

## **Which Prospective Immigrants are Political Communities Morally Obligated to Include?**

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**Abstract.** This paper begins by applying two “adverse impact theories of inclusion” in the literature in democratic theory to the situation of members of communities that have been shaped by U.S. intervention that later decide to immigrate to the United States. Both theories can be applied to respond to adverse impact claims arising from the solicitation of migrant laborers to serve the public interests of wartime production and infrastructure development. But they do not adequately address positive claims to inclusion by non-citizens who are already contributing to the welfare of the community they wish to join by supporting U.S. interests abroad or participating in civic initiatives as unauthorized residents. I argue that the contributions of both groups should be recognized as the basis for a priority claim to inclusion as legal permanent residents and eventual citizens of the United States.

**Keywords:** *ethics, policy, obligations, citizenship, United States, Mexico, regularization*

### **Introduction**

The act of extending citizenship, or a pathway to citizenship through legal permanent residence to a new member at birth or through naturalization ordinarily represents a commitment on the part of a state to protect that person’s civil, political and social rights throughout his life.

Nearly every nation accepts this responsibility towards the children of its existing citizens who are accorded citizenship status at birth through the principle of *jus sanguinis*. Most countries in the Western Hemisphere including the United States continue to accept additional responsibility towards children who are born within their territorial jurisdiction through the principle of *jus soli*. And nations assume the discretion to extend citizenship as a status and entitlement to its rights

and obligations subsequent to birth through their legal immigration and naturalization procedures. These legal principles for extending citizenship do not fully account for a state's potential obligations towards persons who have been shaped by its economic, diplomatic, and military interventions abroad to the extent that it would be difficult, if not impossible for them to continue to live in their country of origin. A sympathetic case in this class of persons could include military support personnel in Iraq who have been targeted for collaborating with the United States. Nor do they account for a nation's potential obligations towards non-citizen residents who are contributing to American communities as though they were citizens, such as unauthorized immigrant children who were raised and educated in the United States.

These examples raise larger questions that speak to the concerns of normative democratic theorists about who should be included in a political community, or at the very least, allowed to take part in its collective decision-making processes. Apart from its existing legal mechanisms for extending the rights and obligations of citizenship to new members, should nations assume further responsibilities towards persons who have been affected by its policy interventions abroad? How far should this responsibility extend? Should a nation be required to include all non-citizens that it has impacted through its policy decisions as immigrants? Or should it prefer non-citizens who are already giving back to the community they wish to join?

In its simplest formulation, the "all-affected interests" principle in democratic theory suggests that a political community has a moral responsibility to extend the participatory rights that we ordinarily associate with citizenship to non-citizens who are affected by a foreign state's decision-making processes. The most effective way to ensure that a foreign national is included in a nation's democratic decision-making process is to include him as a potential citizen. This feature of civic membership and its rights and obligations forms the basis for Robert Goodin (2007) and Rogers Smith's (2010) proposals to extend a state's obligations to all persons whose interests are harmed by its laws, policies and institutions. Both accounts could be useful as a way of describing why non-citizens might have an "adverse impact claim" against a state that has intervened in the affairs of their community, resulting in diminished economic opportunities or personal security for its citizens at home. An "adverse impact claim" stems from a moral argument that states which intervene in the affairs of other nations ought to provide compensation to

foreign nationals for any harm that can be directly attributed to their policy decisions over time. This compensation may take the form of economic assistance, preferential access to that country's labor market through a new guest worker program, or reserved visa quotas for citizens of the affected community. The form of acceptable restitution for an adverse impact claim will depend on the wishes of the affected persons, who may prefer economic assistance in their communities of origin over authorization to reside in the United States.

One problem with Goodin and Smith's proposals is that they treat foreign nationals who have been shaped by another state's laws, policies and institutions as unwitting victims. They do not fully account for a state's moral claims to non-citizens that volunteer to serve on its behalf. Nor do they fully recognize the claims of non-citizen residents who are already contributing to the welfare of the communities where they live without the legal right to stay in the country.

States have a greater moral responsibility to non-citizens who voluntarily contribute to their well-being at home and abroad than non-citizens who were passively affected by their policies. Some of them will want to remain in, or return to their country of origin. But if they want to immigrate to the country they served, or be permitted to stay in the communities they contributed to as residents, they should receive preference over other applicants for immigration benefits.

### **The Principle of All-Affected Interests**

The all-affected interests principle is cited in a large body of academic literature devoted to the question "who ought to be enfranchised" or included as a full member of the political community with a right to participate in its democratic decision-making processes. Here, I redeploy the principle to apply it to a much broader set of moral claims that persons without a present or potential claim to legal citizenship status can make on a state that has shaped their present or future interests through its policy decisions. Non-citizens who are living in a country without a pathway to citizenship are particularly vulnerable to abuses of their basic rights if they either lack the ability to participate in a state's decision-making processes. Non-citizen residents also stand to be insufficiently compensated by giving back to the community in the same way as other members of society without obtaining the full rights and benefits that come from membership in that

political community. For instance, non-citizen workers might pay taxes without having the opportunity to elect representatives that share their priorities in how community resources will be distributed.

To avoid confusion in how I am applying the all-affected interests principle here, it is first necessary to separate the question of whom the political community should consider itself obliged to from the question of how it should discharge these obligations. Proponents of the all-affected principle often address both questions at once. They argue that the appropriate response to a political community's actions which harmed non-citizens is to include them in a state's process of democratic decision-making (Song, 2012: 48-50). This approach threatens to burden states with responsibilities that are not proportionate to the lasting impact of their policy decisions on non-citizens. A state should not be held as responsible for the impact of policy decisions that took place in the distant past, where its impact on a non-citizen was indirect, or where the harm in question can be attributed to multiple responsible parties. In such cases, a response short of including affected persons as prospective citizens can be justified. We also need to consider the impact of any decision to accept responsibility by providing non-citizens with compensation or immigration benefits on a state's stability, or its ability to meet its obligations to current members. Finally, we need to consider the interests and wishes of the non-citizens who were affected by another state's policy decisions. For instance, we might consider whether former guestworkers and their families in communities that are dependent on remittances from the United States really want to continue to migrate to the United States. Would they rather obtain the means to pursue a living in their country of origin? In the latter case, the United States could fulfill its moral obligations to former guestworkers and their families by providing development assistance to sending communities in Mexico.

In his response to one version of the question regarding who should be included in the scope of a political society's community of obligations beyond its formal members, Dahl (1990: 49) begins by stating that "every person who is affected by the decisions of a government should have a right to participate in that government." This formulation of the all-affected principle provides a response to the question of whom the political community is responsible to and how it should discharge its responsibilities at the same time. If we leave the "how" question open, we can restate the all-affected principle as providing that "every person whose interests have been harmed by the decisions of a government ought to be

recognized as having a potential claim on the state and its citizens.” My substitution of “potential claim” for “a right to political participation” arises in part from criticisms of the all-affected principle that it does not possess an adequate mechanism for limiting claims based on harms resulting from past policy decisions. A nation like the United States that is heavily involved in world affairs has impacted persons in nearly every country in the world through its cultural influences, economic relationships, and diplomatic and military intervention to some degree. The problems that special claims and obligations are intended to address come to mind here. If the U.S. were to recognize every person’s claim based on harms arising from its past policies equally by providing restitution to foreign nationals, or including non-citizen residents who claim to be wronged as immigrants, it might undermine its ability to honor its obligations towards its own disadvantaged citizens.

This presents us with the difficulty of weighting harms, as illustrated through the following example. By the early twentieth century, U.S. labor contractors began to solicit Mexican nationals to work on the railroads and in agriculture. Many of these workers and their families were deported when they were no longer needed during the Great Depression. A renewed demand for their labor during the Second World War prompted the U.S. government to institute a guest worker initiative known as the Bracero program which was renewed until 1964.(Reisler, 1976; Garcia, 1980). The solicitation of Mexican laborers by both the U.S. government and private business interests had a mixed impact on the workers in question. On the one hand, they agreed to the practice to obtain the immediate benefit of increased income. On the other hand, employers frequently violated the terms of their contracts with the Bracero workers. When their labor was not in demand, they were as vulnerable to deportation as their fathers who came before the Great Depression. Their families and communities became locked into a pattern of dependence on remittances from the United States as a pathway to economic advancement.

Should the United States government be held accountable for a policy that entrenched a pattern of dependence on remittances from the United States in migrant-sending communities? Who else ought to be held responsible, and to what extent? First, we need to account for the role of the decision-maker whose action was alleged to have harmed the individual, apart from the role of other decision-makers including the non-citizen and his own government. The U.S. government

enacted the legislation that authorized the importation of Mexican labor that became known as the Bracero program. It did so to serve a national interest during wartime, and to assist in agricultural production for the benefit of private interests until 1964 (Zamora, 2009; Vargas, 2011). But the arrangement resulted from a collective agreement with the Mexican government, and individual agreements with the workers, which were originally designed to serve the interests of both parties. If a claim from harms resulting from the agreement itself (inadequate wages, the possibility that the contract would not be renewed), the worker could not hold the U.S. government solely responsible. His own government was partly responsible for his situation, as was his own decision to take part in the program for his own benefit. The direct harm in question came when the agreement with Mexico was breached through the importation of laborers by business interests, with the collusion of U.S. officials, allowing for a deterioration of working conditions (Craig, 1971; Calavita, 1992).

Second, we need to account for the passage of time and the distance between a state's policy decision and the harm that it was alleged to have caused to foreign nationals today.

Apart from the Braceros themselves, the lives of entire communities were changed as the result of the program and the pattern of circular migration to and from the United States that it perpetuated (Massey et al, 1987). So, are the children of the guest workers who were left behind in Mexico while their fathers worked in the abroad justified in holding the United States responsible for how their interests may have been affected by the suspension of the Bracero program in 1964? They would have benefitted from the income obtained from their fathers in the form of remittances, but they would have suffered from the inability to follow the same path legally. After the suspension of the Bracero program and subsequent limitations that were placed on legal migration from Mexico in the 1960s, former guest workers had two unfavorable choices available to them. They could either suffer diminished opportunities at home in a community that was now dependent on remittances, or take the greater risks of following in their fathers' footsteps by entering and working in the U.S. without authorization (Feibelman, 2010). Those who remained in Mexico could claim that the suspension of the Bracero program harmed them by curtailing the opportunities that they expected would be available to them. But their claims are indirect. They do not result from an established relationship between the U.S. government and the affected foreign national,

whose harm was an externality of the former's decisions that it cannot be expected to have been aware of.

Insofar as prospective migrants in Mexico that were affected by the suspension of the Bracero program decided to follow in their father's footsteps, in spite of the lack of authorization from the United States government to do so, they entered into a direct, albeit not consensual, relationship with the state and its citizens. Their claims against the United States may be indirect and attenuated, if they were based on past decisions that did not act to directly encourage the children of the original parties of the contract to migrate. But they might have a more direct basis to assert claims against individual citizens and interest groups for soliciting their labor without sponsoring them for legal status or adequately compensating them for their work. They might also argue that the U.S. government sends mixed messages about their ability to work in the U.S. through the selective enforcement of its immigration laws.

Third, we need to consider the interests of citizens who believe they are being disadvantaged by the arrival of foreign laborers, whether as guest workers in the Bracero period or unauthorized immigrant workers today. A community of claims and obligations, as I am presenting the idea here, is a two-way relationship in which the interests of both parties that are affected by their interactions need to be accounted for. Unauthorized immigrants who continue to enter the U.S. and settle there may have been adversely impacted, to some degree, by a number of U.S. decisions from the initial intervention of U.S. business interests in Mexico to the suspension of the Bracero program. At the same time, some citizens may also claim adverse impacts arising from the decision of migrants to continue to follow in the footsteps of previous generations by migrating to work in the United States, even after the former withdrew its consent for the program. This is especially true of citizens who claim that they were disproportionately impacted by competition for scarce resources (i.e. low skilled jobs) with unauthorized immigrants (Briggs, 2003). But it is important that we account for the role of the decision-maker who is alleged to have brought about the adverse impact in question. The decision of unauthorized immigrants to continue to migrate, and then to settle in the U.S. cannot be attributed wholly to themselves. Other players, including the U.S. government in its haphazard approach to immigration policymaking and enforcement, have shaped the decision-making processes of the migrants turned settlers. Citizens who claim to be adversely impacted by unauthorized immigration

need to look to their own government in seeking redress for any damages they may claim to have incurred because they had to compete with migrants for resources (Smith, 2011).

On the whole, a limited version of the all-affected principle remains useful as a reminder to countries that benefit from guest worker programs that they may have continued responsibilities to communities that have become dependent on remittances after the program is suspended. I have already suggested that a country that benefits from a guest worker arrangement cannot be held completely responsible for its lasting impacts. In the case of the Bracero program, Mexico is responsible for its part in negotiating the agreement in the first place. The Bracero workers agreed to the conditions of the program, even though they might have reasonably expected that they would be able to continue to migrate to the U.S. every season indefinitely. These considerations might serve as a starting point for limiting the scope of the all-affected principle in this situation. The U.S. government and business interests might be held responsible for compensating migrants who were shut out from the U.S. labor market after 1964, in light of the benefits they obtained from the program during the twenty-two preceding years. This compensation might take the form of pension payments for service performed during the period, or economic assistance to communities that continued to send workers to the U.S. illegally after the program was suspended, so they can become self-sufficient at home. The U.S. government might provide workers who continue to follow seasonal migration patterns initiated during the Bracero program with immigration benefits, as it did for Special Agricultural Workers as part of the 1986 IRCA amnesty program (Kerwin, 2010: 7). But the Bracero program never came with the expectation that guest workers would be able to adjust to permanent residence. It is not reasonable to expect that their descendants who continue to migrate back and forth from Mexico should expect to be able to permanently immigrate to the United States, or have an eventual say in the formation of its laws as fully enfranchised citizens simply because they were affected by the U.S. government's past guest worker policies.

### **The Principle of "Constituted Identities"**

So far, I have limited a state's responsibility to foreign nationals who claim to be harmed by its policies abroad by considering how they may have benefitted



from the policy in question, and accounting for the role of other parties to the decision. I asked how states might tailor compensation claims to the wishes of the affected parties, the terms of original agreements between intervening states and affected non-citizens, and the assistance that non-citizens need to be secure and self-sufficient in their own community. The version of the all-affected principle we are working with now asks states to accept a moral responsibility to all non-citizens who might be affected by the externalities of past immigration and foreign policy decisions without demanding that they enfranchise and include affected persons abroad as potential citizens. But there are still issues of over-inclusiveness that must be addressed. Where do we draw the line in establishing who has been sufficiently affected by a foreign state's policy decisions to deserve some form of compensation? And how do we account for the interests of present-day citizens in limiting their responsibility for their government's past immigration or foreign policy decisions?

In an effort to respond to similar questions, political scientist Rogers M. Smith has proposed an adaptation of "the all-affected principle" that considers the degree to which an intervening state has "constituted the identities" of non-citizens through its policy decisions that have implications that extend beyond its enfranchised citizens. The principle of constituted identities begins from the standpoint that "constitutional democracies have obligations to assist and, in some cases, to include as full citizens persons they have coercively affected" (Smith, 2010: 280). A state's laws, policies and institutions can "coercively constitute" the identities of a non-citizen when they shape his future plans in ways that make it very difficult for him to conceive of his life choices as being possible and worthwhile in his country of origin. To aid in determining whether a state has shaped a person's context for future choices and aspirations, Smith asks whether the intervening state has shaped the person's scope of life choices in a way that would severely hinder his ability to follow the way of life pursued by previous generations in his family or community. These questions point to the possibility that an external political community can socialize a non-citizen living in another country to the point that it is difficult for him to conceive of himself as having a life worth living in his community of origin. This may be seen as an additional "pull factor" leading prospective migrants to enter and settle in a country whether or not they are able to obtain authorization to do.

Smith argues that "a political community becomes unambiguously obliged

towards those outside its current boundaries of membership” when “governments assert the right to fine, incarcerate, or deport those who disobey pertinent governmental laws. . . thereby discouraging the formation of identities with the sorts of values, aspirations, and affiliations subject to penalty” (Smith, 2010: 283). The United States has special obligations to members of groups who can make this claim based on the lasting effect of U.S. occupation or intervention in a country’s political and economic affairs. A potential application of this claim could be made by citizens of the Philippines who have to wait more than two decades to reunite with their U.S. citizen family members in the United States (U.S. State Department Visa Bulletin, 2012). Using Smith’s principle of constituted identities, the citizens of the Philippines can make a moral claim that they ought to be given preferred access to immigrant visas to the United States based on the lasting impact of their country’s occupation by the United States from 1898 to 1946. Citizens of the Philippines with a special connection to the United States through their family’s service in the U.S. military during World War II have an even stronger moral claim to immigration benefits based on their contributions to the United States. Until February 2009, hundreds of thousands of Filipino soldiers who fought alongside U.S. forces during the Second World War were ineligible for veterans benefits and naturalization privileges ordinarily extended to non-citizens for their wartime service (Raimundo, 2010). This case presents a potential claim to inclusion that extends beyond the constituted identities framework. In this case, the veterans were not just residents of a country whose lives were passively shaped by an occupying force. They went a step further by actively seeking out opportunities to serve in support of U.S. interests abroad. This should be weighed in favor of a veteran and his descendant’s future claims to U.S. immigration benefits.

The “constituted identities” principle does not unambiguously define the outer boundaries of the United States’ community of claims and obligations. But some groups on Smith’s account clearly have a stronger claim than others. Distinctions that influence the scope of a community’s obligation may be described in terms of passive versus active influences; indirect versus direct influences; and the bargaining power of the individual’s community of origin. First, the strength of the non-citizen’s claim on another political community is influenced by how direct and persistent his interactions have been with the latter entity, either as an individual, or through the mediation of his community of origin as its member. Citizens of a country that has not experienced direct and sustained U.S.

intervention in its affairs, like Nepal, could not claim to have had their identities constituted in the same way as the citizens of Guatemala, whose citizens are constantly being shaped by interactions with the U.S. and its citizens to their benefit and detriment (Menjivar and Abrego, 2012: 1391-1395). Second, the strength of a non-citizen's claims may be influenced by the bargaining power of the individual's community of origin in relationship to the United States, and the direct economic or political implications on the individual of being the member of a weaker state. For instance, using coercion as the determinant factor, the citizens of Canada have had their identities shaped by their interactions with the U.S. more than citizens of most other nations, owing to proximity, personal contact, and economic integration. But these influences have been mostly consensual, and have not undermined the development of a thriving economy with opportunities for its citizens at home, or a distinct political culture. Their claims on the U.S. are less urgent than the claims of El Salvador's citizens, which experienced U.S. intervention in that country's domestic affairs resulting in the mass migration of its citizens to the U.S. seeking political asylum during the 1980s (Coutin, 2011).

A state's obligations towards non-citizens should vary to the extent that they have been shaped and socialized by a foreign government's laws, policies and institutions. We can imagine a series of spheres of state influence and obligation centered on the community of persons who live within the state and are always subject to its authority. Foreign nationals that have experienced direct and sustained intervention by another state, like the residents of Guatemala in relation to the United States, can be placed in an intermediate circle of responsibility. In the outside circle we would place foreign nationals who are minimally shaped by that state's policies. The inner circle should include both citizens and persons who were brought to their country of residence at a young age, where they were socialized for an extended periods in public institutions to think of themselves as participants in the educational, social, civic, and economic life of their country of residence. They have legal citizenship status in another country, to which they are connected through their parents' remaining social ties. But their socialization in the U.S. and absence from the country where they have legal citizenship status and ancestral connections makes it difficult for them to conceive of the latter as an alternative context of choice where they can plan their futures. This is how the potential

beneficiaries of the DREAM ACT describe their situation (Rincon, 2008).<sup>1</sup> They will be deprived of their context of choice and at a loss to act on their claims as *de jure* citizens of their nationality of origin if they are discovered and deported (Durbin, 2011).

### **Recognizing Contributions: Civic Membership as Reciprocity**

But DREAM ACTivists who have asserted themselves on the national political stage have chosen to make a more comprehensive claim to inclusion on the basis of their past contributions and willingness to serve their country of residence in the future (Perez, 2009; Soto, 2011).<sup>2</sup> They are not simply resting their claims on the adverse impact of immigration policies on their lives. Contribution-based advocacy informed by an assertion of their identity as members of the American political community underlies the political successes that DREAM ACTivists made in the 2000s towards convincing representatives of Congress to sponsor legislation that provides for a pathway to regularization and eventual citizenship (Bruno, 2010). This type of advocacy is an example that highlights the value of incorporating the ideal of civic membership as reciprocity into principles for extending civic membership that use other aspects of a state's responsibility in relationship with its members as a starting point, including the constitution of identities.

The principle of constituted identities would also benefit from a further account of the connection between how a non-citizen has responded to a state's identity constituting actions, and the degree to which the political community has an obligation to include. U.S. military intervention abroad over time will alter the context of choice of every person living in the affected country. A non-citizen's

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<sup>1</sup>S. 952, "Development, Relief and Education for Minors Act of 2011," 112<sup>th</sup> Congress (United States), 1<sup>st</sup> Session, 11 May 2011. The DREAM Act is legislation that has been introduced in every session of Congress since 2001 that would provide a pathway to legal permanent resident status for unauthorized immigrants who entered the United States prior to their 16<sup>th</sup> birthday provided that they attend college or serve in the military. Although this legislation has yet to be enacted into law by Congress, the Obama Administration extended temporary relief from removal for DREAM Act eligible young unauthorized U.S. residents on 15 June 2012.

<sup>2</sup>The term "DREAM ACTivists" refers to young unauthorized immigrant residents of the United States who are engaged in a political advocacy campaign to encourage U.S. legislators to enact DREAM Act legislation that would provide them with a pathway to legal permanent resident status.

identity and the economic and political choices available to him may have been passively, if unwillingly constituted by the intervening state. But among those affected, the U.S. arguably has a higher level of responsibility to a person who, whether out of necessity or choice, has taken on the risk of working or fighting for the intervening country, and thereby separating himself from his community of origin. An Iraqi interpreter in Operation Enduring Freedom has not only had his identity constituted by the U.S., but has acted upon this identity by assuming obligations that benefit the intervening state. Within the United States, migrants who served as soldiers in wartime differentiated themselves from persons in their countries of origin whose context of choice was passively, if involuntarily altered by U.S. intervention. In all cases, the assumption of obligations by the adversely impacted party should be taken into consideration when accounting for the state's responsibility to affected non-citizens.

Civic membership is based on more than the right to political enfranchisement in order to take part in the decision-making process by which one is governed. It is informed in part by one's socialization and identification with the community's values forged from its past experiences. But these values do not just pertain to a community's commitment to take responsibility for those whom it has adversely affected. They also point to the responsibilities of members of society to contribute to the common good. From this perspective, what is missing from Goodin's formulation of the "all-affected" principle and incompletely addressed in Smith's "constituted identities" principle is an account of the obligations that citizens should be expected to perform for the benefit of their community. We need an account of what both existing and prospective citizens are doing, or should be doing to ensure that their collective institutions are able to keep fulfilling the tasks that members of society expect from the state as entitlements.

We also need an account of how the community ought to respond to cases in which members of society are contributing to the common good in extraordinary ways. This might involve rewarding the service of persons who continually perform acts of public service that are personally demanding to a degree beyond what we expect of any given citizen to maintain collective institutions. In countries whose national identity has been shaped by the ideal of the citizen-soldier tradition, military service in wartime might serve as an example that could fulfill this requirement (Krebs, 2006). This might also involve recognizing the service of persons who contribute to collective institutions, even though they cannot in turn

make the same claims to rights and benefits as other members of society simply by virtue of their status. This would help to account for the example of young unauthorized American residents who are already participating and contributing to the broader political community without the assurance that they will be permitted to remain there, much less claim the full range of rights and benefits that their citizen peers are entitled to.

### **Potential Implications for U.S. Immigration Policy**

How then should the United States respond to claims to immigration benefits by persons who have been shaped by its laws, policies, and institutions, either as U.S. residents or as foreign nationals in communities directly affected by U.S. intervention? First, we should prioritize claims to legal permanent residence on the basis of a non-citizen's actual or prospective contributions to the nation that they wish to join. In many cases, prospective immigrants abroad, and unauthorized residents in the U.S. are not just victims of that country's foreign policies that undermined their personal security or ability to pursue a livelihood in their home country. They are already participants, and in some cases, initiators, of a two-way relationship in which they have made significant economic, social, and civic contributions, for which they have only received partial benefits and limited recognition in the form of wages and services. This describes the position of non-citizens abroad who incurred risks in supporting U.S. military interests. Special immigrant visa programs that provide immigration benefits to a limited number of Iraqi and Afghan nationals who fear they will be subject to retaliation based on their service to the U.S. military are valuable as a first step linking service to the U.S. overseas to a pathway to residence in the United States (Government Accountability Office, 2010). This population-specific program should be extended to all similarly situated persons who have risked their lives in serving U.S. diplomatic or military interests abroad. Some unauthorized long-term residents of the United States may also have strong contribution-based claims to immigration benefits based on favorable equities including military service and extensive civic engagement. There is a bipartisan consensus emerging that unauthorized immigrant youth should be allowed to serve in the military and that after two years of honorable service, they should obtain permission to permanently reside in the United States. Their willingness to serve their adopted community gives them a

stronger moral claim to inclusion than if they simply asserted that their future plans and interests were shaped by their socialization in U.S. schools alongside citizen-peers and native-born younger siblings.

Second, we might introduce a new category of eligibility for legal permanent resident visas to members of communities living abroad that have been extensively shaped by U.S. intervention leading to a high demand for immigrant visas. By this, I do not intend for the creation of yet another population-specific legalization program for the benefit of a group of foreign nationals that has the support of a politically powerful U.S. interest group (Kerwin, 2010: 4). Rather, I am calling for a new general rule that links a country's immigration visa quota to a quantitative measure of its demand for immigration visas and a qualitative assessment of that country's ties to the United States. A demand-based per country visa quota would help to mitigate the unintended impact of the 1965 Immigration and Nationality Act's abolition of per-country visa quotas and institution of a Western Hemisphere visa quota. This measure has the benefit of eliminating racial and ethnic quotas in visa allocation. But by assigning visas equitably to countries without regard to demand, population, or ties of interdependence with the U.S., otherwise eligible migrants from Mexico and the Philippines have to wait over a decade longer in some categories to reunite with citizen relatives in the United States. A qualitative assessment of a country's interdependence with the United States for the purposes of visa allocation could account for factors such as trade agreements and the number of its former nationals living in the United States. In keeping with the "all-affected interests" and "constituted identities" principles, the qualitative assessment might account for the lasting impact of U.S. policy intervention on the livelihood or personal security of a country's citizens, and the extent to which migrants have been leaving the country for the U.S. as the result of its past military and economic interventions.

Third, we need to recognize that not all persons who have been affected by U.S. policies outside the United States want to leave their country of origin to improve their standard of living or sense of personal security. For instance, many Mexican small landowners that faced increased competition from U.S. agribusinesses in the wake of NAFTA opted to sell their land and move to the United States to join family and community members already there (Lopez, 2007: 42-63). But the displaced farmers might rather benefit from development and retraining assistance financed by both the U.S. and Mexico to help him compensate

for the impact of trade policies that benefit foreign interests at the expense of small landowners. And the United States should not be required to admit every person as an immigrant who has been affected in some way by past foreign policy decisions without regard for its interests in providing for its own disadvantaged citizens over necessitous non-citizens or the degree of harm it has inflicted upon a non-citizen through its direct actions. We might also differentiate between a state's short-term responsibilities to provide immigration benefits to persons fleeing from violence connected to its intervention from a long-term commitment to allowing them to remain in the country after the immediate threat to their livelihood and security subsides. For instance, the United States may have had a strong moral obligation to provide asylum to Guatemalans, Salvadorans and Nicaraguans fleeing the violence in their home countries in the 1980s given its intervention on behalf of the Contras in support of U.S. geopolitical interests (Garcia, 2006: 84-118). But with the cessation of hostilities, it might now be more advisable for the U.S. to respond to its moral obligations to affected persons from the region by providing those who want to return home with reintegration assistance. This might be coupled with development and security assistance for regional governments that are still struggling to recover from the legacy of the conflict (Bradley, 2010: 109-110).

## **Conclusion**

In this paper, I have suggested that the all-affected principle is valuable as a basis for recalling states to their moral obligations to non-citizens whose security and livelihood has been undermined by an intervening state's past policy decisions. A global power like the United States has some responsibility for the welfare of persons in countries that have been affected by its foreign policy interventions to the point that they feel compelled to migrate to the United States to regain their livelihood and personal security. This responsibility may become more pressing when foreign nationals voluntarily take on risks to support U.S. interests abroad, or contribute as non-citizen residents to their adopted communities in the United States.

But we should resist the more radical suggestion made by some democratic theorists that all affected foreign nationals should be enfranchised with a voice in future U.S. policy decisions, or provided with immigration benefits leading to their eventual inclusion as U.S. citizens. U.S. citizens should not be burdened with the



responsibility of accepting every person who may have been incidentally harmed by a past policy decision as a potential immigrant. And many affected persons would rather stay in their country of origin. The provision of immigration benefits may be justified where persons fear for their lives or cannot pursue their livelihood at home in cases that can be directly traced to recent U.S. economic or military intervention. Preferential access to U.S. immigration benefits may also be justified as a way of honoring the contributions of non-citizens to U.S. interests at home and abroad. Otherwise, the United States as an intervening state should be permitted to discharge its moral obligations to affected foreign nationals by providing them with assistance tailored to helping communities return to a previous state of economic self-sufficiency and personal security.

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