

## *A Sufficentarian Proposal for Discharging Our Moral Duties Towards Emigrants\**

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*In this article I investigate the nature of the moral duties that citizens of a legitimate state have towards emigrants. A large part of the literature dedicated to the normative study of the migration phenomenon focuses on two major topics: the brain drain phenomenon and the legitimacy of restricting immigrations. If the first of these concerns the moral obligations that individuals have towards a state and their co-nationals, the second regards the policies that a state can justifiably adopt in order to manage migration flows. With the exception of temporary labor migration, less discussed in the literature are the moral duties that we have towards those citizens who chose to emigrate. My answer is that a state has neither more, nor less responsibilities towards its emigrants than it has towards the other citizens. However, the particular way that it can discharge those duties have to pay attention to each citizen's particular situation, so that public policies dealing specifically with the emigrants are required. If we embrace a sufficientarian position, we could see how public policies have to be forged in order to be morally justifiable. I compare in the article 2 potential ways in which a state could try to discharge its moral duties towards emigrants. The first consists in promoting policies that focus on reverse migration. The second is based on cooperating with host societies and ensuring that emigrants' rights and well-being are protected to the fullest degree. I argue that the second*

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*proposal is the one that can be morally defended, and is in line with moral defenses of reformed temporary labor migration programs which would take into account the rights and legitimate interests of migrants (Baubock and Ruhs: 2022).*

**Keywords:** Brain drain; migrants; reverse migration; sufficientarianism.

## 1. *Introduction*

The normative study of emigration has focused in the last couple of years on two major topics: the *brain drain* phenomenon (Blake and Brock 2015; Owen 2016; Ypi 2016; Pevnick 2016; Okeja 2017; Yuksek-dag 2018, 2019; Niimi, Ozden and Schiff 2010; Glytsos 2010; Beine, Docquier and Oden-Defoort 2011; Ferracioli and De Lora 2015; Kaplan and Hoppli 2017) and the legitimacy of imposing restrictions on immigration (among the defenders of such restrictions are Walzer 1983; Kymlicka 2001; Miller 2005; Pevnick 2009, 2011; Wellmann 2008, 2011; while among the proponents of relaxing them are Carens 1992; Kukathas 2005; and Cole 2011). Whereas the first subject concerns the duties that citizens have towards a state in which they had been educated and towards the citizens of that state, the second tries to shed light on what measures states can justifiably take when it comes to the admission of potential immigrants. What seems to be undertheorized, however, is the subject of the duties that we have towards our compatriots who chose to emigrate. What are those duties and how can we justify them? Furthermore, given that most our duties are usually discharged through institutions, what are the public policies that can be taken by the state towards emigrants? One important exception is the literature on temporary labor migration programs (Carens 2008; Lister 2014; Barry and Ferracioli 2018), which sometimes explicitly deals with what is owed to migrants by both the destination and the origin countries (Baubock and Ruhs 2022).

My position in this article is that there is nothing *sui generis* about the duties that we have towards emigrants. Nonetheless, we must take into account the fact that the particular way in which we discharge those duties might have to be sensitive to them living in another country. For instance, if we embrace a sufficientarian view, according to which social justice is realized when people have secured enough resources, capabilities, or welfare, one must account for the different strategies that can be employed in order to achieve this ideal for the residents of a state and for its citizens living abroad. Starting from such a sufficientarian position, I investigate two potential ways in which a state can fulfill its moral obligations towards emigrants. The first consists in creating some conditions that are good enough at a national

level so that any emigrant who so desires could return. This would be founded on a supposed right to stay (Oberman 2011). The second, which I favor, entails carefully drafted policies that ensure that the host country guarantees the emigrants' level of well-being. One way of achieving this is through joint programs involving the country of origin and the host country (Delano 2010). This approach could be called the dual responsibility model and will be further developed towards the end of the paper.

The proposal that I put forward is meant to satisfy a feasibility criterion, and as such it belongs to the realm of non-ideal political theory, in that it issues achievable and desirable recommendations (Stemplowska 2008: 324). Non-ideal theory is important because it helps us rank options in circumstances that are far from perfect: real-world individuals do not comply with the principles of justice, our resources are limited, it is difficult to judge whether or not the implemented measures will reach their purpose (Swift 2008). Thus, one of the assumptions that I make is that the global political order is unchangeable for the foreseeable future, and that states and borders are here to stay. Feasibility considerations are an important reason why I argue that we should opt for the second solution, in that a right to stay would be too onerous on many of the existing states. Furthermore, assuming that decision-makers are not fully compliant with what justice requires of them means that in real-world scenario such a right to stay would become associated with a deeply ethnical nationalist rhetoric. An advantage of the second proposal is that it fits our intuition that there is something fundamentally problematic in neglecting the responsibility that developed states have towards citizens of less developed states (Blake 2015: 223). Regarding state responsibilities, this is a formulation that I employ in order to avoid wordiness. My approach is individualistic, and it is individuals who are the ultimate bearers of moral duties. However, there are numerous empirical reasons which encourage us to use the institutional framework in order to discharge our duties (Nussbaum 2005: 213; Dumitru 2017: 142). According to North (1991), institutions reduce uncertainty and transactional costs, and thus oftentimes are moral duties will have to be discharged through the institutions of the state. Another important point (which is going to be developed further on in the article) is that the proposal is going to be focused on legitimate states, where legitimacy is understood in a minimal sense that hinges on a state respecting human rights.

In order to advance my proposal I proceed as follows. In the first section I present the asymmetry extant in the literature between emigrants' moral duties and their entitlements. In the second section I attempt to explain why this asymmetry exists. The third section tries to answer the question of what duties we might have towards emigrants, employing sufficientarianism as the distributive pattern which might offer an answer to this inquiry. It is in the fourth section that I analyze

two potential ways of discharging those duties, opting for what I labeled the dual-responsibility model. In this forth section I also present how my proposal relates to previous literature, especially the one on temporary labor migration programs.

## *2. The asymmetry between emigrants' moral duties and entitlements*

Much of the normative literature on emigrants focuses on the duties that they have towards their countries of origin, while their entitlements are largely a matter analyzed in reference solely to the country in which they immigrated. This is what I call the asymmetry. For instance, much has been written lately about brain drain, “the phenomenon by which the most skilled agents from one economy migrate to live and work in another, where their own personal prospects are enhanced” (Brassington 2012: 113). Brain drain is conceived as “a sort of moral tragedy” (Brock 2015: 272), in that it entails a value conflict between the freedom of the would-be emigrants to pursue a career and a life of their choice and the achievement of justice at the level of their national states, which are going to suffer economically if doctors or other vital workers leave their borders. Many consider that the moral dilemmas associated with this phenomenon stem from the fact that “there are no permissible paths to directly and fully address the brain drain in our current inegalitarian world” (Hobden 2017: 33).

There are several ways in which the brain drain phenomenon challenges our morality. On the one hand, “skilled workers should have the right to exit countries in which they no longer wish to live;” on the other, “there are normative questions about citizens’ responsibilities, fair terms of exit, and whether migration should be managed to ensure the burden of migration does not fall disproportionately on the world’s worst off” (Brock 2015: 12). The brain drain is considered a problem because it leads to a loss of human capital that in some situations could be extremely detrimental to the development of a country. In order to limit the impact of potential emigration, solutions such as mandatory national employment periods or taxing imposed upon exit have been proposed (Brock 2015: 49–51).

However, there are those, like Blake, who consider that there is a human right to exit, and that “any attempt by a state to forcibly prevent people from leaving that state—to coercively insist upon allegiance and obligation, against the wishes of the would-be emigrant—is fundamentally unjust, and [represents] a violation of the most basic norms of human rights” (2015: 111). Others, like Brock, consider that under special circumstances limiting the right to exit is justifiable. Such conditions include aspects such as thwarting the governments’ attempts to discharge their duties by leaving, and having “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” (Brock 2015: 251). Thus, she considers that “programs aimed at combatting the burdens associated with brain drain, such as compulsory service or taxation arrangements, are a helpful set of remedies that can aid the transition to a more just state of affairs” (Brock 2015: 272).

However, no matter how important the emigration of skilled workers is, these are not the only citizens of a country who might choose to emigrate. Low skilled workers are also emigrating in large numbers. Brassington argued that a potential explanation of why brain drain is morally problematic in the context of a migratory route from South to North is that, “by employing Southern experts, North is effectively taking life-sustaining resources from South, thereby wrongfully depriving the Southern population of the means necessary to lead a minimally tolerable life” (2012: 116). However, he also states that this argument is vulnerable to a Kantian objection, in that “it seems to require that the Southern government adopts quite a questionable attitude to its stock of experts, along the lines that they are merely a resource that can be put to better or worse use” (Brassington 2012: 117). Focusing only on containing the emigration of skilled workers and ignoring the emigration of low-skilled workers could reflect a tendency to treat them not by taking into account their rights and entitlements, but rather the ones of the whole society. Here one could advance an objection similar to the one addressed by Rawls to classical utilitarianism, that it “fails to take seriously the distinction between persons” (1971: 163). Blake makes this argument in his defense of the right of skilled workers to exit, mentioning that “the idea is that justification of a sort of coercive policy would have to be made to the person, considered as an individual” (2015: 203–4).

In reply, someone who wants to limit the brain drain phenomenon could make the counterpoint that skilled emigrants who leave their country have not fulfilled yet their duties towards their conationals, and that rather than framing the discussion in terms of the benefits that they bring to source societies, we could rephrase it as involving their duties to host societies. This counterargument only works in non-ideal circumstances and if we assume that the only way potential high-skilled emigrants could discharge their duties would be to remain and work in their source societies. Brock (2015: 88), for instance, considers that actually being in the country of origin is sometimes necessary, giving the example of “a severe shortage of skilled personnel who can assist with particular needs such as administering vaccines or dispensing appropriate drugs.” Oberman also develops an argument that includes the following conditions for justifying emigration restrictions on brain drain grounds: 1) a skilled worker owes assistance to her poor compatriots and 2) a skilled worker’s duty to assist is enforceable if she stays in her country of origin (2013: 452). However, although Brock takes into account

the unskilled citizens, she does not consider their presence necessary in order that they discharge their duties: “unskilled workers who leave might assist best by working in foreign countries and having a portion of their wages taxed, thereby providing an important revenue stream for source country governments” (Brock 2015: 93). It is unclear why taxing the income earned abroad by high skilled workers, a venue which might generate a greater revenue stream, is not sufficient to reach the conclusion that that they discharged their duties to the citizens remaining in their country of origin. Leaving this aside, although Brock does have something to say about the situation of low-skilled or unskilled citizens who emigrate, she only refers to their obligations. What are these citizens entitled to? Of course, the same question could be asked of the high-skilled citizens, who might end up being discriminated in the host society, being treated disrespectfully or having lower wages than their peers born there. It is more probable, however, that the situation of the unskilled citizens who emigrate would require attention.

There’s an important literature that has recently regained ground which takes into account the situation of unskilled or low-skilled emigrants. Baubock and Ruhs, for instance, argue that “temporary migrants” should be “included as local citizens in destination countries and as national citizens in their countries of origin,” as “they are still citizenship stakeholders,” and both countries “have duties to help them realise their life projects and to involve them in shaping the future of these societies” (2022: 531–2). Furthermore, given that they remain citizens of their countries of origin, it is those that have “special duties to assist them in realizing their life plans through facilitating remittances, return migration and reintegration after return” (2022: 543). Baubock and Ruhs’ approach, however, seems to differ from the way other authors discuss temporary labor migration programs, which see persons taking part in such programs *qua* immigrants rather than as emigrants. The difference is a subtle one, but it stems from the fact that most discussions center around the fact that, initially, “worries about temporary labor migration [...] stem from an image of the programs that existed in Germany. Foreign workers, most famously from Turkey, worked for extended periods, eventually bringing in family members, but were never allowed access to full societal membership” (Lister 2014: 97). As such, the main focus is on whether or not it is justifiable for temporary migrants not to have a clear path to citizenship (Lister 2014) or on what conditions have to be fulfilled on the labor market in order to avoid the potential exploitation of temporary migrants (Carens 2008; Barry and Ferracioli 2018).<sup>1</sup>

Thus, even with this important exception, there seems to be a noticeable asymmetry between the postulated duties of emigrants and their entitlements *qua* emigrants and members of countries of origin.

<sup>1</sup> I thank an anonymous reviewer for asking that I take into account the literature on temporary labor migration programs.

Too much attention is paid to what they have to do for their countries of origin, and too little to what their countries of origin ought to do in order to help them. In the following section I explore potential reasons for this asymmetry, and I argue that someone who considers brain drain morally problematic should also consider the rights and entitlements of emigrants as morally pressing.

### 3. *Making sense of the asymmetry*

How can we account for the asymmetry? There are two plausible explanations why there is so much emphasis placed upon the duties of the skilled migrants and so little on the entitlements of emigrants, be they skilled or unskilled. In this section I intend to show why these explanations are not convincing, and ultimately the asymmetry is not morally justifiable.

The first—and more unconvincing one—is that taking care of the migrants falls under the jurisdiction of the country of destination. With few exceptions (Baubock and Ruhs 2022; Lenard 2022), this also seems to be the norm when it comes to moral discussions of temporary labor migration programs. Nonetheless, even in developed and democratic countries there are serious shortcomings regarding the integration of the migrants. In October 2020, *The Guardian* published an expose in which it was shown that migrants in England had been denied treatment by the NHS for an average of 37 weeks, a consequence of the fact that “the NHS deems them not ordinarily resident in the UK.”<sup>2</sup> In the context of the global COVID-19 pandemic, the situation of many migrants has been worsened. The most affected have been the refugees and asylum seekers: “depending on the informal economy, they were among the first to suffer the economic impacts of lockdown, losing their jobs and being evicted from their homes.”<sup>3</sup> However, the well-being of regular immigrants has also been negatively impacted: “due to a range of vulnerabilities such as a higher incidence of poverty, overcrowded housing conditions, and high concentration in jobs where physical distancing is difficult, immigrants are at a much higher risk of COVID-19 than the native born. Studies in a number of OECD countries found an infection risk that is at least twice as high as that of the native-born.”<sup>4</sup>

<sup>2</sup> The Guardian, “Migrants in England denied NHS care for average of 37 weeks, research finds,” 14 October 2020, <https://www.theguardian.com/society/2020/oct/14/migrants-denied-nhs-care-for-average-of-37-weeks-research-finds>, last accessed on 20 October 2020.

<sup>3</sup> UNHCR—United Nations Refugee Agency, COVID-19 crisis underlines need for refugee solidarity and inclusion, 7 October 2020, <https://www.unhcr.org/news/latest/2020/10/5f7dfbc24/covid-19-crisis-underlines-need-refugee-solidarity-inclusion.html>, last accessed on 20 October 2020.

<sup>4</sup> OECD, What is the impact of the COVID-19 pandemic on immigrants and their children? 19 October 2020, <http://www.oecd.org/coronavirus/policy-responses/what-is-the-impact-of-the-covid-19-pandemic-on-immigrants-and-their-children-e7cbb7de/>, last accessed on 20 October 2020.

Thus, the challenges faced by immigrants in host societies are sometimes highly specific and often more pressing than the problems faced by the citizens of those countries. Governments focus first and foremost on their citizens, and only then extend aid to immigrants, many of whom are only residents in the countries of destination. One could make the case that the governments ought to treat everyone in the society the same. But it is highly probable that most of the real-world states would try to shirk from their responsibilities concerning a new category of beneficiaries of distributive and welfare policies and would add more immigration restrictions, should their duties to immigrants become more onerous. Thus, assuming that host governments are the main or only duty-bearers in the case of the immigrants' rights will probably not lead to the intended result of improving the well-being of migrants. This would be especially true for more vulnerable categories of migrants—such as temporary migrants.

Of course, there are important exceptions here. On the one hand, we have refugees and asylum seekers, as their countries of destination are ones that fall short of any definition of legitimacy. For them, we'd have to rely on the international protection system, as well as the country in which they receive asylum or other forms of protection. The other exception would be of those individuals who permanently relocate to another country. In their case, it seems that asking the country of origin to continue to discharge its duties towards such individuals would be supererogatory in the case of developed countries and too burdensome in the case of developing or underdeveloped countries. In their case indeed, the intuition that the host society government is first and foremost responsible for their well-being might turn out to be correct to a certain degree.

A second explanation for the asymmetry is the assumption that there is no such thing as an (unqualified) right to leave. Pevnick, for instance, holds that a right to exit one's country can only be defended instrumentally. In his view, "neither rights of emigration nor rights of immigration are basic moral rights, but are instead of instrumental value, because they have the ability to sometimes protect interests that do rise to the level of moral rights" (2011: 98–99). Stilz starts from the Universal Declaration of Human Rights, which stipulates such a right to exit. However, she argues that this does not imply that the right to leave should be unqualified: "a legitimate state would be within its rights to tax and regulate those who seek residence or citizenship elsewhere [although] such a state should still permit its citizens to travel and relocate to other countries, though it may enforce their citizenship obligations at the point of exit or during their stay abroad" (2011: 60). Not only that, but she considers that all legitimate states can require individuals to work for a time in their country of origin, or apply taxes on the income that they earn abroad, if these taxes are deemed "essential to sustaining a just distributive scheme for their compatriots" and



are not forcing the emigrant to pursue “an obligation he loathes” (Stilz 2011: 74). On the other hand, Blake considers that a right to leave is based not only on the international legal practice, but also on the fact that, “while we certainly have duties of justice to other members of our society while we are residents within that society, we cannot be thought to have any obligation of justice to continue to be part of that society,” in other words, “what we owe, morally speaking, might be distinct from what we can be morally forced to provide” (2015: 120).

The purpose of this article is not to settle whether leaving one’s country should really be classified as a right or not. The discussions surrounding the right to leave, however, serve an important aim: they show that what interests many of the authors who endorse limiting the emigration of skilled citizens in order to mitigate the effects of the brain drain phenomenon is that those skilled workers discharge their duties towards their compatriots. Sometimes, the freedom of emigrating from a country can be defended in order to ensure that the potential emigrants discharge said duties. But then it seems difficult to understand why low skilled citizens should have an unqualified right to leave, especially when the benefits of emigration (such as remittances) are only amplified when the income of the emigrant is higher (and the more skilled she is, the more probable it is that she will have a higher income). Brock does mention that “actually being here is indispensable,” like in the example of having skilled personnel conducting a surgery or undertaking other medical acts (2015: 89). Does this argument really hold, however? Would it not be the same if a country could afford to pay a foreign doctor to operate on a patient? If the matter of a lack of resources is brought into consideration, why not require that developed states help more? Perhaps a solution to the negative consequences reached because of the brain drain consists in relying more on international fora and on developed states discharging their own duties than on qualifying the right to exit. Certainly this would seem to be a better option than asking developed states to tighten their immigration policies so that they refuse doctors from underdeveloped countries (a measure endorsed by Ferracioli and De Lora 2015).

Once again, the purpose of this article is neither to elucidate the status of leaving one’s country as a moral right or as a weaker claim, nor to decide how to tackle the brain drain phenomenon. The discussions extant in the literature do have to be mentioned, nonetheless, in order to highlight the asymmetry between focusing so much on what is required of some individuals who intend to emigrate and so little on what is due to some individuals who intend to emigrate. If citizens who temporarily emigrate are tied with obligations of justice with the country of origin, then they should also have some entitlements with correlative obligations of their compatriots who chose to remain in a country. How are we to interpret our duties to emigrants? What could be the basis for such duties, besides an attempt to mitigate the asym-

metry? And what exactly are our duties to emigrants? In the remainder of this article I try to offer some provisional answers to these questions. “Emigrants” will be considered all individuals who leave their country of origin for a prolonged period of time, whether they have the intent of returning home or not. For my purposes in this article, “emigrants” can be considered an umbrella-term which can also include temporary migrants. It excludes individuals naturalized in the country of destination. The completion of the naturalization process thus marks a transfer of responsibilities to the country of destination.<sup>5</sup>

#### 4. *Emigrants, duties of justice, and the sufficiency view*

Do we have special obligations to our compatriots (Mason 1997)? Some, like Richard Dagger, consider that we do. Since compatriots take part in “a cooperative enterprise for mutual advantage,” they are obligated to their fair share (Dagger 1985). Others, like Goodin, consider that sometimes we are permitted to treat our countrymen with partiality, whereas at other times those who should benefit from our actions are foreigners. This is because we should not consider “special duties” to be “magnifiers and multipliers;” instead, we should regard such special duties as “merely distributed general duties; merely devices whereby the moral community’s general duties get assigned to particular agents,” following a model that he deems “the assigned responsibility model.” Thus, the so-called duties that stem from sharing citizenship are not intrinsically special, but are general duties discharged for administrative ease in the form of special responsibility. Goodin reaches the conclusion that in an ideal world, where each state would have all it needs to discharge its duties, there would be no requirement of redistribution across borders: each state would just know better how to discharge its general duty through special concern for the ones that happen to live on their territory. Since we are living in a non-ideal world, says Goodin, states cannot claim that they are fulfilling their general duty when they give priority to their citizens (1988: 678–686). Finally, we have cosmopolitan views which state that each human being has equal moral worth and that we have certain responsibilities towards all human beings *qua* human beings (Beitz 2005). However, Beitz’ own theory of global justice states that we are “concerned with the moral relations of members of a universal community,” but in which “state boundaries have a mere derivative significance” (Beitz 1999).

The answers to the above question thus range from a loud and clear “yes” to a qualified “no.” Irrespective of what the answer is, however, we do have some duties to our compatriots—whether these are in virtue of them being our compatriots or in virtue of them being human beings. Alternatively, we could have “localized duties,” which are part

<sup>5</sup> I thank an anonymous reviewer for inviting me to better define what categories of emigrants I focus on.

of the more fundamental duty to eradicate poverty, which is nonlocal. This is what Estlund calls the “think globally, act locally model” (2008: 148–150). For the purposes of this discussion, I will hold that we have some obligations of justice to people which are grounded in some features of the individuals themselves. This represents a conception of subject-centered justice (Buchanan 1990). Such a conception is compatible with accepting that under non-ideal circumstances sometimes it is easier to discharge your duties to other members of the same political community, mediated by a well-established institutional framework. As such, although we have duties of justice to all the individuals on this planet, it might be easier to fulfill our duties to our compatriots. How about the emigrants? Would such a model be compatible with stating that we have duties to emigrants, or would they fall under the jurisdiction of the country of destination? In the previous section I stated some reasons why it is difficult to believe under the same non-ideal circumstances that relying on the countries of origin only represents a viable strategy. If we want to maximize the probability that the rights of emigrants are respected, then we ought to consider that countries of origin serve an important function in protecting the emigrants’ entitlements.

A subject-centered conception of justice which could account for our obligations to emigrants is sufficientarianism. Different versions of the sufficiency view have been endorsed as global principles of distribution (Miller 2007; Laborde 2010; Kuo 2014), or defended as a solution for selecting refugees (Gerver 2020). What is lacking from the sufficientarian literature, however, is a clarification of what happens to the persons who emigrate from a community. Who is responsible for their well-being? The arguments above emphasized the role played by the country of origin, but it remains to be seen whether other relevant agents have correlative duties, and what these duties actually are. Thus, in a sense, it could be said that the present paper also contributes to the refinement of sufficientarianism as a distributive pattern.

Sufficientarianism holds that social justice is accomplished when each individual has a certain amounts of a preferred currency of justice—be these resources, capabilities, rights or welfare. Sufficientarians hold that the real distributive problem is not that there are inequalities among individuals, but rather that some individuals are in a state of absolute deficiency and cannot lead a decent life (Frankfurt 1987; Crisp 2003). Thus, sufficientarianism is a non-comparative view of justice, holding that we should judge each case separately, and that we can assess an individuals’ well-being without relying on interpersonal comparisons with other individuals’ well-being levels. Furthermore, a sufficientarian conception considers that, above a certain threshold, our moral concern for other individuals should either dwindle (Shields 2012, 2016) or disappear completely (Casal 2007). In the former case, above the threshold we can apply other principles of justice, but first and foremost we have to ensure that all individuals reach the thresh-

old. Such sufficientarians adopt what Fourie (2017) calls a weak positioning claim, which simply states that we are agnostic regarding the distributive principles that should apply above the superior threshold. In the latter, it is considered that if an individual has enough resources/capabilities/welfare/rights, what happens to her above that threshold of interest ceases to be a question of social justice and thus she should not be the focus of distributive policies anymore. Such sufficientarians embrace a strong positioning claim (Fourie 2017). Irrespective of their stance concerning what happens above the threshold, all sufficientarians accept what Casal (2007) calls the “positive thesis” and Benbaji (2005) labels “the basic intuition,” which states that it is bad in itself if someone is badly off and that such persons should be helped with priority. The argument of this paper is unaffected by additional details, so this brief sketch should suffice.

What duties do we have towards the emigrants? My position is that there are no special obligations that we have towards emigrants—they are due the same things as the rest of the citizens. However, the way that we discharge our duties towards them has to be sensitive to their particular situation, i.e. the fact that they reside in another country. Thus, each state will need a specific set of public policies that concern its diaspora. These public policies do not concern any kind of special entitlements that the emigrants might have, but are the consequence of us paying attention to their special circumstances (the most important of which being, as mentioned, the fact that they do not live within the borders of that country anymore). I shall only refer to legitimate state, where legitimacy should be interpreted in a minimal way. Following Buchanan, “an entity has political legitimacy if and only if it is morally justified in wielding political power” (2002: 689). Legitimate here should be understood in such a way as to exclude states that persecute their own citizens, or allow armed groups to persecute its citizens, or are unable to fulfill even the basic needs of their citizens. For example, even if brain drain occurs in such states, the fact that they do not satisfy minimal legitimacy criteria excludes them from consideration, as they’re unable or unwilling to fulfill their duties to most of their citizens (be they remaining in the country or emigrating). This corresponds to the view put forward by Brock, who places at the heart of legitimacy the ability of states to respect their own citizens’ human rights (2020: 38). For her, full legitimacy (in contrast to “interim legitimacy”) requires the simultaneous satisfaction of additional criteria, such as “participation in the cooperative project needed to create or sustain a justified state system” (2020: 56).<sup>6</sup> Bringing legitimacy into

<sup>6</sup> The legitimacy of the state system is too large a topic to be tackled in this article. However, I believe that it is in the spirit of Brock’s argument to hold that full legitimacy would also encourage states to become involved in bilateral projects which aim at improving the prospects of emigrants, and it is for this reason that I brought into discussion the difference between interim and full legitimacy. I thank an anonymous reviewer for raising this point.

discussion also serves an important purpose, as it entails that a state that intends to be perceived as legitimate has to do whatever it can reasonably do in order to safeguard the rights of its citizens, whether they are living within their territory or have chosen to temporarily live abroad. An account of legitimacy inspired by Brock's approach can thus explain why the duties of the sending countries do not wither away once someone emigrates to another country, up until the point where those citizens acquire a different citizenship. An important question that remains at the moment unanswered is whether Brock's account of legitimacy and the dual responsibility model that I endorse below would promote dual-nationality universalization, as a practice meant to better protect the rights of individuals. Although a definitive answer to this inquiry will not be offered in this article, I'm inclining towards a provisional "yes," as dual-nationality would multiply the number of agents of protection that could extend aid to individuals in need.

## 5. *How should we discharge our duties to emigrants?*

There are two potential ways in which states could fulfill their moral obligations towards emigrants. The first consists in establishing good enough conditions at the national level so that an emigrant who so desires could return. This could be founded, for instance, on a supposed right to stay (Oberman 2011). It can involve obligations of developed states to send financial aid to developing countries. The second is based on policies that involve a cooperation between the host country and the country of origin. One way of achieving this is through joint programs involving both countries (Delano 2010). The purpose of such joint programs would be to ensure that emigrants have good enough conditions in the host society, where good enough should be interpreted in a sufficientarian way. In what follows I want to dismiss the first model and defend the second.

### 5.1 *The encouragement of reverse migration model*

Oberman (2011) sets out to criticize what he calls the choice view, which states that rich states "can either admit poor foreigners as immigrants or they can provide alternative means of assistance, such as development aid, to poor people in their home states" (2011: 253). The reason for doing so is that "to pursue an immigration-based solution to poverty when alternative means of assistance can be implemented without severe cost is to perform an injustice, for it violates the human right people have to stay in their own state" (2011: 253). The strength of his argument is dependent on the extent to which such a right can be justified. Oberman mentions that such a right intends to protect individuals from three distinct sorts of threats: against expulsion, against persecution and against desperate poverty (2011: 257). He seems to follow an interest theory of rights, as he mentions an "interest that people have

in freely being able to make personal decisions without restrictions on their range of options" (2011: 258). Oberman provides three potential justifications for a right to stay: the freedom justification, the cultural membership justification, the territorial attachment (2011: 258). Since individuals have "important personal, cultural and territorial ties that connect them to their home state, they should not be expected to migrate to a foreign state if they are willing to enjoy a level of well-being to which they are entitled" (2011: 265). In order to help individuals realize this interest, rich states ought to assist individuals from poorer countries "in their home state rather than having to migrate abroad" (2011: 264). Furthermore, the stipulation of such a right could even entail the natural duty to establish just institutions, such as a global institution which would "assign which states have responsibility for assisting which poor people rather than [letting those states] try to fulfil their duties in an uncoordinated fashion" (2011: 262). Presumably, the necessity of such an institution would derive from the possibility that some poor societies will not be helped due to collective action problems.

The encouragement of reverse migration model starts from such a right to stay and states that the duties towards emigrants are best fulfilled by creating favorable conditions for their return, so that they would be able to reach a sufficiency threshold at home. A potential question that might arise concerns whether a postulated right to stay is not one applicable mostly to individuals who are living in a given country—that is, not to individuals who have already emigrated.<sup>7</sup> I believe that Oberman's position could be interpreted as being applicable to both categories of individuals. In his words, "a person has a particularly strong interest in being with her family, pursuing her career, practicing her religion, and taking an active part in her community. So more can be expected of governments to enable people to honor their attachments than to enable people to pursue possibilities." Furthermore, this interest that people have in maintaining attachments is one that grounds the already mentioned right to stay in one's own state: "for most people, the options that represent their most important attachments are situated within their own state. Thus, for most people, the human right to stay is a particularly important right, more important than the human right to immigrate" (2015: 246). In the scenario in which a person has already emigrated—and thus probably formed attachments in the host society as well—the right to stay might still be used to promote reverse migration if not sufficient time has passed for those attachments to be meaningful ones.

What is problematic with this model? I believe that it is vulnerable to both feasibility and desirability objections. Regarding the feasibility issues, it seems rather complicated to replicate those favorable conditions in the home country. Brock, for instance, believes that "there is more that developing countries can do to make practicing medicine at

<sup>7</sup> I extend my gratitude to an anonymous reviewer for raising this question.

home more attractive [...] Often, this is more of a resourcing issues than a lack of will on the part of governments” (2015: 277). In fact, the governments who could create better conditions for their citizens but refuse to do so would not fulfill the criterion of legitimacy mentioned above. Furthermore, given that migrants often choose a *much* richer country as their destination, the costs entailed by such an approach could be tremendous. Furthermore, even if we assumed that all countries were to benefit from a manna from heaven type scenario, there are other consideration that prevent us from endorsing this model. Safran (1991) mentions that not all host countries are willing to take their diasporas back, “as they might unsettle its political, social or economic equilibrium” (1991: 94). Tsuda (2010) mentions for instance that a couple of countries have encouraged ethnic return migration policies which “encourage a country’s diasporic descendants born abroad to return home;” nonetheless, such states have mostly embraced “an ethnic conception of the nation state and therefore face stronger ethno-nationalist pressures compared to civic nation states” (2010: 619). Such states also have in place “restrictive and exclusionary immigration policies” (Tsuda: 2010: 621, quoting observations made by Brubaker 1992; Castles and Miller 2003). If we consider that a civic conception of the nation-state is the only one compatible with cosmopolitan principles, then we have additional reasons to reject policies that only serve at encouraging ethno-nationalistic tendencies. As Tsuda mentions, “although some type of ethnic protection rationale can be invoked, the underlying justification is based on a sense of state responsibility/obligation toward their diasporic descendants abroad” (2010: 623). Joppke (2005) reaches a similar conclusion, stating that sometimes ethnic preference in immigration selection procedures is based on protection against foreign persecution. To the extent that is true, however, it is difficult to pinpoint exactly why those emigrants have to return to the home state. Furthermore, even if they were not aiming to return for the foreseeable future, this does not mean that their rights should not be protected (until such a moment where the host society would bear increasingly more of the correlative duties that it has to such individuals, which can be identified as the moment when they are naturalized/obtain citizenship in the country of destination). Under these circumstances, perhaps our duties to the emigrants can better be discharged if we resort to a model that does not insist that they have to return to the country of origin. I defend such a model in the next sub-section.

## 5.2 *The dual responsibility model*

What I hold to be more promising than the encouragement of reverse migration model is discharging our duties as part of a shared project in which, to varying degrees, both the host country and the country of origin play an important part. This represents the essence of what I call the dual responsibility model. Kapur and McHale mention that

“an emigrant diaspora can be a source of trade, investments, remittances, taxes, knowledge, and, eventually, capital-enhanced returnees. A policy approach is to look for ways to strengthen positive connections so that those remaining behind are less adversely affected by the absence of talented compatriots,” which could be accomplished by “compensating the poorest countries for losses they bear, and efforts to ensure that emigrants remain as connected as possible—financially and otherwise—to their former homes” (2006: 319). Delano argues that “programs promoting education are based on the idea that the improvement of the lives of the Mexican-origin population in the US should be addresses through collaboration between both countries” (2010: 253). Leblang notices how “home countries have deployed a number of strategies to engage their diasporas and entice them to remit their human physical capital. These range from the creation of government agencies focusing on their citizens abroad to the establishment of hometown associations, which engage expatriates in their new communities” (2016: 76). One of these strategies also involves the adoption of dual citizenship (2016: 80).

The dual responsibility model is based on acknowledging that both countries have a role in ensuring that the emigrant reaches a certain sufficiency threshold. The appropriate way of discharging our duties to emigrants is by carefully drafting policies that ensure that the host country guarantees the emigrants’ level of well-being. This could be achieved by joint programs that involve both countries (Delano 2010). Espindola and Jacobo-Suarez (2018) endorse a similar model, in the specific context of the normative obligations to children of immigrants. They mention that “when any two countries are immersed in [circular] migratory flows, they have a shared duty of justice toward the children of returned migrants” (2018: 55). More specifically, they mention that children of immigrant families should “have the skills and knowledge to adapt to their parents’ homeland, should they be expelled from the host society or leave voluntarily” (2018: 66). Additionally, they state that this “is a responsibility of all societies involved in a specific migratory flow,” which entails “bilingual and bicultural curricula and pedagogy, as well as a system of equivalencies and certifications that allow children of immigrants to transition between both education systems” (2018: 67). The dual responsibility model that I endorse generalizes this consideration: both the host and the origin country owe duties of justice to emigrants. One of the specific ways in which our duties of justice could be discharged is, of course, through educational policies, which might take the form advocated by Espindola and Jacobo-Suarez. However, our duties are not confined to the children of migrants, but to all migrants.

The dual responsibility model has more going on for it. It is in line with Ypi’s observation that “the burdens between migrants, citizens of host states and citizens of source states should be distributed fairly”



and that “it is wrong to prioritize past-oriented relations between migrants and their source states at the expense of present ones between migrants and their host states” (2016: 43). It is also in line with the consensus reached by Blake and Broke regarding the fact that “both developing and developed states might work to make the world within which employment decisions are made a less thoroughly unjust one” (Blake 2015: 294). It corresponds to the requirements for legitimacy mentioned by Brock, who argues that “states have obligations to cooperate in a host of trans-border activities, programs, agreements, institutions that aim to secure arrangements capable of effective human rights protection” (2020: 193).

It also takes into account the fact that the developed states have often become developed due to their colonial past or to other historical injustices that they had committed, sometimes against countries that nowadays are struggling financially. It does not let such states off the hook, or simply expects them to pay more to international organizations, but asks them to carefully be involved in remedying past wrongs by accommodating the needs of emigrants from countries which suffered in the past or are still suffering the effects of an unjust institutional framework. Finally, it fits the commitments of cosmopolitans regarding international migration that “each individual person’s well-being is of moral concern regardless of where he lives” and that “the place where a person can be best off is not necessarily the place where he was born and has lived” (Kapur and McHale 2006: 305).

Another advantage of the dual responsibility model is that it can distinguish between different categories of emigrants. For instance, high skilled workers do not have to be supported financially—one must rather ensure that their rights are protected, that they can be involved in the host community’s life (even if they are not eligible to vote there or to hold an office), that they are not discriminated on the labor market, at the work place or in society in general. On the other hand, low skilled workers should benefit from redistributive policies, besides being guaranteed what has been mentioned above for high skilled workers. The dual-responsibility model can also provide additional normative justifications for several of the recommendations that have been made in the literature on temporary labor migration programs. For instance, Barry and Ferracioli mention that “a[nother] key threat to migrant workers is that employers may take unfair advantage of their vulnerability. They may misrepresent or make fraudulent claims regarding the nature of the work and the benefits the migrants will receive,” amounting to “practices [...] not consistent with treating temporary migrants as having equal moral status” (2018: S162). In order to reduce the potential impact of such practices, Barry and Ferracioli hold that “problems of this sort can and must be addressed through intelligent institutional design,” giving the examples of Canada, which “enforces work agreements in the native language of temporary workers” and of Mauritius,

which “has a special migrant workers’ unit, which has both the mandate and resources to investigate abuse against temporary workers [by] making use of translators, hotline for complaints, workplace inspections” (2018: S162). Similar practices could be employed by several other states, and sending countries would have the duty to encourage their adoption. At first glance, this might seem as a way of discharging their duties in a rather indirect way. However, it could also be understood as a way of discharging what Gilabert and Lawford-Smith call “dynamic duties,” i.e. “duties that do not focus merely on what can be done in given circumstances, but also on how to change circumstances so that new things can be done” (2012: 812). The concept of dynamic duties can help us understand why the dual-responsibility model is not as limited by feasibility considerations as it might seem. A poorer state, for instance, holds less negotiating power in comparison to the richer and better positioned states to which its citizens might emigrate. However, the dynamic duties notion urges that the sending state engage in diplomatic procedures—not only bilateral, but also multilateral—to the best extent it can. This might entail drawing attention to the international community of potential human rights violations occurring against its citizens, contesting the legitimacy of certain policies and practices that affect its citizens, and so on. All of these help bring about better circumstances for the future safeguarding of its citizens’ rights, and a state is not exempt from attempting to do those things just by feasibility considerations.<sup>8</sup> The concept of dynamic duties thus serves as an important guarantee that considerations of justice are not set aside for the sake of feasibility, as the sending states have a no less important duty of expanding the frontiers of what is feasible.

The dual-responsibility model does not ask that sending states directly provide a range of membership-specific rights (Carens 2013)<sup>9</sup>. Instead, it is compatible and endorses several proposals that have already been made in the literature regarding temporary labor migration programs, for instance, be they ways of ensuring that the period of time that temporary workers is taken into account for their pensions (Carens 2008: 247), guaranteeing freedom of movement (Lister 2014: 114), or even precluding the possibility that they pay rates for temporary workers fall under the threshold of protecting their basic rights (Barry and Ferracioli 2018: S162). A comprehensive list of such measures is outside the scope of this article, and it would be impossible to offer a one-fits-all checklist. The dual-responsibility model refers first and foremost to the idea that Baubock and Ruhs summarize as conceiving temporary migrants as citizenship stakeholders, who “must be included as local citizens in destination countries and as national citizens in

<sup>8</sup> I thank an anonymous reviewer for addressing the question of whether feasibility considerations might not be used by sending states to avoid discharging their duties towards their emigrants.

<sup>9</sup> I thank an anonymous reviewer for bringing membership-specific rights up and inquiring how the model relates to them.

their countries of origin,” as both countries “have duties to help them realize their life projects and to involve them in shaping the future of these societies” (2022: 531—2). This principle not only applies to temporary migrants, but also to other categories of emigrants, as defined above (and provides further grounds for embracing a universalization of dual-citizenship). After all, it is not only temporary migrants who face the challenge mentioned by Baubock and Ruhs of “find[ing] that their absentee status diminishes their political clout or that home country governments use them only instrumentally for their own economic or political purposes” (2020: 541). A sufficientarian conception of justice would help individuals realize their life plans no matter where they are situated, and—depending on what currency of justice we employ—would also have something to say about the political standing of emigrants. For instance, Nussbaum’s capabilities list includes control over one’s environment, which entails “being able to participate effectively in political choices that govern one’s life; having the right of political participation, protections of free speech and association” (1997: 288). The dual-responsibility model cannot offer a definitive answer to the question of whether this capability would imply that emigrants have voting rights in the countries of destination, but it would probably push for sending states to advocate the political inclusion of emigrants at least at a local level. Once again, this correspond to Baubock and Ruhs’ position that it is important to “take sufficient account of the interests and fair representation of migrants” (2020: 546), which also implies bestowing upon them various forms of local citizenship, which “provides them with additional protection—symbolically through a status of temporary membership and practically through the attention that candidates have to pay to their interests of potential voters” (2020: 543). The dual-responsibility model embraces the idea that the passage of time has normative implications, contributing towards long-term emigrants having “located life plans” in their countries of destination (Stilz 2013). Thus, it would urge sending states that they push for the inclusion in what form of another of their emigrants in the sending state’s demos the more time has passed since they have lived there.

Such a model is also not incompatible with taxing the high skilled workers as proponents of limiting the right to exit hold; it only holds that their entitlements are not ignored, and that their country of origin discharges its duties towards them. Furthermore, such a model could even lead to redistributions from high-skilled emigrants to low-skilled emigrants, up to a certain threshold of sufficiency.

Thus, unlike the return of reverse migration model, the dual responsibility model better fulfills the desirability and feasibility criteria. It is desirable for several reasons, two important ones that also distinguish it from the other model being that it takes into account the historical injustices caused by the countries which today represent main destinations for emigrants and that it embraces the aforementioned

tioned cosmopolitan position that “the place where a person can be best off is not necessarily the place where he was born and has lived” (Kapoor and McHale 2006: 305). It is also feasible because it is based on already-existing examples of cooperation between host and destination countries which have functioned well. The dual responsibility model provides a normative justification for universalizing such practices. It is also bound to be acceptable by large parts of the destination countries’ citizens as it highlights the fact that the sending country also has a role to play in helping its emigrants reach a threshold of sufficiency (thus making it more publicly acceptable than a potential third model which would hold that a state is responsible for all the residents on its territory). The sufficientarian pattern itself has an important function in ensuring the feasibility of this model, as it is less demanding than alternative conceptions (such as an egalitarian one). The dual responsibility model thus also fills a previously existing gap within sufficientarianism regarding what happens to citizens who emigrate to another society. Finally, the model that I endorsed aims to reduce the asymmetry between the postulated duties of emigrants and their entitlements *qua* emigrants by emphasizing what emigrants are owed—to reach a sufficient level of well-being, with both the sending and the destination countries playing a part in helping them reach the threshold.

## 6. Conclusions

In this article I endorsed a particular conception of the duties that we have towards emigrants, the dual responsibility model. This holds that the best way to ensure that the emigrants have a sufficient level of well-being (measured in whatever we agree to be the most appropriate currency of justice) is by establishing programs together with the country of destination that are aimed at helping emigrants integrate in the host society, at ensuring that their rights are protected, at preventing discrimination at the workplace, in educational programs, and elsewhere. I compared and defended this model against an alternative one, that I called the encouragement of reverse migration model, which is based on a supposed right to stay. My main concern was with defending the dual responsibility model—the task that lies ahead is to develop specific policy proposals that could help implement this model. Whatever form these policies do end up taking, however, it is my contention that they will contribute to a more just world.

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