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ALEX SAGER

The Implications of Migration Theory for Distributive Justice

Abstract: This paper explores the implications of empirical theories of migration for normative accounts of migration and distributive justice. It examines neo-classical economics, world-systems theory, dual labor market theory, and feminist approaches to migration and contends that neo-classical economic theory in isolation provides an inadequate understanding of migration. Other theories provide a fuller account of how national and global economic, political, and social institutions cause and shape migration flows by actively affecting people's opportunity sets in source countries and by admitting people according to social categories such as class and gender. These empirical theories reveal the causal impact of institutions regulating migration and clarify moral obligations frequently overlooked by normative theorists.

Key words: Migration; Distributive Justice; Neo-Classical Economics; World-Systems Theory; Feminism



Introduction¹

Political theorists writing on migration and distributive justice begin with the observation that goods and opportunities are distributed unevenly across geographical territories. Access to these goods and opportunities is usually determined by morally arbitrary facts such as place of birth or parents' citizenship. Not only are initial opportunities distributed unequally, but states coercively administer their borders, preventing people from seeking better lives.² As Lea Ypi puts it, "The reason why borders and the movement of people across them stand in need of normative scrutiny is that they constitute a visible expression of a profoundly unequal distribution of spatially-differentiated opportunities."³

Unfortunately, normative discussion has stagnated between proponents of open borders and defenders of migration restrictions, often due to disagreement about high level theoretical commitments on the scope and nature of international or global distributive justice. We can begin to break this deadlock by looking at the structure and causes of migration with close attention to theories of migration. This paper aims to clarify the demands of distributive justice with regard to migration by focusing on three questions: who or what is responsible for people moving

¹ I'd like to thank Alex Zakaras, the editors, and an anonymous referee for their valuable comments on earlier drafts of this paper. Work on the paper was partially supported by a Portland State University Faculty Enhancement Grant.

² Carens, Joseph. 1987. "Aliens and Citizens: The Case for Open Borders." *The Review of Politics*, 49:2, 251-273.

³ Ypi, Lea. 2008. "Justice in Migration: A Closed Borders Utopia?" *The Journal of Political Philosophy*. 16(4): 391-418, at 295.

abroad; how do national and global economic, political, and social institutions create and sustain migration flows; and how do classifications of groups of people by migration policies differentially affect people? To answer these questions I turn to the social scientific literature on migration and argue that it clarifies our moral commitments. Migration theory shows how states, corporations, and citizens are not passive bystanders, but cause and structure migration flows in morally problematic ways.

In the first section, I propose and criticize what I call the “standard distributive framework” that most political theorists have explicitly or implicitly relied upon when discussing migration and distributive justice. The second section briefly discusses migration theories, in particular neo-classical economics, world-systems theory, dual labor market theory, and feminist approaches to migration. I argue that these empirical theories provide normative guidance for an immigration policy that is sensitive to the demands of distributive justice.

My goal in this paper is not to determine *what* we should think about the implications of distributive justice for border controls. Any answer will require a close engagement with local contexts and the available empirical evidence. Indeed, it is likely that different morally salient factors arise in different contexts. Instead, the goal is to clarify *how* we should frame the debate by giving a more accurate understanding of the factors that need to be addressed. Though I make some modest and preliminary normative comments about the moral obligations that arise from the causal role of policies and structures that harm and dominate people, this paper primarily aims at clarifying the moral framework.

The standard distributive framework

This paper’s focus is on how distributive justice should structure and constrain migration policy. It does not address theories that do not see migration as an issue of distributive justice or views that deny distributive justice applies across state lines.⁴ Nor does it address theories that see the permissibility of migration controls primarily in terms of the need to justify coercion⁵ or as a matter of respecting

4 This position is most often found among economists such as George Borjas who view immigration as a tool for promoting the interests of current members of the state or political realists who deny that considerations of justice apply outside of the boundaries of the state. Borjas, George. 2001. *Heaven’s Door: Immigration Policy and the American Economy*. Princeton University Press; Hendrickson, David C. 1992. “Migration in law and ethics: A realist perspective.” In *Free Movement: Ethical issues in the transnational migration of people and of money*. Eds. Brian Barry and Robert E. Goodin. University Park, Pennsylvania: The Pennsylvania University Press, pp. 213-231). It is also common in popular discussion and in public policy. Contemporary political theorists usually reject the extreme position that there are no duties to people outside of our political community. Rather, they argue about the extent of our obligations, for example whether we are committed to a sufficiency standard that entitles everyone to a decent life or standard of equality where justice must make comparative judgments.

5 Abizadeh, Arash. 2006. “Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders.” *Political Theory* 36(1): 37-65.

rights such as freedom of movement⁶ or freedom of association.⁷ Nonetheless, most people troubled by current migration policies are at least partly motivated by the global distribution of poverty and by global inequality of opportunity.

Proponents of open borders argue that coercive border controls are indefensible due to considerations of economic inefficiency⁸ or equity.⁹ Theorists who wish to retain the state's right to significantly restrict migration respond that egalitarian considerations are outweighed by national or cultural identity,¹⁰ self-determination,¹¹ freedom of association,¹² or citizen ownership of public institutions.¹³ The problem with this debate is that it starts and ends with the brute fact of inequality. This "standard distributive framework" presents an unequal distribution and a set of moral principles that might justify it, but provides very little information about migration and its causes.

A few remarks on distributive justice are helpful here. At the most general level, distributive justice is concerned with the distribution of benefits and burdens. At a minimum, a theory of distributive justice must identify the metric of justice (what is to be distributed, e.g., resources, welfare, capabilities), the principle or principles used for allocation (e.g., equality, sufficiency, priority, desert, entitlement), the site of justice (e.g., social, economic and political institutions, individuals), its scope (e.g., the community, state, world), and the conditions that give rise to claims of justice (e.g., the moral worth of all human beings, social cooperation, coercive institutions). Theories must also specify what sort of information must be consulted for a just allocation. Few, if any, theories of distributive justice are concerned solely with allocation. For example, egalitarians who believe, *ceteris paribus*, that equal distributions are better generally include considerations of choice and responsibility in their theories.

This paper remains neutral on most substantive questions about the principles and metric of distributive justice, but draws on the common conviction that

6 Cole, Philip. 2000. *Philosophies of Exclusion*. Edinburg, UK: Edinburg University Press.

7 Steiner, Hillel. 2001. "Hard Borders, Compensation, and Classical Liberalism." In *Boundaries and Justice: Diverse Ethical Perspectives*, eds., in David Miller and Sohail H. Hashmi, Princeton, N.J. Princeton University Press, pp. 79-88. Of course, nothing precludes theorists focusing on rights and other considerations from also being concerned about distributive justice.

8 Chang, Howard F. 2007. "The Economic Impact of International Labor Migration: Recent Estimates and Policy Implications." *Temple Political & Civil Rights Law Review*, 16: 321-33; Pritchett, Lant. 2006. *Let Their People Come: Breaking the Gridlock on International Labor Mobility*. Washington, D.C.: Center for Global Development.

9 Carens, Joseph. 1992. "Migration and Morality: A Liberal Egalitarian Perspective." In *Free Movement: Ethical issues in the transnational migration of people and of money*. Eds. Brian Barry and Robert E. Goodin. University Park, Pennsylvania: The Pennsylvania University Press, pp.25-47.

10 Kymlicka, Will. 2001. "Territorial Boundaries: A Liberal Egalitarian Perspective." In *Boundaries and Justice: Diverse Ethical Perspectives*, eds., David Miller and Sohail H. Hashmi, Princeton, NJ: Princeton University Press; Meilaender, Philip. 2001. *Toward a Theory of Immigration*. Basingstoke: Palgrave; Miller, David. 2007. *National Responsibility and Global Justice*. New York: Oxford University Press.

11 Walzer, Michael. 1983. *Spheres of Justice*. New York, NY: Basic Books.

12 Wellman, Kit. 2008. "Immigration and Freedom of Association." *Ethics* 119: 109-141.

13 Pevnick, Ryan. 2011. *Immigration and the Constraints of Justice*. New York, NY: Cambridge University Press.

whatever obligations we owe to people as fellow human beings, these obligations are stronger when we have played a harmful causal role in their fate. It stresses the importance of institutions in determining the requirements for a just society or world and for assigning responsibility. Institutions that play a causal role in systematically disadvantaging and harming people demand close moral scrutiny. Often people are responsible for structural injustice caused by institutions in which they participate.¹⁴ Moreover, when institutions and policies have international or global effects, then we should evaluate their effects in terms of their international or global scope.

My contention is that an adequate theory of justice in migration requires a broad and deep information base and a detailed knowledge of the causal effects of institutions. In contrast, most theories concerned with the implications of distributive justice for migration policy employ a theory of distributive justice that remains at a high level of abstraction. The fundamental insight of these theories is that place of birth plays a major role in how well people's lives go. Place of birth hardly seems to justify the vast inequalities in life chances, but states nonetheless coercively prevent people from crossing borders to improve their lives.¹⁵ Under this framework, potential migrants are identified by their human capital or wellbeing, rather than treated as individuals situated in historical, cultural, and economic contexts that influence their decisions to relocate. Questions of distributive justice ask to what extent and under what conditions states must allow people to cross borders to improve their economic condition. Border controls are seen only as obstacles to migration.

This simple distributive framework pays little attention to how border controls shape social and economic reality. Border enforcement prevents people from accessing opportunities in receiving countries; it also actively shapes the opportunities of people in other territories. For example, the 2004 and 2007 enlargements of the European Union provided opportunities for individuals in new member states to work abroad. But emigration of working age people also impacted the source countries positively and negatively in complicated ways, reducing demand in the local labor market and raising worries about "brain drain".¹⁶ Normative theorists often note the effects of migration on opportunities in receiving and source communities, but overlook the fact that restrictive border controls also shape opportunities in potential source countries even when little or no migration occurs.

14 Young, Iris. 2011. *Responsibility for Justice*. New York, NY: Oxford

15 Carens, Joseph. 1987. "Aliens and Citizens: The Case for Open Borders." *The Review of Politics*, 49:2, 251-273.

16 Kahanec, M. and K. F. Zimmermann. 2009. *EU Labor Markets After Post-Enlargement Migration*. Springer-Verlag, Berlin. The positive and negative effects of migration on people's opportunities in different regions should alert us to the complexity of making sound moral judgments about migration policy and to the need for a nuanced, empirical informed account of justice in migration.

Moreover, migration policy creates legal classifications – “illegal” immigrants, “unskilled” workers, convention refugees, family class immigrants, etc. – that are potentially morally problematic. For example, value judgments about the “skill” needed for a job and its importance to the economy determine the nature of visas that define migrants’ wages, the social protections they enjoy and whether they are eligible for residence or permitted to migrate with their families. The moral cogency of extending far more rights and opportunities to professionals than to agricultural or construction workers is questionable. The focus on abstract distribution lets us forget the ways in which states and their influential members exercise power over other domestic and foreign populations.

Furthermore, the debate limits itself to the question of the permissibility of border controls and the principles that justify them. This problematically isolates border controls from other policies, including foreign investment and trade policy and from policies that structure domestic labor markets. Of course, some isolation of issues is necessary for analysis and for moral assessment, but it is important not to ignore morally salient causal relationships between policies. As I discuss below, economic restructuring imposed by international organizations, trade policies that displace workers from traditional labor sectors, and the segmentation of the economy that encourages hiring migrants in low wage, low status sectors have implications for distributive justice. Little attention is given to how local conditions encouraging migration flows develop in the context of transnationalism and globalization. Similarly, the standard distributive framework treats migration independently of its historical trajectories, ignoring the fact that people don’t migrate just anywhere. Rather, they migrate to places where they have a connection – often through guest worker programs, a colonial past, or a network of migrants that went before them.

Clarity about the reality of migration will help us to move from broad, abstract commitments to specific moral principles that are shared by theorists from a variety of more comprehensive views. Until we know why migration occurs, we cannot begin to reliably determine what distributive justice requires. Consider the analogy to world poverty: the nature of world poverty informs us about the principles relevant for identifying our moral duties. This is not merely a matter of helping us better apply previously held principles. A better understanding of the forces that contribute to absolute poverty may alert us to the importance of principles we hadn’t realized were relevant. If most world poverty is a result of luck or corrupt and incompetent local governance, then our moral response arguably rests primarily on duties of beneficence. In contrast, if our governments have structured the world economy in ways that systematically harm and disadvantage the global poor for our benefit, we must take into account duties not to cause harm.

Similarly, the causes and nature of migration should inform our views about it. If migration is primarily a result of individuals responding to pecuniary incentives from abroad due to the failures of their governments and the corresponding economic success of the North, then the moral response in the receiving countries may depend on duties of beneficence. This changes if emigration is a desperate response from women and men driven from their homes by structural adjustments imposed by multinational corporations, international economic organizations, and the policies of developed states. Consider the following scenarios:

Scenario 1 (<i>standard framework</i>)	People migrate because of gaps in expected wages from one region to another. No explanation is given to why some regions are wealthier than others.
Scenario 2 (<i>world systems theory</i>)	People migrate because foreign investment or an influx of subsidized goods contributed to their losing their jobs. Investment and trade policy were predicted to have these effects, but appropriate safeguards were not provided to offset severe hardship.
Scenario 3 (<i>dual labor market theory</i>)	The economy of the country of immigration is structured so that it depends on exploited foreign labor. Employers and consumers benefit from a precarious (often “unauthorized”) workforce made possible by strategic enforcement of migration law and active recruiting by the state, employers, and intermediaries.
Scenario 4 (<i>feminist approaches</i>)	Migration policy is structured in a way that systematically disadvantages and dominates women by reinforcing patriarchal power structures. Women’s migration opportunities depend on their family status or their willingness to accept gendered work.

Scenario 1 is the distributive narrative employed by most normative theorists of migration. The only information we have to determine our obligations to admit people from lower wage regions is that opportunities are unevenly distributed around the world. The result is that theorists’ views on border controls emerge from broader theoretical commitments to distributive justice and other political values. Views on migration are determined by convictions about the scope of distributive justice, the added weight given to the interests of compatriots, and other principles that constrain and shape distributive justice. Cosmopolitans who consider political membership to be morally irrelevant to the unequal distribution of goods and opportunities tend to support more open borders, whereas those who see the state or political community as embodying special moral ties generally find reasons for more restrictive policies.

In scenario 2, migration is partly caused by foreign policy in a global economic system in which powerful states promote their own interests to ensure their continued economic and political dominance. Unequal allocations of opportunities are not “natural facts,” but the results of state actions that may be unjust. Migration occurs in the context of a world system with institutions that actively promote inequality between regions and redistribute people’s opportunities and life chances in morally problematic ways. Distributive justice in this scenario

forces us to turn our attention to an arguably unjust global basic structure that disadvantages large parts of the migrant and potential migrant population.

Scenario 3 looks at causal factors at the domestic, rather than the global level. In particular, it asks how states benefit from a precarious, immigrant workforce. It shows how immigration policy is a tool for unevenly distributing opportunities not just between geographical regions, but within them: migrants are often recruited to occupy the bottom rung of the social hierarchy.

Scenario 4 adds another layer to the distribution of opportunities, in this case the role of migration policy in promoting patriarchy. Migration policies classify opportunities along gender lines in ways that systematically subordinate women. They channel female migrants into poorly remunerated, low-status feminized domains of care, domestic, and sex work. If we hold that distributive justice requires that access to opportunities must not be segregated along gender lines, then these policies are morally questionable.

Scenarios 2, 3, and 4 raise questions of distributive justice that are less controversial than those offered by the distributive framework. If people foreseeably harm others, deprive them of a reasonable set of opportunities, oppress and marginalize them for them for our benefit, or support sexist policies that disadvantage women, then duties of distributive justice require that they change their unjust practices. Migration theory reveals that migration flows and their causes are often of the sort described in scenarios two, three, and four.

Why do people migrate?

Theories necessarily simplify the world, emphasizing some facts to the exclusion of others. I do not attempt to discuss the many competing theories of migration, but rather limit my attention to neoclassical economic approaches, sociological accounts influenced by world systems theory and dual labor market theory, and feminist scholarship on migration.¹⁷ Choice of migration theory tells us a great deal about our normative commitments. Theoretical choices highlight different moral obligations that are invisible in alternative frameworks.

The study of migration differs greatly according to the academic discipline. An economist testing a model about people's responses to incentives, a political economist hypothesizing about the role of international institutions, a political scientist asking how domestic rights and policies affect migration flows, and an anthropologist exploring migrants' self-understanding will describe migration

17 Brettell, Caroline B. and James F. Hollifield. 2008. *Migration Theory: Talking across Disciplines. Second Edition.* New York, NY: Taylor & Francis Group, provides an excellent introduction to how migration theory is approached in different disciplines. Massey, Douglas S. Joaquin Arango, Graeme Hugo, Ali Kouaouci, Adela Pellegrino and J. Edward Taylor. 1993. "Theories of International Migration: A Review and Appraisal." *Population and Development Review*, 19(3): 431-66, usefully surveys of many of the most important theories.

quite differently. Since migration theories operate at different levels (e.g., aggregate flows versus individual or family-based decisions to migrate) and focus on different aspects of migration, they are not necessarily mutually exclusive. Indeed, it is likely that some of the theories are compatible and complementary.¹⁸ What is important is that theories of migration make certain aspects of migration visible and obscure others. They reveal or hide morally salient facts.

A. Neo-Classical Economic Approaches to Immigration

Many analyses of migration and distributive justice presuppose an economic framework rooted in the neo-classical synthesis. Neo-classical economic analyses of migration are individualistic and ahistorical. Migrants seek to maximize their earning power. People migrate when there are significant differences in wage rates between countries and when the expected benefits of a job abroad exceed the costs (including psychological costs such as separation from family and culture, the possibility of deportation, etc.). Migration stops when wages between countries reach equilibrium.¹⁹

The neoclassical economic understanding of migration is not wrong: people do migrate in search of higher wages, though this is an incomplete explanation of why they leave. My concern is with the moral dimensions that this individualist and ahistorical approach omits. Under this paradigm, inequality is a function of market distortions, most prominently border controls. According to the neoclassical model, lifting border controls would eliminate inequality as workers flow to where their skills are most efficiently employed.²⁰

Howard Chang provides the most explicit neo-classical economic justification for higher levels of migration.²¹ Chang discusses the enormous economic gains expected from international migration. Migration leads to Kaldor-Hicks improvements: people adversely affected by an influx of migration can in principle be compensated with the efficiency gains. Chang furthermore argues that the moral commitment to equal concern for all persons entails that distributive justice requires the liberalization of borders.

18 In two survey articles that survey attempts to evaluate the different theories of migration, Massey et al. conclude that all of the theories I discuss – neoclassical economics, world systems theory, dual labor theory – enjoy at least some empirical support, see Massey, Douglas S. Joaquin Arango, Graeme Hugo, Ali Kouaouci, Adela Pellegrino and J. Edward Taylor. 1993. “Theories of International Migration: A Review and Appraisal.” *Population and Development Review*, 19(3): 431-66; Massey, Douglas S. Joaquin Arango, Graeme Hugo, Ali Kouaouci, Adela Pellegrino and J. Edward Taylor. 1994. “An Evaluation of International Migration Theory: The North American Case.” *Population and Development Review*, 20(4): 699-751.

19 Borjas, George. 1989. “Economic Theory and International Migration.” *International Migration Review*, 23(3): 457-485.

20 For historical evidence that this is the case, see Hatton, Timothy J. and Williamson, Jeffrey G. 2008. *Global Migration and the World Economy: Two Centuries of Policy and Performance*. Cambridge, Mass: MIT Press.

21 Chang, Howard F. 2007. “The Economic Impact of International Labor Migration: Recent Estimates and Policy Implications.” *Temple Political & Civil Rights Law Review*, 16: 321-33.

The cogency of Chang's position depends on how convincing we find his defense of his cosmopolitan conception of distributive justice against prominent critiques. So far proponents of much more open borders have made little headway against those who argue for the justice of more restrictive immigration policy. This lack of progress reveals the limitations of approaches to migration that rely only on neoclassical economics. Neoclassical economics sees people as human capital and can criticize policies within its own framework only insofar as they reduce economic efficiency. In other words, neoclassical economics omits politics insofar as it cannot be captured as a market distortion. In particular, it has no place for intentional policies that adversely affect migrants in any way except as economic agents. Neo-classical economics tells us nothing about the historical process that led to the current allocation of goods. Furthermore, it does not see distributive justice in systematic terms where benefits are unevenly allocated by unjust power structures.

For example, neoclassical economics provides no help in identifying the specific wrongs of past explicitly racist policies such as the White Australian Policy or the US Chinese Exclusion Act. Nor does it allow us to assess more recent policies such as the National Security Entry-Exit Registration that subjected people from many predominately Muslim countries to additional screening on entry to the US and forced them to exit at specific designations from 2002 until it was cancelled in April, 2011.²² Beyond concerns about the wrongness of discrimination along racial, ethnic, or religious lines, policies that incorporate these classifications have distributive effects: some groups of people may be worse off because they are excluded. Even if there are reasons to support state prerogatives to administer their borders that override concerns about how border controls distribute goods, the added fact that the distribution occurs *because of* racial or ethnic discrimination needs further justification.

B. World systems theory and immigration

Neoclassical economics tends to view globalization, including the globalization of labor markets, as a positive force for all involved. The flow of capital and labor increases efficiency, allocating goods where they are best used. A very different view is world systems theory that interprets economic globalization as a form of economic domination. World systems theory identifies the developed world as

²² For an overview of the use of ethnic criteria in migration policy, see Joppke, Christian. 2005. *Selecting by Origin: Ethnic Migration in the Liberal State*. Cambridge, MA: Harvard University Press. Walzer, Michael. 1983. *Spheres of Justice*. New York, NY: Basic Books and Carens, Joseph. 1987. "Aliens and Citizens: The Case for Open Borders." *The Review of Politics*, 49:2, 251-273 discuss the White Australian Policy. Hing, Bill Ong. 1994. *Making and Remaking Asian America through Immigration Policy, 1850-1990*. Palo Alto: Stanford University Press examines the Chinese Immigration Act and its legacy. For arguments that the US continues to employ ethnicity in morally problematic ways in its immigration policy, see Orgad, Liav, and Theodore Ruthizer. 2010. "Race, Religion, and Nationality in Immigration Selection: 120 Years after the Chinese Exclusion Act." *Constitutional Commentary*, 26: 101-53.

the “core” and the developing world as “peripheral” or “semi-peripheral”. The core exploits the periphery by consuming its resources and taking advantage of cheap labor. For world systems theorists, migration controls can be understood as part of the system (or of systems) of global domination by the core over the periphery.²³

Saskia Sassen’s views on migration are multifaceted, but there are strong aspects of world systems theory in her thought.²⁴ She argues that the industrialization of the developing world leads to urban migration from the country-side, often followed by migration across borders and the recruitment of workers by foreign firms. In the short run, economic development leads to *more* migration, not less, as we see when large numbers of people migrate from the country-side to the cities in the developing world and beyond.²⁵ The social and economic disruption of industrialization, often promoted by international organizations such as the World Bank and IMF, developed countries, and multinational corporations, plays a major role in establishing patterns of migration.

The moral implications raised by world systems theory are quite different from those raised by neo-classical economics. Migration is caused by the disruption of economies in the periphery that are transformed for the benefit of the developed world (the core). International migration occurs because powerful actors promote economic globalization at the expense of much of the world’s population.

In one of the few articles on migration in political theory that consider world systems theory, Van der Linden and Clark have drawn on Sassen’s work to argue that the United States attracts migration because of its role in promoting and upholding an unjust global economic order.²⁶ They refer to policies such as farm subsidies in the developed world and structural adjustment programs imposed on developing economies. They also discuss to the “international resource privilege” that allows the leaders of corrupt and violent regimes to sell their resources abroad, often using transnational corporations, and military intervention to keep regimes in power that favor U.S. policy and ideology over the interests of local populations.²⁷

23 Wallerstein, Immanuel. 1974. “The Rise and Future Demise of the World Capitalist System: Concepts for Comparative Analysis.” *Comparative Studies in Society and History*, 16(4): 387-415.

24 Sassen, Saskia. 1988. *The Mobility of Capital and Labor: A Study in International Investment and Labor Flow*. New York, NY: Cambridge University Press.

25 Russell, S. and Teitelbaum, M.S. 1992. *International Migration and International Trade*, World Bank, Washington DC.

26 Van der Linden, Harry and Josh Clark. 2005. “Economic Migration and Justice.” *International Journal of Applied Philosophy* 19(1): 45-61. c.f. Sassen, Saskia. 2006. “Migration Policy: From Control to Governance”, *Open Democracy*, Accessed April 10, 2012 at http://www.opendemocracy.net/people-migrationeurope/militarising_borders_3735.jsp Van der Linden and Clark’s focus on the United States to the exclusion of other important states and international actors is unfortunate.

27 Pogge, Thomas. 2002. *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms*. Cambridge: Polity Press.

Though Van der Linden and Clark are right to draw attention to the causal role of the United States (or other powerful states) in shaping the conditions for migration, their conclusion that this requires that the United States open its borders to all potential migrants is too quick. Even if we accept their account of how the international system unjustly harms many people, it is not clear why this entails an obligation to open borders to migrants. Rather, the obvious remedial action is to reform domestic policies and international institutions. At the very least, more detailed consideration of the effects of US policy on migration flows is needed.

Sassen's point is subtler. It is not merely that powerful actors contribute to international inequalities; rather, they use *border enforcement* to uphold these inequalities. For example, the North American Free Trade Agreement predictably led to increased levels of internal migration within Mexico and international migration from Mexico to the US.²⁸ The neglect of migration in its negotiation maintains the presence of a workforce bound to accept lower wages. US companies can relocate to the Mexican side of the border because the guarantee of continued border enforcement allows them continued access to workers who will accept significantly lower wages. The US-Mexican border does not only distort the market: it creates conditions where US corporations and consumers can access cheaper products.²⁹ An adequate theory of migration and distributive justice needs to take into account the effects of borders on opportunities and wages.

C. Segmented labor market theory

Border controls guarantee a captive Mexican workforce along the US-Mexican border. They also create a vulnerable population of workers inside the United States. This observation applies not only to the US, but to labor markets around the world. Segmented labor market theorists observe that labor markets are often distinguished by a permanent, well-paid workforce and a temporary workforce that can be disciplined and fired at will. In many markets, immigrants compose a temporary, marginalized workforce kept in check by laws enforcing their precarious status. Again, Saskia Sassen provides insight:

The enforcement of national borders contributes to the existence of a large number of countries in the form of a periphery and the designation of its workers as a labor reserve for global capital. Border enforcement is a mechanism facilitating the extraction of cheap labor by assigning criminal

28 Martin, Philip. 2005. "Mexico-US Migration." In *NAFTA Revisited: Achievements and Challenges*, eds., Gary Clyde Hufbauer and Jeffrey J. School. Institute for International Economics, pp.441-66.

29 Sager, Alexander. 2011. "Immigration and Class." In *La communauté politique en question. Regards croisés sur l'immigration, la citoyenneté, la diversité et le pouvoir*, Eds. Micheline Labelle, Jocelyne Couture and Frank Remiggi. Montreal, QC: UQAM Press, pp.29-46.

status to a segment of the working class – illegal immigrants. ... *selective* enforcement of policies can circumvent general border policies and protect the interest of economic sectors relying on immigrant labor.³⁰

Theorists writing on migration and distributive justice are too quick to accept the sincerity of policy makers who insist that they want to restrict migration. Many economies are structurally dependent on migrant labor, especially in “three D” sectors where jobs are *dirty, dangerous, and demeaning* (or *difficult*). Migration laws serve to deny workers equal labor rights. In particular, temporary status and reliance on employment for legal residence leads migrants to accept lower wages than they would under more competitive circumstances. Enforcement primarily and selectively targets immigrants, leaving employers for the most part untouched.³¹

The presence of a segmented labor force should trouble egalitarians, including those who sharply distinguish between domestic and global justice. Tolerance of segregated markets requires that we accept exploitation within our countries and are prepared to accept legal and economic institutions that sustain a sector in which workers are not equal to the rest of the population. There is nothing natural or inevitable about this exploitation. Rather, it is made possible by political decisions to benefit some people through the exploited labor of others. Again, we see how migration policy intentionally and coercively distributes opportunities in ways that appear inconsistent with moral equality.

D. Gendered migration

Nearly half of the world’s migrants today are women, many of whom are not family class migrants, but rather migrate alone in search of work. Female migrants confront a host of special challenges. Immigrant women frequently suffer discrimination on the grounds of race and gender and face serious disadvantages in the labor market.³²

The anthropologist Rhacel Salazar Parreñas studies how patriarchy shapes global institutions, including migration law, economic practices, and the norms that regulate women’s behaviour. Gender ideology, in her view, is implicit in neoliberal economic globalization which “relies on the construction of women as secondary wage earners.”³³ She rejects simple economic narratives that see women’s entrance into the international workforce as a path to securing a

30 Sassen, Saskia. 1990. *The Mobility of Labor and Capital*. Cambridge University Press

31 Hing, Bill Ong. 2009. “Institutional Racism, ICE Raids, and Immigration Reform.” *University of San Francisco Law Review*, 44(1): 1-49.

32 Castles, Stephen and Mark J. Miller. 2009. *The Age of Migration: International Population Movements in the Modern World, Fourth Edition*. New York, NY: The Guilford Press, p.236; Lutz, Helma. 2010. “Gender in the Migratory Process.” *Journal of Ethnic and Migration Studies*. 36(1): 1647-1663.

33 Rhacel Salazar Parrenas. 2008. *The Force of Domesticity*. New York University Press, p. 42

disposable income that reduces their dependence on men. Instead, she writes:

the gender reconstitution prompted by the migration of women is from the outset ideologically stalled by the fact that their economic independence relies on the maintenance of their femininity, which they perform as submissive entertainers in a nightclub in Japan, as caregivers in a hospital or private home in Israel, or even as nimble-fingered assembly-lined workers in a factory in Dubai.”³⁴

Women everywhere in the world perform a disproportionate share of the reproductive labour, even in households where both spouses have similar jobs. Structural adjustment programs and austerity measures in the Philippines and other countries have diverted funds away from state sponsored welfare programs. The Philippines spends much of its tax revenue paying off the interest on international loans. At the same time, decline in real wages and cutbacks to public services in industrialized countries lead to more women in the workforce forced to hire full-time caregivers for their children.³⁵ This creates “global care chains”. Affluent women hire women from abroad to care for their families. These domestic workers may leave their own children with family members or hire still less privileged women to care for them.

Theories that insist in relying on gender-neutral rights and distributive principles often overlook how women are disadvantaged *as women*. For example, migrant domestic workers are explicitly excluded from the labor acts of countries around the world, including in most of Asia and the Middle East where they are most common, and denied the same rights as other workers in other sectors.³⁶ Feminist analysis helps us see that this exclusion cannot be explained in terms of the different requirements of work in the home. Rather, it is supported by an ideology of feminized labor – work is socially stratified along gender lines and migration policy reinforces this hierarchy by only allowing women to work in gendered sectors. Though migration policy may appear to be gender-neutral, in practice it is gendered. Because of their gender, women are restricted to low-status, poorly remunerated spheres where success depends on conformity to gender stereotypes.

Again, theorists attempting to determine the implications of distributive justice for migration policy need to address how policies are gendered and how they interact with other sexist policies. Justice requires more than evaluating opportunities in aggregate. It also needs to ask how they are distributed to different groups. If women’s opportunities are for the most part limited to care

34 Rhacel Salazar Parrenas. 2008. *The Force of Domesticity*. New York University Press, p. 8

35 Rhacel Salazar Parrenas. 2008. *The Force of Domesticity*. New York University Press, p.53

36 International Labour Organization. 2010. *International Labour Conference, 99th Session, 2010, Report IV(1): Decent work for domestic workers*. Geneva, Switzerland: International Labour Organization.

work or to secondary migration status that leaves them dependent on their male partners, it seems that injustice has occurred.

Distributive justice: toward a new framework

In the introduction, I raised three questions: who or what is responsible for people moving abroad; how do global economic, political, and social institutions create and sustain migration flows; and how do classifications of groups of people in migration policies differentially affect people? Unlike neoclassical economic approaches, migration theories that draw from world systems theory, segmented labor market theory, and feminist analyses do not treat migrants as if they were merely responding to economic incentives – pull factors from rich economies, push factors from poorer regions. World systems theory, segmented labor market theory, and feminist scholarship on migration force us to grapple with how migration controls shape people's opportunity sets. More powerful countries and their corporations transform the lives of people in the developing world in sometimes morally problematic ways, contributing to migration flows and profiting from captive workforces. Developed countries segment the labor force, benefiting employers and providing goods to consumers at a lower price than would be possible if migrants could fully access labor rights or acquire permanent residence. Migration policy sustains economic inequalities between social classes and between women and men.

If the migration theories discussed above correctly depict some of the ways in which migration policy shapes opportunities, we need to reassess how theories of distributive justice should address migration. Empirical migration theory helps us to better understand the considerations that are relevant for morally evaluating allocations of goods and opportunities affected by migration policy. We cannot stop with the observation that opportunities are unequally spatially-distributed and that border controls prevent people from relocating to areas with more and better opportunities. Distributive justice concerns not only outcomes or opportunities. The assessment of outcomes requires that we know who or what caused them and how they came about.

This paper advocates a shift from focus on the question of *whether* people are admitted or excluded to a focus on *how* admission and exclusion shape social and economic opportunities. The coercive regulation of migration flows needs to be seen as a tool for social and economic reproduction: the prosperity of people's lives and of regions is partly due to the way that movement is permitted and restricted. Migration policies also contribute to the reproduction of structures of economic exploitation and gender dominance. These problems of exploitation and patriarchal domination cannot be solved by solutions that do not refer to migration because it is migration policy *itself* that (partly) causes these problems.

For example, the purpose of temporary labor migration programs is to secure a workforce that will work for lower wages than permanent residents in certain sectors. It is disingenuous to pretend that we can address the exploitation of migrants without interrogating the migration policies that make them exploitable. Theories of migration help us better understand the nature of these policies and their effects on migrants.

The purpose of this paper has been to show the relevance of the causes and nature of migration to its place in a theory of distributive justice. What I have not done is taken an explicit position on the permissibility of border controls. An adequate normative story will require considerable contextual knowledge and may differ depending on what borders do in different regions. It may be that once we thoroughly evaluate the nature and effects of border controls, we will have further reasons to advocate for more open borders. But we may also be able to modify how the movement of people across borders is administered so that policies and laws cease to promote unjust allocations of goods and opportunities.

A complete theory of distributive justice and migration will locate migration policy as a component in global and national economic, social and political institutions. It will investigate feedback loops between migration policy and the distribution of opportunities on a regional and global scale. It will ask if migrants are treated equally and if groups within the immigrant population suffer from discrimination or racism. It will be alert to the causes of migration and possible injustices that trigger migration flows. It will pay special attention to possible harms caused by policies and will scrutinize ways in which privileged populations benefit from migrants restricted to particular regions or to markets. Only then will we overcome the deadlock between open borders and more restrictive immigration policies and begin to formulate an adequate theory of the migration policies required by distributive justice.

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