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Just responses to problems associated with the brain drain:

Identity, community, and obligation in an unjust world

Draft Only

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Abstract

In this essay, which forms part of a symposium on the brain drain, I respond to the arguments of several critics. I defend my proposals concerning how to address problems associated with high levels of skilled migration, especially in the face of concerns about identity, community and obligation in an unjust world.

Key words: brain drain, skilled migration, justice, compulsory service, taxation.

Having the opportunity to engage with such a rich variety of important ideas in this symposium on the brain drain is a great privilege. I am very grateful to all the contributors for their thoughtful comments, especially to those residing in South Africa and to the editor, Andrea Hurst, who soldiered on with our production timetable while facing challenging conditions on their university campuses. All the contributors have raised several issues worthy of sustained attention. Given space constraints, I will be able to respond to only a handful of concerns. Following norms of our disciplines, I focus on some areas of disagreement, even though there are also many substantial areas of agreement among us. Though I focus on our disagreements,

I want to underscore my appreciation for my interlocutors' thoughtful comments and contributions to this important conversation.

1. An overview of some core issues

I begin with an overview of what I take to be some core issues, in order to locate some of the main disagreements and to facilitate clear responses. Skilled citizens migrate from developing (or low-income) countries¹ for many reasons. Among the most frequently cited ones are lack of felt security, high rates of violence, corruption, lack of professional opportunities, wage disparities, inadequate provision for basic needs, and perceived better future prospects for the migrants or their children. What needs to change in countries of origin so that citizens of those states have better prospects for good lives and would choose to remain?²

In our contemporary world, effective states are undeniably important for reducing poverty and promoting citizens' well-being. States ensure the availability of goods necessary for flourishing lives including healthcare, education, water, sanitation, infrastructure, security, the rule of law, and at least a minimum level of social and economic stability, all of which are essential precursors in building a dynamic economy capable of inclusive, pro-poor, sustainable development.³ Effective states require robust institutions in order to achieve their goals. Skilled workers have an important role to play in helping states to be effective because they contribute enormously both directly and indirectly to the robust institutions and other key ingredients states need to be effective.

There is a vast literature on the effects of high levels of skilled migration, documenting some losses, some gains and many mixed results.⁴ Negative effects include reduced educational attainment, beneficial development, levels of income and growth,

knowledge transfer, health outcomes and provision for healthcare.⁵ Fiscal losses can be particularly significant since loss of tax receipts entails less revenue available to spend on public goods such as security and infrastructure.

There are also many alleged positive benefits from high skill migration. These include increased human capital formation resulting in a brain gain: the prospect of being able to depart if skills are acquired incentivizes some to seek additional training they would not otherwise, and since not all who acquire skills will leave, the country of origin benefits from increased skilled personnel. Second, there can be notable network or diaspora effects: those who migrate can facilitate new trading or other opportunities for citizens in countries of origin. A third advantage is that since many migrants eventually return, when they do, they may bring back valuable financial or social capital, ideas and skills. Fourth, and arguably the most frequently noted benefit, is that of remittances, the enormous sums of money migrants send directly to family or friends in countries of origin.

There are reasons to be cautious about some of these positive effects, especially whether they are sufficient to outweigh the drawbacks associated with migration or necessarily result for all countries, both large and small. For instance, remittances can lead to government underinvestment in beneficial development, exacerbate existing inequalities, create dependence, and unless well managed, do not necessarily contribute to funding important public goods, such as healthcare or education, or address underlying structural causes of poverty. Remittances also tend to decline over time and can fuel further migration as citizens become more aware of wage differentials.⁶

Some of the positive and negative effects of out-migration are especially well canvassed by Devesh Kapur and Sean Miller in their helpful contributions to this

symposium. As they document (and as I also discuss), there is a huge range of factors (including population size, geography, levels of development and skill levels) that affect whether skilled migration is a net positive or negative for any particular country. The effects of brain drain vary considerably for different countries of origin, especially given population size, skill levels within those populations, and so forth.⁷ Nevertheless, the empirical literature indicates that there may well be some cases in which important losses are occurring. *When there are such losses*, how should we distribute responsibilities for remedying the losses among the many agents who could play a role? In particular, what may the countries *most affected* by these issues do to address such losses themselves? The reason for this focus is that even though other states may have substantially greater responsibilities, when they spectacularly fail to do what they ought and the problem persists, those most affected will still need to consider this question. Sadly, this is the case in the world we inhabit.

There are many options that should be considered in attempting to reduce damage to those left behind. Much discussion in the literature focuses on two proposals in particular, namely, the permissibility of compulsory service and programs that levy additional taxes on future earnings aimed at skilled citizens who emigrate. The core idea with the tax programs is that citizens who emigrate would be eligible for taxation for a certain period (such as five years) after leaving the country of origin.⁸ The basic idea with compulsory service programs is that a period of service is required and the state directs service towards those areas considered to be underserved – those areas for which it is hard to attract staff capable of delivering the necessary services, given normal market incentives. This is often the case because the area is geographically remote, far from typical attractions that urbanized areas offer, such as educational or other opportunities often desired by potential providers with families. There are at least seventy countries in

the world that currently use compulsory service programs, including Mexico, Indonesia, Brazil, Singapore, Malaysia, and South Africa.⁹

Surveying the seventy programs in the world currently classified as compulsory service ones we can distinguish at least seven types.¹⁰ Here I select just five to give a sense of the range. One option is that some required service is part of the degree requirements (CS1). Another is that such service is mandated on completion of the degree (CS2). A third option is that there is a delay (such as one year) between completing the education necessary to be awarded the degree and the awarding of the degree (CS3). Two further options are that some required service is necessary to gain a license to practice in that state (CS4) or is necessary for postgraduate training (CS5).

Note that option (CS3) may be equivalent to (CS2) as those recently trained who have not yet gained official qualifications may be reliant on government for employment. Governments may then be able to steer work in the direction of underserved communities. Many who have completed their training are likely to remain in the country until they receive their official qualifications. I think all of (CS1)-(CS5) are defensible, however my preferred options are (CS3), (CS1), (CS4) and (CS5), in that order. The reasons for those preferences have to do with balancing the need to provide high levels of much-needed quality service with the goal of designing programs that involve the least amount of coercion for the skilled citizens themselves, mindful that any requirements imposed on them will provide some important constraints on their aspirations, life plans, freedoms, opportunities and interests. It is worth noting that innovative program design can in fact get us the desirable results we seek – more service provision – without having to use the state’s authority in unnecessarily coercive ways. I think there is much scope for developing further proposals that can blend these concerns well, especially in ways that

incentivize rather than require service. For instance, Devesh Kapur's policy suggestions of special loan waivers to those citizens who join public service (or other forms of contingent contracts in higher education), are well worth further consideration and development, as another good example of incentivizing rather than more directly requiring the desired results.

Why would it be fair to expect citizens who wish to exit a country to pay taxes to the country they leave? Are compulsory service programs a defensible instrument of social or global justice? I build a normative argument for the permissibility of such policy by beginning with a case, which I call "Attempting to be a responsible government, even though poor", or "*Responsible, but poor*" for short. Imagine a case in which a legitimate government of a low-income country attempts to provide for its citizens' needs in a responsible way. It makes projections of current and future citizens' needs and it plans to meet them, training more skilled workers in a number of categories, such as nurses, doctors, engineers, teachers, skilled construction workers, architects, information technology experts, and social workers. Budgetary constraints mean it has sufficient funds to train only a small number of people in each skill category every year -- only (say) five people can be trained in each of the identified need categories. Under the circumstances the government believes that those who accept places in these limited supply tertiary training opportunity courses should have enhanced obligations and it proposes that these obligations be written into a formal agreement. Two conditions are noted: (i) anyone trained in tertiary institutions in that country will be required to provide service to that country for a period of one year. And (ii) should the citizen leave the country (at any stage), she would be required to pay an ongoing income tax back to that government for a period of 5 years. I argue that such policy is justified. Much work is

done by both the particular details of the program. I briefly summarise some of these important details next.

Summary of the conditions under which compulsory service is justified

A state may defensibly use compulsory service programs when the following conditions labeled *Background Conditions*, *Legitimacy*, *Presence*, *Responsibilities*, and *Reasonableness* all apply (explained below). I highlight only a *few salient* points about these conditions, which will be helpful in ensuing discussion with contributors to this symposium.

Background Conditions

1. Evidence from the particular country suggests skilled citizens can provide important services for which there are severe shortages, and their departure considerably undermines efforts to meet citizens' needs.
2. Losses that result from skilled workers' otherwise uncompensated departure are not adequately compensated for by benefits that result from those who leave.

Legitimacy

States exercise power legitimately when they make good faith and sufficiently effective efforts to protect human rights.¹¹

Presence

Being present in the country is important to remedying the deprivations.

Responsibilities

The skilled workers have important responsibilities to assist with need satisfaction. This is the case at least when a number of considerations apply such as:

Governments have invested scarce resources in creating human capital to provide for the needs of citizens and are entitled to a fair return on their investment.

By leaving without compensating for losses, emigrants thwart governments' attempts to discharge their duties.

Citizens have received important benefits during their residence in the state of origin and failure to reciprocate for those past benefits involves taking advantage of others or free riding unfairly.

Citizens leaving without compensation creates important disadvantage for others from which they deserve to be protected.

Uncompensated departures that result in governments being unable to discharge their duties undermine citizens' abilities to support their governments.

Fair-minded citizens should not undermine fellow citizens' abilities to support legitimate governments that attempt to discharge their duties in good faith.¹²

Reasonableness

The compulsory service program does not require unreasonable sacrifices.

The costs of staying are not unreasonable.

Summary of when taxation of future earnings is justified

The conditions under which taxation is justified are similar to those already canvassed. A state may defensibly introduce and maintain taxation programs on citizens residing in other countries when certain conditions obtain such as when suitably adjusted versions of *Legitimacy*, *Background Conditions*, *Responsibilities*, and *Reasonableness* are all in play. For instance, *Reasonableness* is suitably adjusted so that the taxation program does not require unreasonable sacrifices.¹³

2. Identity, community and obligation

2.1 Some common misconceptions

I begin this section by addressing a number of common misconceptions about my views, so we can tackle the core challenges without the unnecessary baggage that seems to be weighing down some of the positive proposals.

First, several authors (including Thad Metz, Dylan Futter and Samantha Vice) believe that I argue for a duty to remain. The content of the duty that agents have is a duty to address the losses their departure exacerbates, under certain circumstances (such as those outlined in the previous section). It is a further question what constitutes a permissible way to discharge this duty, and whether this requires staying

or whether one may do so from outside the country; indeed, whether migrants may discharge duties more effectively from abroad. At any rate, *how* one might permissibly discharge the duty to address loss requires a fair bit more argument, including discussion of possible ways the duty might be fulfilled and what might reasonably be expected under the circumstances, given a particular set of options. While I do argue for the permissibility of certain kinds of policy measures that would incentivize or require service (and so *temporary* residential presence), the shape of the programs and various other factors are important to the more qualified endorsement of service programs which involve remaining for a short duration such as one year.¹⁴ My focus is anyhow on what governments may legitimately do to solve their own problems. It is permissible for certain governments to contract with potential beneficiaries of their educational subsidies on the terms for which I argue. I do not believe that citizens have a general duty to remain in countries of origin.

Second, some (such as Louise Du Toit and Samantha Vice) take my view to be that those who wish to leave should be prohibited from doing so when brain drain exists. One advantage of programs such as (CS1), (CS3), (CS4), and (CS5) is that none of these removes the right to leave. For instance, one may not wish to practice or pursue postgraduate training in the country of origin, so (CS4) and (CS5) present no restriction in such cases. In the case of (CS3), many students will choose to spend the one-year gap between completion and award of the degree within the country and wait to receive the paperwork before leaving. Some may not and they are perfectly free to leave. What about (CS2)? Does that entail prohibitions on migration? That depends on how contracts that entail service obligations would be enforced. Just as with violations of student loan agreements (that are common in many countries), I believe citizens should be permitted to leave when they fail to comply with their

agreements. Any breaches of contract should be pursued in the same ways many other contracts are enforced when a non-compliant party leaves the country. Destination countries can often assist with enforcement, as they do in the case of violations of agreements governing child support or alimony orders, and they use a variety of mechanisms including wage garnishments or denial of licenses, in efforts to enforce contracts.¹⁵

Third, several authors (including Louise Du Toit and Abraham Olivier) accuse me of failing to address high-income countries' obligations sufficiently. I have argued that developed countries have large responsibilities in resolving many of the problems associated with causing the brain drain and large remedial responsibilities to fix these (e.g. Brock and Blake, 2015, Chapter 2; Brock, 2009; Brock, 2014). However, developed countries continue to fail to do what justice requires. So those most affected by brain drain are still left with a problem. What may countries of origin suffering from problems associated with the brain drain permissibly do to solve these problems themselves, in a decidedly unjust world in which developed countries are thoroughly failing to do what justice requires? It is unfair that those most burdened by global injustices should have to face this issue. We should continue to press these points to those who have such great capacity to alleviate this injustice. But it does not strike me as unreasonable to begin work on this other question in the meantime. So, my view is that we ought to continue the quest to get destination countries (and other perpetrators of injustice) to meet their obligations. In the face of their historic and continuing failures it is also worthwhile considering what low-income countries may do to solve their problems for themselves without waiting for historically non-compliant parties to do what justice requires.

2.2. Identity and obligations to community

What role should people's sense of identity with a community play in their obligations to that community? Samantha Vice raises this issue in her thoughtful paper. She argues that in the case of South Africa with its complex array of identities and communities, it is difficult to locate the responsibilities that white skilled citizens have towards their community.

Does the identity of being white in South Africa affect the duties whites have in the South African context? Are whites part of the problem rather than the solution, as Vice considers? According to Vice, many black people view whites as a source of ongoing injustice and inequality. She notes that since whites are often more highly skilled in South Africa, they often have greater economic power leading to problematic racial perceptions. A common sense of "South African-ness" is, at best, fragile. Given persistent divisions, "it is difficult to justify the duties of the skilled to remain with reference to the actual community, society, or the government. People belong to different and often still antagonistic communities; the government cannot pretend to represent a common South African identity" (Vice, 2017).

Before directly considering these challenges, two clarificatory remarks are in order. First, I have already indicated that the content of the duty is not to remain, but rather to address relevant losses, duties which governments can help us discharge through certain permissible measures such as additional taxation and service.

Second, when I use the term "community" in this debate, I have in mind that community consists of all the residents of a state. Of course, all communities have numerous sub-communities, but in a state there is one that stands outside of all of these and that was my intended focus.

In reflecting on Vice's challenges, consider obligations such as paying income taxes or jury duty in a state that is not egregiously unjust. I would argue that in such cases one's obligations should not be affected by whether or not one personally identifies with anyone. So why should this matter in the case of other obligations?

In exploring our response to these challenges, let us set aside employment in universities, which do raise particularly sensitive issues perhaps. If governments insisted that those trained as nurses, engineers, teachers (and so on) provide service for one year, would this be so problematic, given the concerns Vice raises? At best it raises the prospect of the need for certain kinds of decisions, such as about whether employing white nurses, engineers and teachers in under-served areas results in better consequences for service provision in those areas, given the negative consequences articulated concerning their whiteness being an obstacle to justice. It is possible that all things considered, in particular cases it is still better to have some more reliable service provision in health, education and engineering services rather than not, even taking account of some of the providers' problematic identity.

There are further ways in which we might respond to Vice's concerns. Imagine that we think the service and taxation contracts can be justified for non-white students and that they may be required to serve and pay additional taxes when they receive government subsidized education. In addition, let us say we feel the force of Vice's critique and that the presence of white skilled citizens is likely to be counter-productive. It might be suggested that whites should therefore be exempted from service requirements, perhaps with additional taxes to pay instead. Such a concession might also be guilty of the charge of "exacerbating the problem", since those who are subject to the service requirement might complain that whites are being unfairly excused from an onerous duty that applies to them. Such an arrangement might be at

least equally objectionable, since it would contribute to a perception of whites being unfairly treated at the expense of those whose presence in South Africa is not so objectionable, following this line of thought.

So, while I recognize the problems to which Vice refers, it still may be the case that, all things considered, endorsing the policy proposals, especially ones concerning taxation might still be the lesser of many evils we are bound to have to confront in societies trying to transition from historic injustice.

Note also that even if these arguments are sufficient to rebut the arguments that governments may permissibly introduce service programs, they leave untouched the arguments for the permissibility of additional taxation applying to such migrants. Indeed, it may be that even greater taxes could be justified, given the failures to discharge some of the duties via the more onerous service requirements.

In further responses to Vice's important critique we could insist that we do still have some shared identity -- even in fractious communities -- in virtue of our shared histories. Alternatively, we could emphasize that our *fates* are shared even if our identities are not. For better or worse, we share a future together, given that these communities live side-by-side in the same geographical space. No matter how much migration there is, some will end up staying and, for their sakes, we should seek more common ground, even if sufficient shared identity is not available.

Does the notion of solidarity that Jeremy Snyder introduce help with the issues raised by Vice? I think it can. His account of solidarity shifts our perspective to a more forward-looking and constructive approach in forging communities that we have reason to value. Snyder's important development of the notion of solidarity can help plug some of the gaps Vice identifies and constitutes a valuable contribution to the debate.

3. Obligations to create and sustain a just state

In my view, (1) we all have duties to create and sustain just institutions. And (2) those of us who have benefited from certain practices or institutions have additional duties not to exacerbate burdens for other co-participants. So, (3) when we do create additional burdens for others, we have duties to remedy losses.

I understand that claim (2) is controversial, as several critics who point to the weaknesses with reciprocity-based arguments observe. However, as many of our practices concerning fairness and the distribution of obligations acknowledge, it still can be relevant. Several contributors (including Christine Hobden, Allejandra Mancilla and Alfonso Donoso) make use of this idea and we see frequent reliance on its power in their arguments. In this section I briefly discuss the arguments of two scholars who use similar arguments about duties to create just institutions to powerful effect.

Using the comparison with the deliberations of the condemned Socrates concerning whether he should flee Athens, Dylan Futter presents an interesting set of reflections on whether white South Africans have duties to remain in, or leave, South Africa. Like Vice's subtle argument, he raises important issues about what one owes to one's country, community, family, and oneself, but via the duties to contribute to just institutions.

Futter offers a different perspective on claims that skilled workers have duties to assist with institution building in poor, developing countries of origin that have subsidized the acquisition of those skills. These duties might be especially forceful, Futter adds, when one has been the cause or beneficiary of institutional injustice.

Futter challenges us to think about whether this is always so. Perhaps it is a bit insensitive to the complexities involved in the South African political landscape. To press the argument, he talks about the case of a white South African academic's role in institution building. Is such a person really part of the solution or part of the problem? He suggests that institutions would not be damaged by such an academic's departure. On the contrary, in so far as black African academics might be employed to replace such a person, perhaps the obligation is to leave. In many ways, remaining might simply perpetuate unfair disadvantage.

This is a very interesting line of argument. I think it has strengths and weaknesses, however. While it is one thing to make the claim for positions in which there is a known employment surplus – perhaps philosophy lecturing jobs at premier universities qualifies here, I think there are many situations in which such surpluses do not exist. In such cases a person's departure may simply mean the position goes unfilled. These are largely empirical issues and would require some evaluation of employment data, job opportunities, citizens' needs, and the like. But I imagine it is not implausible that this does not always hold for nursing jobs in remote rural healthcare clinics, legal aid positions in areas prone to high rates of crime and violence, or teaching positions for students with special needs in areas with very high poverty rates.

In so far as provision of such basic goods and services are necessary for just communities, it still may be that the balance of considerations points in favour of providing service that facilitates just institutions. So, as with my response to Vice, I wonder whether even if we appreciate the force of the concerns raised, in weighing up their strength, we still might think providing basic services for the desperately needy contributes more to just institutions than not.

Christine Hobden offers an important argument concerning our duty to uphold the functioning of the state. Obligations of citizens of source states should be understood as “individual shares of a collective duty to uphold the functioning of their state. The content of this duty is deeply shaped by background injustice and so ought to be understood as a duty to ‘take up the slack’. As such, individuals’ shares are differentiated to respect the diversity of individual circumstance, and policies ought to be democratically imposed” (Hobden, 2017). She uses four variables to determine individual shares: capacity, effectiveness, benefit, and political ties. All of these are ones I also regard as important.

Hobden presents a nuanced theory of citizens’ collective duties with regard to their state, emphasizing that they ought to hold their state accountable for pursuing and protecting their collective interests and fulfilling duties to other states. I encourage her to develop this promising theory further to show just how individuals should “take up the slack” in dealing with some of the many injustices we face, especially in societies transitioning from historic injustice with ongoing obstacles to such progress.¹⁶ What, for instance, is the duty of citizens to take up the slack when members of government are so corrupt that the very functions of the state which should be their core focus are not being properly managed?

4. The communitarian challenge, onerous duties, and taking the debate format seriously

Thad Metz provides an alternative justification for obligations to address burdens created by the brain drain based in ideals of communion salient in the sub-Saharan moral tradition. First, I wonder whether this alternative helps with the debate *among*

liberals about how states may address the brain drain. For the purposes of that debate, I need to find common ground with my liberal interlocutors, so I need to appeal to premises they find plausible, using ingredients other liberals recognize. Since contract (under certain conditions) can be a perfectly permissible way to generate obligations from within the liberal tradition, this is one path that is available, I argue. Switching ground to a view which makes a centre-piece of prizing communal relationships will take me further away from my immediate goals within the debate context rather than making the path easier.

Setting aside the debate with liberals, is there reason to endorse the communitarian perspective? The account is attractive in many respects, however it also has notable drawbacks. In some ways the argumentative burden is significantly lessened if one adopts this perspective. Perhaps it makes the justificatory task almost too easy? I also worry that the duties might become too burdensome. Further worries arise from this passage. Metz says:

“positive duties to help specific others can arise upon having been party to (at least) intense or long-standing relationships of identity and solidarity. When people have thought of themselves as a ‘we’, participated with each other on evenhanded terms, engaged in mutual aid, and done so for one another’s sake, then there is a tie that encumbers to some degree. And since a newly trained medical professional has, by hypothesis, been in such communion with his state and broader society, he has some moral reason to go out of his way for others, according to his abilities to do so. Should a skilled citizen who could substantially cooperate and aid his compatriots at relatively minor cost to himself fail to do so by seeking to emigrate, he would be failing to prize

communion as an end, making discord towards him in response not disrespectful if essential and expected to get him to uphold his obligation” (Metz, 2017, p. 17).

In highly fractious societies Metz’s preferred starting point can be readily challenged. What follows if people have not thought of themselves as a ‘we’? As Samantha Vice’s analysis highlights, the degree to which there is sufficient identity and solidarity with “the South African community” can be subject to much individual variation and considerable dispute. Some might identify only with other white citizens and believe themselves to be in the sufficiently robust relationships only with them. Does it follow that they should serve only white communities?

Second, preference is given to those with whom one has actually communed. But might this rather disadvantage the worst off if one is from the better off sub-community? There seems to be a certain inherent partiality built into the fabric of these obligations that suggests favouring the better off would be justified on communitarian lines.

Third, it seems to me there is no natural endpoint to obligations as well. Valuing the relationship appropriately seems to call for further contributions without an easily identifiable cut off point, and the qualification that helping should be “at minor cost” does not provide firm footing. As I discuss in the next paragraph, Metz accuses me of ad hoc reasoning in coming up with what a reasonable sacrifice requires. However, whatever arbitrariness exists with my account of what a reasonable sacrifice amounts to in similar situations seems to exist also with Metz’s notion of judging what constitutes a fair contribution.

Fourth, like others opposed to my reciprocity argument, Metz does not think the principle of fairness does the work I would like it to do. The reason he points to is that he thinks the obligation I support would have to be larger than the one I do endorse. In a passage where I argue that we need to balance the content of the obligation we endorse with the sacrifices that skilled citizens will be required to make, he remarks that my reasoning in this passage is *ad hoc*. So let me explain what is happening in the passage to which he refers. Basically, we have to balance multiple relevant considerations that are in play. What justice requires, all things considered, must usually be sensitive to a range of pertinent factors. We try to reason sensitively in balancing multiple weighty issues, and offer arguments for why our preferred option is reasonable. There is no way around such “ad hockery,” if that is how we see this, if we are to make normatively informed policy recommendations in the real world. But my preferred description for this kind of reasoning is that what we are trying to do is blend multiple normative considerations with multiple weighty feasibility constraints, if we have any hope of advocating for implementable policy in the real world, which is one of my goals in this project. I do not see a way around this kind of reasoning even from within his preferred ethical perspective.

Fifth, Metz believes that his model does a good job with understanding the duties which he also believes can be quite weighty. He says:

“Where a citizen has with the state or other citizens enjoyed a sense of togetherness, participated cooperatively, engaged in mutual aid, and done so for one another’s state, he has some moral reason to continue to do so, especially if they have gone out of their way for him and he is in a good position to contribute something substantial back. Respect for the relationship (or, more carefully, others capable of it) intuitively need not involve a proportionate

contribution, but rather something weighty, supposing that is in his power”
(Metz, 2017, p. 24).

In fact, I do not think the obligations are meant to be “weighty”. I try to underscore that they should not be too onerous. I aim to offer normative grounds for feasible policy implementable in our current world, and I do not think support for a policy of compulsory service will readily be found if the terms veer into weighty territory. So for these five reasons, I am somewhat skeptical that Metz’s preferred framework will prove to be as robust as it needs to be, though I also expect he has responses to all these concerns and I look forward to hearing more about them.

Abraham Olivier also draws attention to resources from within the communitarian tradition that should be brought to bear in solving problems associated with the brain drain. He offers an intriguing analysis of the brain drain using Kwame Gyekye’s moderate moral communitarian view. First of all it is worth remarking that there may be considerable overlap between liberal versions of egalitarianism and the preferred alternative. If Rawls’s liberal theory of justice gets to be a form of moral communitarianism on the Gyekye schema, I expect we are probably converging on very similar maps of what is relevant in the normative terrain, even if we give these different labels.

Second, I was hoping for a bit more clarity on what Gyekye actually recommends with respect to brain drain, in particular on what developing countries may permissibly do to solve problems associated with the brain drain, and on this issue I could not find sufficiently clear answers. It seemed that very little state action was permissible in the face of brain drain. Rather, the hope was that some skilled citizens would choose to remain and assist. While this might indeed be preferable,

questions still remain about what to do if not enough choose to do so, as seems to be the case in many of the countries suffering from the brain drain.

One of the welcome features of the contract approach is that it specifies rather precisely what the content of our duties are, rather than leaving them to the vagaries of what people feel is, or more often *is not*, their duty. Rather than relying on virtue, or people's personal sense of what the relationships and communities require, contracts communicate clearly what all the parties should expect from one another.

I make one final remark in response to a line Olivier presses, which is also pressed by several others. The criticism is that I neglect to discuss the obligations of developed countries to admit those who would like to join their societies. I certainly do limit such discussion in this book because my focus is on solving the problem of how to help create communities in which people would like to live. Addressing this issue is at the heart of the problems connected with brain drain. We want to be able to facilitate conditions for just societies to flourish so we can help more people live good lives. As I document in several works, facilitating further immigration to affluent countries frequently gets in the way of this important goal (Brock, 2009, Chapter 8; Brock and Blake, 2015, Chapter 2).

Hosein usefully offers alternative, original normative grounds for the permissibility of policy proposals aimed at stemming losses associated with the brain drain. While I find the political justice argument he offers compelling, I wonder whether it is as plausible as Hosein imagines. As he states:

“According to the social contract tradition, the exercise of authority over individuals is acceptable only if it can be justified to each individual within the state's jurisdiction, understood as a free and equal person. And to meet this burden of justification the state must assign benefits and burdens in a way that

respects the rights and interests of each of these individuals equally ... one part of achieving political justice is achieving distributive justice, which requires the state to design the economic system it puts in place ... This means imposing some burdens on some members – in order *to ensure that the system as a whole can be justified to each member, including the least advantaged*” (Hosein, 2017, pp. 7-8, emphasis mine).

I worry that this line of argument won't be found very compelling to some of my chief opponents in this debate, who believe individuals' rights, freedoms, and opportunities would be unjustly curtailed, if policies requiring service and taxation were enforced on the terms for which Hosein argues, and simply applied without an individual's informed consent. They may point out that, as Hosein remarks, “the exercise of authority over individuals is acceptable only if it can be justified to each individual within the state's jurisdiction, understood as a free and equal person,” and that taxes cannot be justified to each and every person in the very case at issue since the person to be burdened was not given an appropriate opportunity to offer informed consent. Such an objector might claim that if she had known such taxes (or service) would attach to certain occupations, she would have chosen a different career path. And so the retrospectively applied tax (or service) cannot be adequately justified to her as a free and equal person. So, while I find Hosein's arguments quite powerful, I wonder whether they really help in engaging with such liberal or libertarian interlocutors.

5. Some final remarks and future directions

There are additional normative issues that require further investigation in exploring permissible responses to high levels of migration across borders. Amy Reed-Sandoval argues that the debate should be broadened to consider how to deal with losses associated with the emigration of unskilled citizens. I agree with her assessment.

Alfonso Donoso and Alejandra Mancilla maintain that the policy proposals which I argue are merely permissible, are actually obligatory. For instance, state-funded training in healthcare should only be provided on condition that there is a commitment on the part of those trained to reciprocate by serving those who need healthcare. Indeed, “if one of the conditions for the state to maintain its legitimate political authority is to provide basic services such as healthcare to its subjects (while respecting at the same time their autonomy and freedom), then this is what developing states affected by the brain drain ought to do” (Donoso and Mancilla, 2017). Sean Miller maintains a similar position, viewing failure to implement measures to recoup government costs invested in education subsidies as fiscally irresponsible. While I find these arguments plausible, I predict these powerful arguments will be resisted by many challengers -- such as on grounds Michael Blake (Brock and Blake, 2015) extensively documents -- and so I look forward to the further defense of these views in light of what I anticipate will be considerable resistance.

Sean Miller discusses some recent economic literature and offers a critical perspective on some of that highly influential body of work. As such, his work contributes greatly to the conversation about what we think we know about the economic effects of high skill migration. This is important to the issue of whether high skill migration is a problem or a solution to various kinds of injustices. More empirical work is clearly needed on the multiplicity of effects that result from high

levels of skilled migration. More generally, we also need to know more about what assists communities transitioning from poverty and historical injustice to become the sorts of places supportive of everyone's wellbeing. And the debate would also benefit from more empirical work on the actual effects of interventions and policies aimed at addressing losses from the brain drain. Finally, there is considerable scope for development of further innovative proposals for how we might discharge our obligations to remedy losses in the target cases. As I highlighted in the first section, those that incentivize rather than require the desirable behavior are especially worth further consideration.

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Notes

¹ In this paper I use the terminology of developing/developed and low-income/high-income interchangeably. Neither of these sets of distinctions is at all ideal but they are widely used in the literature and, because readers are reasonably familiar with what they designate, it will facilitate comprehension to make use of them rather than to introduce unfamiliar terms.

² Here we discuss only a few of the central features that bear on the core issues. For more see, for instance, Gillian Brock, *Global Justice: A Cosmopolitan Account* (Oxford: Oxford University Press, 2009).

³ For more on these themes see Duncan Green, *From Poverty to Power: How Active Citizens and Effective States Can Change the World* (Oxford: Oxfam International, 2008) and Gillian Brock "Global Poverty, Decent Work, and Remedial Responsibilities: What the Developed World Owes to the Developing World and Why" in Diana Meyers (ed.), *Poverty Coercion, and Human Rights* (Oxford: Oxford University Press, 2014).

⁴ For just a small sample of this literature see Brock and Blake, 2015, Chapters 3 and 10.

⁵ Kapur, Devesh and John McHale, *Give Us Your Best and Brightest: The Global Hunt for Talent and its Impact on the Developing World* (Washington, D.C.: Center for Global Development, 2005); 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, Mass: National Bureau of Economic Research, 2006); Hirschman, Albert *Exit, Voice and Loyalty: Responses to Decline in Firms, Organizations, and States* (Cambridge, Mass.: Harvard University Press, 1970).

6 For more discussion of these points see Brock (2009), Chapter 8.

7 When we aggregate benefits and costs, we need to assess whether resulting net benefits are sufficiently large to combat pervasive harms from migration. Factors that might undermine the fundamental features necessary to sustain the right kinds of prosperity promoting conditions -- such as sustaining robust institutions and effective states -- deserve special weight.

8 The Bhagwati Tax Proposal is an example. See for instance, Jagdish Bhagwati, “The United States in the Nixon Era: The End of Innocence,” *Daedalus* 101 (1972): 25-47; Jagdish Bhagwati and Martin Parlington (eds.), *Taxing the Brain Drain: A Proposal* (Amsterdam: North-Holland, 1976); Jagdish Bhagwati and Martin Parlington (eds.), *The Brain Drain and Taxation: Theory and Empirical Analysis* (Amsterdam: North-Holland, 1976); Jagdish Bhagwati and William Dellafar, “The Brain Drain and Income Taxation,” *World Development* 1 (1973): 94-101; Domenico Scalera, “Skilled Migration and Education Policies: Is there still scope for a Bhagwati Tax?” *The Manchester School* Vol 80 (2012): 447-467; and Mihir Desai, Devesh Kapur and John McHale, “Sharing the Spoils: Taxing International Human Capital Flows” *International Tax and Public Finance*, 11 (2004): 663-693.

9 Seble Frehywot, Fitzhugh Mullan, Perry Payne and Heather Ross, “Compulsory Service Programmes for Recruiting Health Workers in Remote and Rural Areas: Do They Work?” *Bulletin of the World Health Organization* 88 (2010): 364-370.

10 Seble Frehywot, Fitzhugh Mullan, Perry Payne and Heather Ross, “Compulsory Service Programmes for Recruiting Health Workers in Remote and Rural Areas: Do They Work?” *Bulletin of the World Health Organization* 88 (2010): 364-370.

11 That criterion serves as a concise proxy for the relevant issues, though legitimacy includes also making good faith efforts to provide sufficient public goods, operating an impartial system of justice, collecting and spending public resources judiciously, and so on.

12 We also have other grounds for helping compatriots to support their institutional schemes such as loyalty and a concern for unintended harmful side-effects. See *Debating Brain Drain*, pp. 103-107. These other grounds are quite close to the notion of solidarity that Jeremy Snyder champions.

13 So in response to concerns raised by Abraham Olivier about double taxation of migrants, such a course would be blocked as requiring an unreasonable sacrifice.

14 There is a long list of conditions that must be satisfied, see Brock and Blake, 2015, pp. 101-107, including the 4 background conditions listed pp. 101-102 and also pp. 104-105. These, along with other features considered in that summary, add important components to the normative argument.

15 There are many examples of successful cooperation here. One final point worth emphasizing is that I also argue that people should be permitted to buy out of the contracts.

¹⁶ Using Hobden's account we could also respond to Futter's general worries by adjusting shares of responsibilities and content of duty in light of the factors he identifies as problematic.