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Doctors *with* borders? An authority-based approach to the brain drain¹

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According to the brain drain argument, there are good reasons for states to limit the exit of their skilled workers (more specifically, healthcare workers), because of the negative impacts this type of migration has for other members of the community from which they migrate. Some theorists criticise this argument as illiberal, while others support it and ground a duty to stay of the skilled workers on rather vague concepts like patriotic virtue, or the legitimate expectations of their state and co-citizens. In this article, on the contrary, we suggest that the liberal conception of states' legitimate political authority demands, and not just permits, that developing states from which migration of skilled workers occurs set up contractual mechanisms. These mechanisms will ensure that state-funded training in the health sector is provided against a commitment on the part of future professionals to reciprocate with their services for the benefits obtained. If one of the conditions for the state to maintain legitimate political authority is to provide basic services such as healthcare to its subjects (while respecting at the same time their autonomy and freedom), then this is what developing states affected by the brain drain ought to do. What we call the *authority-based approach to the brain drain* also helps to clarify the obligations that other states have not to interfere with these contractual mechanisms when they exist, and not to profit from their absence. Inspired by FIFA's legal instruments of training compensation and solidarity mechanism for the transfer of players, we conclude by suggesting a plausible global policy to complement this authority-based approach.

Laying the groundwork

Queries on the trans-boundary movement of persons are perhaps the timeliest in the normative debate on global justice and international politics. A large part of this debate focuses on the costs and benefits migration has for the receiving countries and the individuals who are permitted to migrate and settle in those territories. This standard approximation to the problem of migration concentrates on the relationship between migrants and the political unit in which they settle.

A different perspective focuses on the costs and benefits that migration has for the political community from which persons emigrate. Typical in this debate is the *brain drain argument*, advanced to restrict the liberalisation of migratory policies. According to this argument, there are good reasons to limit the right to exit of skilled workers because of the negative impact this type of migration would have for other members of the community from which these individuals emigrate. Countries that let their skilled workers go are deprived of the talents these citizens could invest within the community to improve the life conditions of their fellow citizens. This argument becomes

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all the most compelling when we focus on essential services such as healthcare, especially in developing countries suffering from extreme deprivation of these services. The global distribution of human capital related to healthcare is staggeringly unequal and, to a substantive extent, it is the outcome of the brain drain phenomenon.

To briefly illustrate this point, Africa and south-east Asia still suffer major shortages of physicians, nurses and midwives, with a median density of 2.4 and 6.1 physicians per 10 000 people, and 10.7 and 9 nurses and midwives per 10 000 people, respectively (compared to the global median of 12.3 and 17.6). Moreover, foreign-born physicians – many of them, if not most of them, precisely coming from these regions – accounted for 22 per cent of active physicians in OECD countries in 2010/11, with India providing the largest share (World Health Organisation 2016, 80).² This shortage of medical service – doctors, midwives, nurses – costs millions of lives every year, and many of these deaths are the preventable outcome of patterns of skilled workers' emigration.

In light of these regrettable numbers, Michael Blake and Gillian Brock's recent book, *Debating Brain Drain*, points to the duties of states in this regard. As it is clear from the subtitle (*May Governments Restrict Emigration?*), Blake and Brock's specific focus are the duties that developing states may have to prevent the brain drain from occurring, and the kind of actions these states may permissibly undertake in that regard.

In this article, we take the same starting point as Brock and Blake – i.e. the duties of states regarding the brain drain – but we focus on developing sender states (hereinafter, Ss) as much as on developed recipient states (hereinafter, Rss). In the last part, we also briefly consider the role of other states (hereinafter, non-Rss). In our view, the duties of these three kinds of states have to be examined together and in connection with each other, rather than one-sidedly, an approach that has so far been lacking in the normative discussion (for a similar critique, see Ypi 2016). To do so, we propose an *authority-based approach to the brain drain*. To keep its political authority (as the basis of its legitimacy), the state is bound – among other things – to create policies that satisfy the basic needs of its citizens, and that respect at the same time their autonomy and freedom. We argue that this approach requires the creation of clear, transparent contractual mechanisms between the state and its citizens, so that state-funded training in the healthcare sector is provided against commitments on the part of future professionals in this area to reciprocate for the benefits obtained. In addition, we show that the authority-based approach helps to clarify the obligations that Rss have not to interfere with these contractual mechanisms designed to diminish the brain drain. The outcome is a set of policies in Ss and Rss that favour a better distribution of human capital within a liberal framework. As a way of conclusion, we suggest a plausible global policy that goes beyond, and complements well, the authority-based approach. This policy represents a promising way to confront the predicaments created by the migration of skilled workers from developing to developed countries.

Before proceeding, three clarifications are in order. First, we are clear that the brain drain occurs in other professions (the massive exit of talented scientists and computer programmers and IT-trained people from India to Europe and the US is a good example of this). As suggested above, however, in this article we focus on the brain drain of health workers, especially medical doctors, nurses, midwives, and pharmacologists; professionals that are greatly needed for the well-being and satisfaction of the basic health needs of their communities, and whose loss is consequently most problematic from the point of view of justice and other moral obligations. Focusing on them makes clearer the moral issues at stake in the question of migration and, simultaneously, makes us reflect on the most serious consequences of emigration of skilled workers from disadvantaged communities.

Second, like Blake and Brock, we start our enquiry from a liberal framework. This means that we are committed to the equal moral value of all persons, no matter where they are, and believe that this basic truth has implications for the political institutions and policies that ought to organise our communities. This commitment has a direct impact on our views on migration in general, and the brain drain in particular, since liberal values guide our recognition of the normative importance of

2 For additional data and analysis of the brain drain phenomenon in the healthcare profession, see Serour (2009).

the right to exit, free movement, and autonomy, all of which are central to deciding questions on the trans-boundary movement of persons. Furthermore, our liberal commitments have implications for the way we conceive of the state and its functions. While respecting individuals' basic rights, we maintain that the state is to serve its citizens by creating the institutional conditions for the satisfaction of their basic needs, and that it may do so by organising collective endeavours that are fair and non-discriminatory.

Lastly, our analysis is set at the non-ideal level, that is, it seeks to provide normative guidance under current conditions, in the world as it is, divided up into states with borders in between that control the otherwise free flow of individuals. The key question that concerns us here is therefore how presently existing states may legitimately put a stop to the phenomenon of the brain drain. We thus do not deal with the further question whether the long-term solution for this and other related problems might be a thorough modification of the global political system leading to, for example, the dismissal of states as we currently know them and their replacement by an open-border world, at the one extreme, or a retreat to the autocratic state, at the other.

An authority-based approach to the brain drain

Brock and Blake's book is a welcome contribution to the normative literature on the brain drain. It is also the first comprehensive attempt to tackle the question of what states, within a liberal framework, may permissibly do to diminish this problem. In our opinion, however, there are two main features of their approach that are problematic. First, by overly focusing on SSs, they leave the reader with the impression that the responsibilities of RSs regarding the brain drain are secondary or indirect, rather than part and parcel of the solution to the phenomenon.³ Second, by putting the emphasis on ideas like the fulfilment of legitimate expectations and individual rights, they either do not make the strongest and most persuasive case for the imposition of limits on emigration in circumstances of brain drain, or fail to recognise the need for such restrictions.

In light of these difficulties, we propose an *authority-based approach to the brain drain*. This perspective underlines the value of political authority and explains the duties both of SSs – to set up clear contractual relationships with future health professionals – and of RSs – to either respect the existence of these contracts and not to encourage their breach, or not to profit from their absence and to encourage their establishment. The combination of these normative demands and policies is a promising normative framework to confront the challenges of the brain drain.

More specifically, our approach starts from the premise that the state's authority (and therefore, legitimacy) depends, importantly, on the capacity it has to serve and benefit the individuals who inhabit its territory. Put differently, our point is that state political power, which "is always coercive power" (Rawls 1993, 133), can legitimately be wielded only if there is a reason for people to subject themselves to it. This is not the place to provide a full-fledged account of state authority, but suffice it to say that an important reason that individuals have to subject themselves to the coercive power of the state is the services and benefits they obtain from its existence.⁴ In our view, the provision of basic services for the satisfaction of human needs or, alternatively, the creation of conditions that adequately increase the possibility of the provision of those services, is at the core of the services the state ought to provide and, thus, is at the centre of political authority. This is so because any state that fails to act in ways that are beneficial for the members of its own political community or, less stringently, that does not create conditions for the provision of certain basic benefits and services, undermines its own authority. Such a state would not live up to the liberal requirements of legitimate authority we have outlined.⁵

3 We are not claiming that the authors ignore the fact that RSs have duties regarding the brain drain. Brock, on the one hand, recognises that, when it comes to issues of global justice (of which the brain drain is an instance), "developed world actors are too much part of the problem in undermining states' abilities to be effective" (Brock and Blake 2015, 29). Blake, on the other hand, does consider different policies that the developed world may undertake in order to diminish the negative effects of the brain drain in the communities of SSs (Brock and Blake 2015, 219–224). All in all, however, their attention to this part of the problem is very limited.

4 These services and benefits are not reducible to individual self-interest. Insofar as one's understanding of the political is subordinated (at least partly) to moral considerations, then we are to conclude that political authority is based on the duties and obligations individuals have towards others. Thus, the state also meets its functions when it facilitates the fulfilment of our moral obligations towards others.

5 Our view therefore assumes that there is already a minimally functioning state in place. Where there is not (as in failed states or quasi-

This understanding that connects the provision of basic services and benefits to state political authority is part of a rather standard account of state legitimacy applied in different areas of political theorising. Anna Stilz, for example, uses a similar idea to explain that the territorial rights of the state are “not independent of how well it does at representing its people” (Stilz 2011, 579). Quite the contrary, states’ territorial rights are grounded on the service that their jurisdictions give in the interests of their subjects. Ultimately, this account is inspired by Joseph Raz’s work on state authority (Raz 1986). According to Raz, the limit of state legitimacy is marked by the reasons which apply to its subjects independently of the directives of the alleged authority. These reasons are moral reasons that precede the legal and political commands issued by the state. The state then becomes a facilitator of the satisfaction of moral obligations that its citizens have, independently of the former’s existence. Among other things, the basic obligation we have to assist those who suffer and cannot satisfy their basic needs is something that the state, through its institutions, should facilitate for all those under its alleged authority.

For our purposes, this view of political authority and legitimacy means that states should, at the very least, implement institutions that favour the provision of basic healthcare services for their population. For reasons that will be developed in the following sections, we maintain that a contractual strategy between the state and potential trainees in the healthcare sector (whereby the latter pledge to complete some sort of service for their community) is a promising mechanism to assure the provision of basic healthcare services to the population and, to this extent, maintains or deepens the authority of the state.

The idea of implementing clear and well-delimited contracts of this sort between the state and future healthcare workers is neither new in the brain drain literature (Brock and Blake, among many others, repeatedly mention this mechanism), nor in the actual practice of states (see, for example, Frehywot et al. 2010). What is new in our proposal is the view that, insofar as it reinforces the state’s political authority, setting these contractual relationships is not just optional, but obligatory for states that might otherwise become “brain-drained”.

When considered in relation to the question of brain drain, the authority-based approach has strong implications for state policy: it requires not only that the state rules without acting in ways that contravene the basic needs of individuals, but also that the state satisfies those needs or creates conditions for their satisfaction. On pain of undermining its own authority, the state is therefore under an obligation to avoid the effects of skilled workers’ emigration when these effects impede the satisfaction of the basic healthcare needs of its citizens. Moreover, this obligation should be satisfied in ways that are consistent with the respect owed to persons, so that its policies do not impose illegitimate burdens upon particular members of any community. As we shall see, the generation of contracts between the state and those who are trained by the state in the healthcare sector satisfies these conditions.

At this juncture, it is clarifying to come back to Brock’s and Blake’s views and contrast them with the approach just outlined. For them, the crucial question is what justice in emigration requires from skilled workers who wish to exit poor, developing countries. Their focus, then, is on the moral *permissibility* of the state’s coercive action to regulate the individual right to exit. By contrast, if one starts from an authority-based approach, the crucial question is about the functions that the state is to fulfil and the services and benefits it is to provide to its citizens if it wishes to remain close to the liberal ideal of legitimate authority. Instead of starting from civic duties, loyalty to one’s compatriots, gratitude toward one’s educational institutions, and other imperfect duties of individuals, we thus start from the minimal *duty* of states to serve those who inhabit their territory.

states), we suggest that the problem of the brain drain poses different demands both for the potential or quasi-political authority and for healthcare workers wanting to emigrate – demands that are obviously not grounded on the authority of the state, but on other values such as, in the case of the latter, duties of assistance or loyalty toward their immediate community. And what about totalitarian governments? Should a citizen of North Korea, for example, be bound by the contracts signed with such a regime if doing so guarantees the provision of basic healthcare for her community? Insofar as such regimes do not respect the freedom and autonomy of their citizens (for example, to let them exit the country so that they can pursue their medical studies abroad), we do not think that they can qualify as having legitimate authority. Contracts made under such conditions should therefore not be morally binding. We thank an anonymous reviewer for pressing us to clarify this point.

From this basic idea we argue that, to maintain and deepen their own authority, SSs have a strong obligation to set clear and well-delimited training contracts with professionals enrolled in careers that provide basic health services. Through these contracts, associated to healthcare services greatly needed to guarantee the well-being of the community and the fulfilment of their basic welfare rights, the state can uphold and deepen its own political authority. The recognition of the value and importance of political authority is then the road to confronting the predicament of brain drain.

The authority-based approach and SSs

In this and the next two sections, we expound on the duties that, according to the view just outlined, SSs, RSs and non-RSs have to work together against the brain drain. Starting with SSs, we argue that the contractual strategy is promising both from a normative and a practical point of view.

Normatively, the contractual strategy is attractive because contracts treat people like autonomous agents, and contractual relationships express the respect owed to and between moral agents. A genuine contract neither represents the imposition of will upon another, nor counts as an act of domination of the mighty over the weak. Contracts express the recognition of the moral status of those who participate in it and, thus, are an adequate form of relationship between the state and its citizens. Those who object to policies from SSs to retain their human capital often appeal to the idea that skilled workers may not be treated as a resource *pool*, but as *sources* of moral claims. Indeed, it is precisely because we look at skilled workers as sources of moral claims (and duties), rather than as mere useful human capital or resources, that we believe a clear contractual relationship needs to be established for the requirements made by the state to be morally adequate. That is, rather than relying on legitimate expectations, or on the hope that individuals will fulfil a range of under-specified patriotic virtues in return for the education that was provided to them by the state, we are committed to a form of explicit consent theory for essential services like healthcare.

Second, the contractual strategy is normatively appealing because it legitimises coercive action by the SS on the issues covered by the contract. By voluntarily agreeing to the conditions of a contract, the signatories commit themselves to abide by these conditions. They also agree to the consequences that would follow were one of the signatories not to act according to what the contract requires. These consequences may include the revocation of medical licences, repayment of the cost of the training to be re-invested in healthcare services, and so on. In a different context, any of these consequences might be deemed wrong and condemnable. Yet, when they result from a freely signed contract between two agents – here the state and future trainees – these actions become legitimate responses to a breach of contract.⁶

From a practical point of view, contracts are promising because they set up clear and authoritative obligations to be followed by the parts involved. Contracts let parties know what they can expect from each other, eschewing ungrounded expectations. Similarly, contracts make the individual avoid complicated calculations for which she or he may not have adequate information. For example, should one reciprocate to one's fellow citizens for state-provided training during one year, two or five? Where in the territory of one's state should one reciprocate? And so on and so forth. Instead, contracts should be designed to provide all the required information for the individual to simply abide by them and, thus, contribute effectively to the provision of healthcare of the population.⁷

Second, contracts are easy to enforce. Even though the details of the consequences that should follow a breach of contract would need to be specified thoroughly before the signing of the contract, it is clear that when a contract has been signed, the state is entitled to act – and everyone knows it is entitled to act – in ways that favour the adequate fulfilment of that contractual agreement.

6 Of course, there are limits to what can be part of a legitimate contract. The form and content of the latter, we suggest, should be negotiated and spelled out in a process as deliberative and inclusive as possible, with the participation of the state's health sector, the training institutions and representatives of the future trainees, among other relevant parties.

7 This practical virtue is explained by Raz's theory of authority which, as mentioned before, guides our approach. According to it, an authority is legitimate if "the alleged subject is likely better to comply with reasons which apply to him (other than the alleged authoritative directives) if he accepts the directives of the alleged authority as authoritatively binding and tries to follow them, rather than by trying to follow the reasons which apply to him directly" (Raz 1986, 53).

Third, that there are already contractual mechanisms of this type in many parts of the world confirms their practical advisability. Contracts between the state and individuals that define certain obligations held by the latter for benefits received by the former are, for example, used in countries like Chile as a standard part of state-funded scholarships to study abroad.⁸ The principle behind these contracts is one of reciprocity, as the state funds the training of its citizens on grounds that this training will benefit not only the trainee, but also the trainee's fellow citizens. Our proposal is thus not an ideal to be implemented in a world different from ours, but is already part of the mechanisms used by states.

At this point, some could object that letting individuals pursue studies in the healthcare professions only if they first agree to sign a contract whereby they will serve a fixed term determined by the state is illiberal. Blake seems to suggest this much when he draws an analogy between health professionals who sign a contract to stay in their country in exchange for their education, and who are therefore not allowed to exit their country, and a real-world case where a couple who was held hostage gave their word to their captor that they would not contact the police. After they did, the captor unsuccessfully sued them for breach of contract (Brock and Blake 2015, 215–216). In drawing this analogy, however, Blake overlooks two crucial differences between the cases.

First, those who decide to pursue a medical career or a nursing career do not do so under duress, like the couple in the above example, but willingly: after all, they could well choose to become engineers or yoga teachers, and others would be happy to take their place. Moreover, as Brock points out, tertiary students in developed countries who agree to take a loan from the state have to sign a contract specifying that they will pay the full sum back once they start working – and nobody seems to object to that kind of agreement. Here, similarly, students from developing countries who want to pursue tertiary education in the health professions may voluntarily do so in exchange for certain services specified by the state. It could be counter-argued, however, that paying back in money is one thing, but paying back in kind, quite another. This leads to a second reason why we think that requiring health professionals to remain for some time in the country that formed them does not violate their freedom.

As opposed to the couple in Blake's example, who had no vocation whatsoever to become hostages for an indefinite period, those who enrol in the health professions purportedly do so because they have a strong sense of duty toward their fellow human beings. When they make the Hippocratic oath, medical doctors pledge to remember “that I remain a member of society, with special obligations to all my fellow human beings, those sound of body and mind as well as the infirm”.⁹ The brains drained, then, are those of a certain kind of people who voluntarily choose to devote themselves to the service of other people. In addition, it should be remembered that health services qualify as essential services, which means that they may involve special obligations – moral, but also legal – on those who can provide them.

Finally, there is no such a thing as a right to study medicine with no strings attached. This means that the suggestion that the state may be violating the individual's right by establishing an obligation to reciprocate for the training offered is mistaken. Rather than a right to study health professions without strings attached, there is an obligation on the part of the state to provide its population with certain basic healthcare services. If the satisfaction of this obligation depends on attaching some obligations to reciprocate to those who are trained in the healthcare sector, then these obligations are perfectly legitimate and represent no violation of individuals' rights.

Implications of the authority-based approach for RSs

In the authority-based approach, the duty of SSs to generate contractual relations with their own people must be complemented with the duty of RSs not to act in ways that encourage the breach of those contracts, or that entail benefiting from their absence. This duty results from the idea that the state's obligation to serve and benefit its own people must be constrained, among other things, by the limits imposed by the political authority of other states. States are thus under an obligation

8 See <http://www.conicyt.cl/becas-conicyt/sobre-becas-conicyt/que-es-becas-conicyt/>.

9 This is part of the modern version of the Hippocratic oath, written in 1964 by Louis Lasagna, Dean of the School of Medicine at Tufts University. <http://www.medicinenet.com/script/main/art.asp?articlekey=20909>.

not to serve their own people through acts that contravene other states' authority. This is simply an articulation of the principle of state sovereignty, foundational of the Westphalian system and well cemented in international law, according to which actions that undermine the political independence of another state – insofar as the latter is a minimally legitimate state – are wrong and impermissible (United Nations 1945, Article 2, para. 4).

Applied to the problem at hand, developed states have an obligation to refrain from hiring health workers from developing ones on grounds that such hiring interferes with the latter's authority. How is this the case? When a RS encourages and facilitates the migration of healthcare workers from a SS to serve its own citizens, it undermines the capacity of the SS to fulfil its obligation to provide basic services and benefits to its own people. As a consequence, the former benefits its own citizens through an act that interferes with the SS's political authority. In other words, by encouraging migration of individuals who are essential to the provision of basic services, the RS is directly contributing to making the SS unable to satisfy a necessary condition of its own political authority, namely to serve its citizens by fulfilling their right to basic healthcare. If, due to the wrongful interference of the RS, the SS cannot provide basic services to its own citizens, it loses authority and legitimacy in the eyes of its own people and other states.

According to our view, in cases where SSs and their skilled healthcare workers have an ongoing contractual relationship, RSs should neither accept the latter without first consulting with SSs, nor give them incentives to breach contractual agreements between them and their SSs (or let third parties, like recruitment agencies, engage in these practices).¹⁰ From these considerations, a first general conclusion is in order: the international community ought to favour policies of non-interference in the healthcare sector that eschew importing human capital from developing countries to provide the benefits and services that are crucial to maintain their own political authority.

The sceptic, however, may argue that this non-interference type of argument works only in cases where there is already a contract in place between the state and the beneficiaries of state-provided training. According to this objection, RSs have a duty not to interfere with existing contracts between SSs and some of their citizens. However, in cases where there is no such contract, no wrong is committed by RSs if they encourage skilled workers in developing countries to emigrate.

Our answer to this objection is twofold. First, the intervention of a RSs in circumstances where there is no contract between a SS and its citizens is wrong not because this intervention results in a breach of contract, but because by doing so the former interferes with the SS's capacity to satisfy a basic condition of its own authority, namely, the provision of basic services. In other words, by encouraging healthcare workers from the SS to emigrate, the RS uses the lack of requisite institutions in SS to its own advantage and, as a direct consequence, makes more difficult the establishment of political authority in the latter.

Second, and connected with the previous point, the intervention of RSs in SSs is wrong even in the absence of contracts, because such intervention dismisses the value of political authority in SSs. If the existence of political authority is a value, as we think it is, then states should favour and boost the satisfaction of the conditions of political authority anywhere, and not just in the domestic sphere. As we saw above, encouraging skilled workers to migrate from developing to developed countries is clearly not a way to do so.

This answer may raise a new rebuttal. It could be objected that this reply forces us to demand from RSs some form of assistance – as opposed to strict non-interference – towards SSs, so that RSs are to contribute or encourage the celebration of contracts in SSs. This objection invites the following clarification: one specific conclusion of our proposal is that instead of assisting other states RSs are required to establish in their own territory policies designed to encourage their own citizens to train themselves and serve other fellow citizens. The positive impact of such a policy in countries

¹⁰ When it comes to the effects of the brain drain in places like sub-Saharan Africa, some authors have suggested that the systematic and widespread recruitment of health workers in these countries ought to be considered as an international crime and an open violation of human rights (Mills et al. 2008, 687). This might be too strong a claim to defend. What is not too strong, however, is to say that these recruitment agencies are instigating individuals to terminate their contracts before they are due, and are therefore committing a clear civil wrong.

affected by the brain drain would be enormous.¹¹ Ultimately, what this analysis underlines is the importance of contractually institutionalising the relationship between the state and students in the healthcare professions so as to ensure that the state (be it a SS or RS) remains able to fulfil its duty of care toward the community. Such is another welcome conclusion of the authority-based approach to the brain drain.

Summing up, RSs should not take advantage of institutional failures or unjust states of affairs that may be occurring in SSs. Thus, RSs should not accept skilled workers from SSs without previous communication with, and acceptance of, SSs, even if there is no recognisable contract in place. Neither should RSs allow third parties, like recruitment agencies, to engage in practices that lead individuals to leave their countries of formation shortly after they have obtained their qualifications. These principles and practices would have an enormous positive impact on those countries currently affected by the brain drain.

Beyond the authority-based approach

The authority-based approach should be seen as a contribution to tackle the problem of brain drain, rather than as a solution to it. A comprehensive consideration of the brain drain would have to say more, for example, on the global policies required to confront the predicaments resulting from skilled workers' migration. In this concluding section we suggest one such policy that would complement well the principles and practices of our approach. This policy is grounded on the idea that states have obligations of global justice even if (and after) the obligations specified above have been satisfied. In our view, some sorts of distributive principle and practice for the benefit of SSs, in general, and for the benefit of the SSs' healthcare system, in particular, should be put in place at a global level, and this should be done by a task force in which SSs, RSs and non-RSs all take part. What we envisage is something akin to the *training compensation* and *solidarity mechanisms* required by the FIFA's *Regulations on the Status and Transfer of Players* (FIFA 2016, 25). The rationale behind these payments, as explained by the Court of Arbitration for Sport, is that:

...clubs should be encouraged to train players and those clubs that carry out the training process successfully should be rewarded for their efforts. By the same token, those other clubs that enjoy the fruits of that process should be obliged to pay something in compensation for the training efforts engaged in by others (Manninen 2014).¹²

This means that, when a soccer player signs his first professional contract with a club that is different from the club that trained him, the former must pay to the latter a sum which is calculated roughly by taking the costs that would have been incurred by the new club if it had trained the player itself (FIFA 2016, 68). Similarly, when it comes to health professionals, one could think of setting up a system so that those home institutions that bore the brunt of their formation and training are compensated if their trainees decide to go and work abroad.

In our view, this kind of global policy should be considered simultaneously with, not instead of, the obligations set out above. The rationale of this additive logic in our proposal is to recognise, on the one hand, the normative force of the idea of political authority as a constraint for the practices of the state, its citizens, and the international community. On the other hand, it is to recognise the limits of our own proposal. An authority-based approach does not solve the brain drain and therefore principles and practices that complement it must be explored. This model of compensations does precisely that, by complementing the role that developed and developing states have to confront the moral predicaments of the brain drain at a global level.

11 Of course, even if RSs comply with these requirements, skilled workers may still emigrate from SSs. Our point, however, is that if RSs comply, a big incentive for individuals to leave their SSs fades away.

12 Just to give an example, thanks to the recent transfer of the Chilean goalkeeper, Claudio Bravo, from Barcelona to Manchester City, his original club in Chile, Colo-Colo, will receive 1.1 million USD by virtue of FIFA's solidarity mechanism: <http://redgol.cl/2016/8/colo-colo-recibira-745-millones-de-pesos-p/>. It must be noticed that we do not claim this to be a perfect analogy, and reasonable concerns may emerge regarding the morally relevant differences between football players and skilled workers. We cannot address this issue here, but we believe that the analogy works correctly as a way to point to global policies that could satisfactorily address at least some of the problems involved in brain drain.

To conclude, we do not think that a full solution for the brain drain may be achieved without illegitimately infringing upon the basic liberties of the individuals, and to this extent we agree with Blake. We do maintain, however, that our proposal at least ensures that those who study professions that are much needed for the well-being of the community as well as much sought-after abroad will contribute in kind (and maybe also financially) to their SSs. They will do so not primarily to display civic virtue, loyalty with their co-citizens, or patriotic gratitude, but because they signed an agreement when they freely decided to pursue their careers. If the liberal ideal aims at turning politics into as voluntary an affair as it can possibly be, then this should be a welcome move.

In addition, our proposal seeks to make more visible the way in which other states are failing to fulfil not only their moral duties of justice in this regard, but also legal duties not to instigate (or fail to stop others from instigating) individual parties to breach a contract into which they have voluntarily entered. It also seeks to make more visible how developed states fail to satisfy their obligations – and thus, act wrongly and impermissibly – when they benefit their own people through policies that make it more difficult for other states to achieve political authority and serve their own citizens. The recognition of these failures are a step forward towards a more liberal and ultimately just state of affairs.

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