admittance to the U.S. of political refugees generally, while our justice argument morally grounds their admittance only if their oppressive governments receive significant U.S. support. Upon looking closer, however, the comparative advantages of Carens's approach are rather limited. In recent years, refugee applications to the U.S. dropped below one hundred thousand, while on average fifty thousand new asylum requests were made.¹⁹ These numbers are small as compared to the number of labor migrants and have engendered much less controversy. In support of admitting refugees and granting asylum, we may simply appeal to the widely accepted view that all countries must admit some people who fear prosecution because

all individuals must be able to live in some political community that protects their basic rights. What further reduces the seemingly significant comparative advantage of Carens's approach is that we have noted that the empirical case is strong that most labor migrants arrive at our borders as a result of U.S. dominated globalization practices.

Still, we are sympathetic to Carens's view and our justice argument is not in any way exclusive of his view. The main weakness of his view is that it is based on the rather contestable premise that the U.S. should adopt a policy of promoting equality of opportunity for citizens and non-citizens alike. Carens argues for this policy along Rawlsian lines by pointing out that U.S. citizens in the original position behind the veil of ignorance would accept the policy because they would incorporate the perspective of migrants who stand to gain from it. But why would the citizens of wealthy nations be prepared to debate and settle such issues of the basic structure of society with non-citizens in the original position? In the future, global interdependence and cooperation might become sufficiently close to make it morally required to adopt global principles of economic justice, or, as Carens would have it, a cosmopolitan version of John Rawls's domestic justice as fairness. At present, a much stronger claim can be made that at least specific interactions and schemas of cooperation, such as investment policies, trade policies, resource property rules, and labor and wage standards, should be just.²⁰ Carens and other liberal defenders of open borders adopt the paradigm that immigration policy is foremost a matter of deciding whether the liberal state has the authority to keep people out, and thus they fail to note that it is because of very specific unjust interactions and policies initiated by wealthy countries that migrants appear at our borders (just as the nobility in feudal society actively shaped the conditions of the peasants). This fact generates more convincingly a positive duty of justice to open our borders than does Carens's global conception of justice derived from an original position encompassing all of humanity for which the normative preconditions are not yet in place.

Section III

There are several objections to opening U.S. borders that have some validity if one assumes that it would lead to a rapid influx of tens of millions of permanent or temporary migrants. Such an influx of people might create public order and safety concerns, overburden social services, lead to serious unemployment, reduce the rate of participation in the political process, and even bring about overpopulation and severe environmental damage. The assumption of massive migration, however, is implausible considering how costly, both economically and psychologically, migration is initially to the migrants themselves. Further, what pulls most migrants to the U.S. is greater economic opportunity and once this would decline the number of migrants would lessen as well. At any rate, our justice argument for open borders does not preclude some border regulation.

Entry may be refused to economic migrants whose criminal background or health prevents them from obtaining jobs. It is important that measures are taken upon the arrival of new migrants that facilitate their political and social integration as well as their economic success. Borders may be temporarily restricted for the sake of these aims. Funding for integration measures could come from the several thousand dollars that the U.S. now spends for every illegal immigrant caught at its southern border.

Since 9/11, security concerns have become a much more important factor in determining border policing measures. We hold that long-term and genuine safety requires the elimination of U.S. policies that seek to maintain its economic and political hegemony, but it may be noted that our border proposal has definite security benefits. Once the flow of illegal immigrants across our borders comes to end, it will not be possible for potential terrorists to hide behind this cover when seeking to enter the country. More importantly, our proposal will lead to a great reduction of current social and economic networks in place that enable undocumented workers to live without legal interference. These networks also enable potential terrorists to live undetected in the U.S. Introducing his guest worker proposal, President Bush explicitly mentioned the goal of greater security, but his proposal will be circumvented by many migrants and so will be much less effective than our proposed policy in regard to security. It may be further noted that our proposal will also be more beneficial for the border communities that now suffer from a variety of the negative effects caused by large numbers of illegal migrants passing through their territory.

Assuming a more realistic picture of a steady stream of labor migrants, there may remain worries about the long-term cultural impact of open borders, its effect on the welfare state, and its impact on wage depression. The first of these worries exist only for those who do not favor a multicultural society, while the second one is typically based on the failure to see that the weakening of the welfare state that has occurred in many Western countries is more the result of global capital seeking optimal investment conditions than an effect of labor mobility across borders. The third objection seems most pertinent to our justice argument in that one may wonder whether the increase in economic opportunities and benefits that opening borders brings to migrants will occur at the cost of the wages of many native workers in the U.S., especially of those in low-skilled jobs. A recent critic of more open borders argues that this problem already has occurred under the present conditions. The legal scholar David Abraham maintains that progressives in their support of a multicultural society as the outcome of the immigration patterns of the past few decades have become “class blind,” a blindness that has prevented them from honestly discussing that in the U.S. “immigration has made the mass of residents somewhat poorer, hurt the poor especially, and contributed rather significantly to the growing income disparities of the past twenty years.”²¹

Abraham's thesis about the negative economic impact of immigration is largely mistaken. Labor mobility across borders is not a major factor in explaining wage stagnation and growing economic inequality. Rather, as Sassen has shown, the very processes that gave rise to increased immigration over the past two decades in the U.S. also led to the income decline or stagnation of many workers in the North as well as to economic polarization.²² The transfer of industrial production to the South left a reduced and downgraded manufacturing base in the U.S. with proportionally more low-skilled and poorly paid jobs. This downgrading happened also because of technological changes in the production process, and wages were further suppressed by the practice of subcontracting. The service sector has grown enormously, creating well-paid jobs for "knowledge" workers (professionals and managers) who service the global economy and numerous lowpaid jobs requiring few skills and offering few or no benefits. High-paid workers, in turn, have increased the demand for personal services (childcare, cleaning, etc.) and often obtain these services in the informal economy. Immigrants have typically filled many of the newly created low-end jobs in both the formal and informal economy, besides continuing to work in such more traditional immigrant sectors as agriculture. Clearly, then, the main cause of income stagnation and economic polarization is not immigration but capital mobility within the global economy and the corresponding emergence of high-income "knowledge" jobs. So, Abraham is wrong in suggesting that more strictly regulated borders and greater opposition to immigration by progressives might have prevented these economic phenomena.

Most economists hold that immigration does not negatively impact the rate of unemployment and has an overall positive effect on the economy. Some recent empirical studies, however, have tried to show that since the immigrant population over the past few decades had a greater percentage of low-skilled workers than the native population at large the wages of native low-skilled workers have decreased somewhat due to immigration. In brief, the problem is that a significant increase in the supply of low-skilled labor reduces the bargaining power of low-skilled native workers and leaves them with depressed wages.²³ The empirical accuracy of the studies has been contested, but our proposal, it may seem, would definitely lead to the depression of the wages of low-skilled native workers because illegal immigrants tend to be disproportionately less skilled and they would arrive in greater numbers once borders are more open.

In response, it should, first, be noted once again that the expectation is that there will be a large increase in the number of low-skilled jobs in the decades ahead. What further reduces competition between native and low-skilled immigrant workers is that the latter often take jobs—notably, dangerous, dirty, and arduous work—that native workers are much less willing to perform. Moreover, low-skilled migration benefits the least advantaged native workers by stimulating economic growth, by keeping industries operational that might otherwise have

closed or left the country due to labor shortages or too high wage costs, and by encouraging some native workers to opt for acquiring more skills.²⁴ Second, it may seem attractive to solve the problem of the depression of low-income wages by adopting a selective admission policy aimed at increasing the skill level of the migrant population. However, a policy of this sort is confronted with the difficulty of how to keep low-skilled workers out, while it also may be less effective than anticipated because high-skilled immigrants are prepared to take on less-skilled jobs. Most importantly, our justice perspective shows that it is wrong to make the interests of the native population the sole standard of admission policies. Even if open borders were to somewhat depress the wages of low-skilled native workers, this is not a decisive objection because even these workers share some responsibility for the processes that lead economic migrants to arrive at the borders. But the point is in a way a moot one, for our justice argument does not imply that the market must decide the “winners” and “losers” of more open borders and that the benefits of immigration may not be redistributed. We favor a regulated market with better wages and labor conditions for all low-skilled workers.

This suggests a third and final response to the contention that open borders are a threat to native low-income workers. The objection ignores that income stagnation or decline for many workers in the U.S. is related to the fact that most of the newly created service jobs of the past twenty years have been non-unionized. One of the reasons that the economic and political elites in the U.S. often turn a blind eye to the employment of illegal immigrants is that they are difficult to organize and that the fear of detection keeps them from protesting inadequate wages and labor conditions. Accordingly, it is a great step forward that organized labor in the U.S. no longer supports the Immigration Reform and Control Act (1986) that penalizes employers who knowingly hire undocumented workers, instead demanding amnesty for undocumented workers and penalties for employers who try to fight unionization by threatening to report or fire undocumented workers.²⁵ A labor politics of solidarity, then, is gradually replacing a failed politics of exclusion.²⁶ In a similar vein, labor has rightly reacted negatively to the Bush guest worker program, noting that it is much more difficult to organize temporary workers whose visas depend on their employers than workers who are guaranteed that they will be able to obtain permanent residency if so desired.²⁷ What organized labor still fails to see is that a policy of open borders is preferable to one of repeated amnesties for illegal migrants. It is a policy that will facilitate labor organizing across borders, and this is in the long run the only promising strategy for dealing with the wage depression resulting from capital mobility.

Section IV

The U.S. is selective in its exclusion of economic migrants in that it has a tradition of aggressively recruiting professionals on temporary visas. It has sought professionals

in such areas as engineering, computer science, and accounting, depending on the varying market needs from year to year.²⁸ Open borders would facilitate this recruitment, and this poses the following dilemma for our justice argument: We argue for open borders for the sake of improving the condition of the globally economically disadvantaged, but relatively privileged professionals trained with scarce public funds in developing countries end up benefiting the developed world and leave their own countries skill-poor. Some developing countries have lost a few percent of their professionals to the highly industrialized countries (India and China, 3 percent); other countries have suffered very significantly (Iran, 25 percent; Ghana, 26 percent); and a few show nothing less than astonishing losses (Jamaica and Guyana, above 70 percent). In terms of specific professions, it is estimated that around 25 percent of all engineers and scientists trained in the developing world are working in the North, while in some developing countries up to 80 percent of their physicians have left (Malawi, Jamaica). A disproportionate number of professionals come to the U.S. The educational costs of training all the professional migrants who have left for the North runs into the tens of billions of dollars.²⁹ Alison Jaggar has perceptively noted that the brain drain “also reflects a subsidy [to the North] from the unpaid labor of the women who gave birth to those professionals and maintained them into adulthood.”³⁰

Jaggar’s point is to argue that the subsidy provided by the South shows, among other factors, that the North is in debt to the South and that, therefore, the debt that the South has accrued through loans from Western banks should be cancelled as a matter of justice. In our view, Jaggar’s proposal should be extended beyond debt cancellation so as to address the injustices embedded in the brain drain: considering the contribution of Southern scientists and engineers to the industrial countries of the North, these countries should provide for science and technology transfers to the South. On the same ground, special discounts are warranted when the South wants to use patented drugs and technological innovations developed in the research centers of the North. Additionally, imposition of an exit tax on departing professionals to be paid by the hiring agency should be considered. A tax in the amount of a few months of salary would go a significant way toward compensating the sending countries for their educational costs.³¹

Such measures may suffice in many instances to adequately address the injustice of brain drain with regard to the developing world and its economically disadvantaged people because it is also the case that the exit of professionals may have benefits for the country of origin. Migrant professionals in the North establish businesses in their countries of origin, send remittances, and develop networks with professionals back home. These professionals also may return temporarily or permanently with improved skills and more work experience. An increasing number of countries actively promote such developments, attempting to turn the brain drain into a diaspora of intellectual gain. Obviously, this goal will be easier to realize in developing countries with a surplus of professionals. In some cases,

however, the loss of skills is so steep and concerns such essential services, such as education and medical care, that the benefits and various forms of compensation will be inadequate. It would be wrong to prohibit exit—the Universal Declaration of Human Rights stipulates a right to leave one’s country (article 13.2)—but countries with huge and essential skill losses may demand that those who are trained by public funds commit themselves to serving their public at least for a number of years. And in such cases it would be unconscionable for rich countries such as the U.S. to actively recruit teachers and medical staff, among other professionals.

More broadly, our justice perspective demands a reprioritization of admittance policies by the U.S. in case restrictions would be temporarily necessary for the sake of the successful integration of large numbers of immigrants. First priority might still be given to family reunification and refugee admittance, but with regard to economic migrants from the developing world, priority should be given to those with more limited economic opportunities rather than to the highly skilled. After all, less skilled workers in the South are more likely victims of the global economy than are its professionals. The lowest priority should be assigned to professionals from other countries of the North. Of course, the prioritization does not imply an absolute preference ranking: preference might be given to professional migrants in case of shortages so serious that they hamper economic growth and with it the opportunities for less skilled migrants.

Section V

Thomas Pogge has recently questioned the desirability of advocating more open borders as a way of discharging our responsibility to the global poor. He states that since there is much opposition to immigration, “the needy foreigners we manage to get admitted are very costly indeed in terms of the political effort necessary to get them in and in terms also of the hostility and anger they generate among our patriots, which makes it ever harder to enlist their support for *any* initiatives on behalf of the global poor.”³² For Pogge, we should focus our solidaristic energies on trying to convince our fellow citizens to donate to non-government aid organizations, such as Oxfam, that will be more efficient in reducing poverty than opening borders, or we should work toward the realization of some financial schema in the global economy that will generate funds for the global poor, such as a tax on currency transactions (the Tobin tax). These measures will reach many more poor people than opening borders possibly could, and the very poorest will be beneficiaries, whereas immigrants tend to be relatively less poor, having at least the means to travel long distances.

It should be noted that Pogge does not argue that it would be just to refuse entry to economic migrants if one increases assistance to the global poor. Rather, his view is that we are dealing with two injustices: refusing entry is an injustice

and the lack of a serious effort to eradicate global poverty by the wealthy countries through donations and other forms of financial assistance is an injustice because these countries are greatly responsible for this poverty. On Pogge's account, working toward the elimination of the first injustice holds less promise for the global poor than seeking to overcome the second injustice and thus is morally the less desirable strategy of change. Still, the issue should be addressed here whether a trade-off between closing borders and increasing aid is not morally acceptable and even a preferable option. Such a trade-off would be defensible if our argument for open borders were based on the duty to assist the global poor as a duty of beneficence. Surely, benefactors have discretion with regard to the means of giving, and efficiency considerations may even favor increasing development aid rather than opening borders. The same conclusion may follow if one views (with Carens) the opening of borders as a way of seeking to promote equality of opportunity for all people.³³ Again, a case could be made that more assistance to the global poor may contribute more to this aim overall than would open borders. Our justice argument, to the contrary, does not allow a trade-off in general terms. Our argument is that the U.S. has a duty of justice to admit labor migrants since it is causally and morally involved in the specific immigration flow to its borders. Were it not for the fact that these particular people were displaced, were trained in Western production methods, lost their jobs in for-export-only industries, had family or community links to other migrants in the U.S., and so on, they would not have arrived at the U.S. borders. Denying these particular people entry is an injustice to them because increasing development assistance in general is not helping them but rather other people who might in this way not become victims of injustice. Surely, once greater development aid—and, more broadly, better economic policies—reduced the number of people who are victims of U.S. policies, it would follow that fewer people would be treated unjustly by closing the borders. But our empirical analysis predicts that there would then also be fewer people who would want to migrate. Another moral consideration is that it is debatable that those who inflict an injustice should decide how it should be remedied. Even if there were some overlap between the beneficiaries of increased development aid and those who were the victims of U.S. economic policies, a case could still be made that if the victims would think that migration would be their better option, this remedy should be available to them as long as it does not lead to serious harms to others. Here it may once again be stressed that considering the great personal costs of migration, few people will take this option if real alternative economic opportunities are made available in their country of origin.

To return to Pogge's view about prioritizing our efforts of seeking to support the global poor, he is correct in holding that labor migrants are often not the very poorest, but he underestimates the economic benefits of open borders for low-income countries. The number of labor migrants to the North is small as compared to the number living in poverty in the developing world, but the

remittances by these migrants are far from negligible. The amount of remittances that Mexican immigrants alone send back home (around \$13 billion in 2003) far exceeds the total giving by U.S. citizens for combating global poverty and is about equal to *all* official development assistance (ODA) by the U.S., while remittances to the developing world are significantly more than the global ODA.³⁴ In some Latin American countries remittances exceed 10 percent of the GDP.³⁵ Open borders would increase and facilitate these remittances. Pogge also does not recognize other benefits of open borders, such as investment networks and the return of migrants to their country of origin with greater skills. Furthermore, Pogge overstates the political costs of getting migrants admitted, especially with regard to the U.S. where anti-immigration sentiments are less strong than in Europe.³⁶ Addressing prejudices behind these sentiments is alone a good reason for placing open borders on the political agenda, but we certainly do not wish to suggest that open borders is a more urgent issue than increasing development aid. In theory, the moral arguments for opening borders and for seeking to alleviate global poverty through aid overlap significantly, and in practice there is essentially the same struggle for seeking to reduce and remedy the injustices inflicted on the South by the North.

Our final goal must not be to find remedies for unjust economic practices, but to realize a global order that provides opportunities for the good life for all. The need to send money to Oxfam signifies a deeply flawed world, as does the existence of widespread migration that is purely economically motivated. Opening borders to the U.S. and other rich countries of the North still leaves the world deeply unjust. The receiving countries will benefit economically and culturally, but the immigrants themselves and their countries of origin will remain, to various degrees, victims of a world order with huge inequalities in income and economic opportunities. In a world without such inequalities, there will be no “globalization of mothering,” with women from the developing world working as nannies in the U.S. while their own children are left behind in the care of family or hired nannies; nor will there be villages throughout Mexico and Central America that have lost nearly all of their young people to the promise of “El Norte.”³⁷ In a just world, the issue of open borders will cease to be contentious, for migration rooted in human freedom rather than in economic necessity will be much more limited in scope and will go across all borders and in all directions.

Endnotes

1. For recent immigration and border arrest figures, see the website of the Office of Immigration Statistics at uscis.gov/graphics/shared/statistics. For an insightful analysis of border arrest data, see Wayne A. Cornelius, “Death at the Border: The Efficacy and

- 'Unintended' Consequences of U.S. Immigration Control Policy, 1993–2000," Working Paper 27, Center of Comparative Immigration Studies (CCIS), University of California, San Diego, Nov. 2000. Online at www.ccis-ucsd.org.
2. Cf. Peter Andreas, "Borderless Economy, Barricaded Border," *NACLA Report on the Americas* XXXIII/3 (1999): 14–22, 18.
 3. From January 1 to November 1, 2002, at least 350 people died trying to cross the U.S.-Mexico border. See *USMEX Policy Briefs*, Vol. 1, Issue 1, 2003. Published by the Center for U.S.-Mexican Studies at the University of California, San Diego. Online at www.usmex.ucsd.edu/policy. Causes of death include dehydration in the desert and suffocation in trailer trucks. An unknown number of economic migrants drown (or are eaten by sharks) each year trying to reach Puerto Rico as an avenue to reach the U.S. See Peter Stalker, *The No-Nonsense Guide to International Migration* (London: Verso Books, 2001), p. 53, who also discusses smuggling fees. The fees charged by "coyotes" for leading migrants across the U.S.-Mexico border have greatly increased in recent years. See Tamar Jacoby, "Borderline," *The New Republic* (January 26, 2004): 21.
 4. Bush's proposal is summed up in the White House press release "Fact Sheet: Fair and Secure Immigration Reform," issued on January 7, 2004. See online at www.whitehouse.gov/news/releases/2004/01/print/20040107-1.html.
 5. Saskia Sassen, *Globalization and Its Discontents* (New York: The New Press, 1998), 45–6.
 6. See *Globalization and Its Discontents*, 13.
 7. See John Ross, "New Death Knell for Agriculture," Jan. 14, 2003, at www.lapress.org. For additional examples, see United Nations Development Programme, *Human Development Report 2003*, pp. 154–156, at hdr.undp.org/reports/global/2003.
 8. *Globalization and Its Discontents*, 50.
 9. Peter Stalker, *The No-Nonsense Guide to International Migration*, 131.
 10. See online at news.bbc.co.uk/1/hi/world/europe/2052298.stm. The number of illegal workers in Japan is still small (around half a million) but growing. See *Japan Times*, 10/18/2003, online at www.japantimes.com/cgi-bin/getarticle.pl5?nn20031018a3.htm. Sassen correctly anticipated increased labor migration to Japan on the basis of its growing investments in Asia. See *Globalization and its Discontents*, chapter 4.
 11. Even mainstream economists, such as Joseph Stiglitz, the former Chief Economist of the World Bank, now grant that the IMF programs were primarily in the interests of Western capital. See "The Hospital that Makes You Sicker," an interview with Stiglitz on the IMF, in *New Internationalist* 365 (March 2004), 14–5. For a discussion of the unfair trade agreements, see *Human Development Report 2003*, 154–6.
 12. See Thomas Pogge, "Priorities in Global Justice," 20–1. In Pogge, ed., *Global Justice* (Oxford: Blackwell, 2001).
 13. In the Oxfam report "Trading Away Our Rights: Women Working in Global Supply Chains" (2004), some interesting examples are given of consumer responsibility in this regard. By increasingly shopping at low price retailers such as Wal-Mart, consumers have forced down the prices paid to garment producers in the Third World. See pp. 54–55. Shopping at huge food retailers has had a similar impact on prices paid for fresh produce, flowers, wine, etc., bought in low-income economies. See 66–7. Online at www

.maketradeair.com.

14. For a more detailed discussion of this point with regard to Mexican migrants, see Jorge Castañeda, *The Mexican Shock* (New York: The New Press, 1995).
15. For an elaboration of this understanding of our duties of justice, see Kok-Chor Tan, "Kantian Ethics and Global Justice," *Social Theory and Practice* 23/1 (Spring 1997): 53–73. See also Thomas Pogge, "Human Rights and Human Responsibilities," in Pablo De Greiff and Ciaran Cronin, eds., *Global Justice and Transnational Politics* (Cambridge: The MIT Press, 2002).
16. One of these liberals is Michael Dummett, *On Immigration and Refugees* (London: Routledge, 2001).
17. See *Perpetual Peace and Other Essays*, trans. Ted Humphrey (Indianapolis; Hackett, 1983), 118–9 (Ak. 358–59).
18. See "Migration and Morality: A Liberal Egalitarian Perspective," in Brian Barry and Robert E. Goodin, eds., *Free Movement: Ethical Issues in the Transnational Migration of People and of Money* (University Park: Pennsylvania State University Press, 1992), 26. See also Carens, "Aliens and Citizens: The Case for Open Borders," in Will Kymlicka, ed., *The Rights of Minority Cultures* (Oxford: Oxford U.P., 1995), 346. Reprinted from *Review of Politics* 49/2 (1987).
19. The figures were dropping even prior to 9/11. See *Yearbook of Immigration Statistics: 2003*, online at uscis.gov/graphics/shared/statistics.
20. Cf. Leif Wenar, "The Legitimacy of Peoples," in *Global Justice and Transnational Politics*. See also Amartya Sen, "Justice across Borders," in *Global Justice and Transnational Politics*, who argues that we must avoid both "grand universalism" and "national particularism" and recognize instead that there are multiple "affiliations," each with their own demands and standards.
21. David Abraham, "Citizenship Solidarity and Rights Individualism: On the Decline of National Citizenship in the U.S., Germany and Israel," Working Paper 27, CCSI (Nov. 2000): 12. Online at www.ccis-ucsd.org.
22. See *Globalization and Its Discontents*, chapters 2, 7, and 8.
23. For a survey of some recent studies, including the influential work of George Borjas, see Albert Saiz, "The Impact of Immigration on American Cities: An Introduction to the Issues," *Business Review* 2003, reprinted at eww.phil.frb.org.
24. For an elaboration of these points, see Stalker, *The No-Nonsense Guide to International Migration*, 67–77.
25. Understandably, labor still wants to penalize employers who seek to recruit undocumented workers abroad, for tolerating such a practice would make labor migrants very easy targets for exploitation. See "AFL-CIO Principles On Immigration: Ensuring Worker Rights And A Better Life For All Working Families," online at www.aflcio.org/issuespolitics/immigration/upload/immigrationpolicy.pdf.
26. An important expression of this solidarity was labor's support of the recent "Immigrant Workers Freedom Ride" across America, which ended with a rally on October 4, 2003, of more than 100,000 people in New York City in support of amnesty and better treatment of migrant workers. See online at www.iwfr.org.
27. In fact, the Bush proposal in this regard is worse than the status quo in that now, at

least, employers who seek to discourage union organizing by reporting undocumented workers to the INS are themselves engaged in illegal conduct and face penalties on basis of the 1986 act.

28. The recent trend of the outsourcing of “knowledge work” to countries such as India might significantly reduce the problem of brain drain. It remains to be seen, however, how this trend will further develop, and only some professional work can be outsourced due to the limitations of internet communication.

29. See Stalker, *The No-Nonsense Guide to International Migration*, 102–5. For the situation in Malawi, see Reidar Oderth, *Migration and Brain Drain: The Case of Malawi* (San Jose: Writers Club Press, 2002), 189.

30. Alison M. Jaggar, “A Feminist Critique of the Alleged Southern Debt,” *Hypatia* 17/4 (Fall 2002): 119–42, 132.

31. See further United Nations Development Programme (UNDP), *Human Development Report 2001* (New York: Oxford University Press, 2001), 92–3. Employers must pay \$500 for non-immigrant visas for foreign professionals. The fee is for training and educational programs for U.S. workers and reflects a persistent blindness of U.S. legislators to consider the interests of the countries of the South.

32. Thomas Pogge, “Migration and Poverty,” 22. In Veit Bader, ed., *Citizenship and Exclusion* (New York: St. Martin’s Press, 1997).

33. Thus it is not surprising that Carens on basis of Japan’s preference for cultural homogeneity is led to the conclusion that “perhaps it would be appropriate for Japan to meet most of its responsibilities through aid rather than through admissions.” See “Migration and Morality,” 39. On basis of a liberal conception of global distributive justice, Robert E. Goodin articulates a similar acceptance of a trade-off. See “If people were money . . .,” pp. 7–9, in Goodin, *Free Movement*. Their proposal has gradually become irrelevant due to the fact that Japan increasingly is creating migration links similar to those created by the U.S. since the 1970s. See note 10, above.

34. The U.S. Agency for International Development (USAID) estimates that private charitable giving for development aid was \$4 billion in 2000. See online at www.usaid.gov/press/releases/2002/fs_mca.html. Remittances to the developing world were about 72 billion in 2001, exceeding the global ODA by about 38 percent. See www.migrationinformation.org/USfocus/display.cfm?id=138.

35. In 2002, remittances exceeded 10 percent of the GDP in Haiti, Nicaragua, El Salvador, the Dominican Republic, Ecuador, and Jamaica. See online at www.americas.org/News/Features/200304_MayJune/Remittances.htm.

36. Pogge read his paper at a conference in Amsterdam and the only figures that he provides about migration concern the European Union. See “Migration and Poverty,” 14. He presents his argument, however, as valid for all wealthy countries.

37. The first example is discussed in Arlie Russell Hochschild, “Global Care Chains and Emotional Surplus Value,” in Will Hutton and Anthony Giddens, eds., *Global Capitalism* (New York: The New Press, 2000), 130–3.