

THE UNDERMINING OF NON-WHITE AND THIRD-WORLD POPULATIONS
IN THE ETHICS OF IMMIGRATION

A thesis submitted to the faculty of
AS San Francisco State University
36 in partial fulfillment of
2017 the requirements for
the Degree

PHIL
• T753 Master of Arts

In
Philosophy

by
Miranda Triay
San Francisco, California

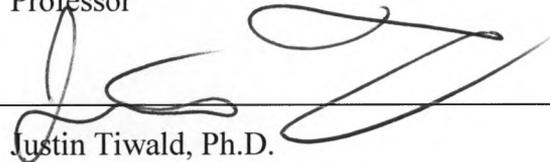
May 2017

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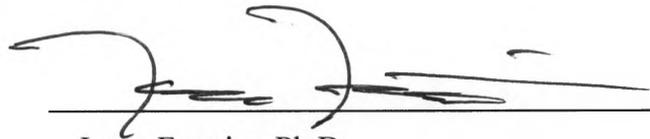
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Shelley Wilcox, Ph.D.
Professor



Justin Tiwald, Ph.D.
Associate Professor



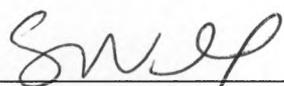
Jason Ferreira, Ph.D.
Associate Professor

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Miranda Guadalupe Triay
San Francisco, California
2017

The purpose of this work is to demonstrate that the preferred ethical immigration criteria suggested by liberal political philosophers Joseph Carens and Lea Ypi are not culturally neutral, and are historically ignorant and problematic. Joseph Carens' arguments for his criteria – that fit and language competency are acceptable admissions criteria – suggest that these features are neutral with respect to ethnic and racial identities, despite these same criteria having been used to historically undermine oppressed and marginalized racial and ethnic identities. Lea Ypi's argument, that skill-based criterion is culturally neutral because it relies on the skills of an immigrant and not on their social identity, disregards the history behind the skilled vs. unskilled divide, one that was racially charged and motivated to preserve white privilege and power. Through my critiques of both Carens and Ypi, I hope to unveil that their criteria ignore the evolution that racial/ethnic prejudice and immigration have with one another. In order to find possible solutions and criteria void of this unawareness, non-ideal theory and frameworks should be considered and implemented into these attempts.

I certify that the abstract is a correct representation of the content of this thesis.



Chair, Thesis Committee

5-17-17

Date

PREFACE AND ACKNOWLEDGEMENTS

I would first like to thank my committee, who assisted in hammering out most of the kinks in my arguments. I would especially like to thank Dr. Shelley Wilcox for her patience and commitment to my thesis. To Dr. Jason Ferreira, whose lectures on the mistreatment of people of color throughout the United States inspired a significant amount of this work. And of course, to Dr. Justin Tiwald for being both kind and understanding. Dennis Bowe was a tremendous help, and I cannot thank him enough! I would also like to thank my parents, Peter and Linda, for providing me with the emotional support necessary to continue this heavy work. Without them (and my adorable niece Josephine), this work would most likely remain incomplete, and I would be wallowing in depression! Lastly, a thank you to Dorian Lok – when life became unbearable, I could always find him for support. Oh, and shout-outs to my friends Alejandro, Rachael, Reza, Jordan, Jacob, and Trevor! Of course, this work is important to me and emphasizes that we still live in a world that is surrounded by the racist systems and structures created over 150 years ago. At the very least, I hope to show that liberalism, while a necessary step towards a fair and just society, is far from perfect, and still has the capacity to rely on the oppressive ideologies that came before.

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Section I: Introduction and Thesis

Recently, several liberal political philosophers attempted to construct thoroughly just theories on ethical migration. These philosophers such as David Miller, Joseph Carens, Lea Ypi, Michael Blake, and Adam Hosein stress the importance of equal and fair consideration in admitting immigrants. They claim that discriminating based on ethnicity, race, gender, religious affiliation, and nationality is unacceptable and intolerable, as it can lead (and has led) to the further marginalization of oppressed and underserved populations. These philosophers want immigration reform that is fair to all populations – where immigrants are not admitted based on attributes associated with their social identity.ⁱ Thus, they reject identity-based admission criteria, such as ethnic heritage or religious affiliation in favor of other criteria that are purportedly culturally neutral.

For instance, Joseph Carens argues that states have the right to prioritize immigrants who can competently speak and read a state's official language. For Carens, language competency is culturally neutral, since most able-bodied people have the proficient capacity to learn a language at any given part of their life. In regards to refugees, Carens argues that a refugee should “fit” a new society for easier assimilation. Fit in this context considers the cultural value similarities that any two states share, and can be potentially based off religion as well. For Carens, using cultural and religious fit for a refugee saves the refugee from any further oppression and backlash from their host state. Similarly, Lea Ypi argues that states should

prioritize immigrants who have the skills necessary to promote their host state's further economic and technological state. By only taking in migrants who can economically and technologically advance the host state, Ypi believes that this form of migration would be beneficial to both the migrant *and* the host state's citizens. Additionally, Ypi perceives skill-based criterion as culturally neutral since it solely focuses on the skills a migrant has acquired, and not on any other social identity markers such as race, religion, gender, sexual orientation, etc.

Ypi and Carens endorse admissions preferences that they believe are culturally neutral and consistent with liberal ideals. Yet, I will argue that their theories allow for covert historical cultural and ethnic preferences and are based on illiberal assumptions. Admissions criteria that Ypi and Carens assume are culturally neutral, what they assume can be universal policies for immigrants of all races, ethnicities, and religions, *are not*. Carens' language competency criterion for ordinary migrants and "fit" criterion for refugees have a history with colonialism and previous immigration restrictions that cannot be ignored. Likewise, Ypi's skill-based criterion ignores the racism that was integral to the creation of the divide between skilled and unskilled labor. In addition, she further ignores that what is perceived as skilled and unskilled labor today predominantly relies on that initial divide.

The very foundation of these immigration policies such as admission via cultural "fit," language competency, and skill are littered with racist ideologies, and these racist beliefs continue to inform our opinions on what "fair" and "just" admittance

criteria should be. While it is difficult to escape this narrative, as from its conception these immigration criteria were used to exclude and discriminate against marginalized populations, it remains that the strategies meant to create “culturally neutral” ethical perspectives of migration undermine the significant relationship that the history of immigration and the evolution of racial prejudice have with one another. That is, they fail to explicate where such ideas like skilled workers and a migrant’s “fit” originate. Even when attempts are made to escape the racially charged immigration narratives, such as Adam Hosein using an alternative term – “unauthorized migrant” – to address the contemporary racialization and stigmatization of the undocumented worker, the primary racial problems with the initial terminology is not addressed. Thus, by not addressing those primary problems, it creates opportunities for further prejudicial tactics to be implemented. The purpose of this paper, then, is to demonstrate that the preferred criteria suggested by Carens and Ypi for migration are *not* culturally neutral, and are historically ignorant and problematic. These assumptions, that fit, language competency and skill-based criteria can be used to create ethical theories of migration while they originated by racially and ethnically prejudicial means, prolong the tradition within liberal political philosophy of ignoring the socio-historical context that has created the divide between “developed” and underdeveloped states. Moreover, to formulate a just and comprehensive theory on migration, one must and should inform

themselves on how immigration reform and racism evolved with one another, which may ultimately require them to depart from ideal theory.

My thesis will progress as followed: I will first summarize Carens' arguments surrounding fit and language competency. Next, I will critique both arguments, arguing that fit cannot be divorced from culture and language competency cannot be divorced from oppression and colonialism. Then, I will look over possible objections to my critiques, and counter them. After the Carens' section, I will move to Ypi. The same structure will apply, only I will be critiquing Ypi's skill-based criterion, emphasizing that her criterion has explicit racist origins that makes it unsuitable for an ethical theory of migration. After Ypi's section, I will provide a comparison between Adam Hosein's attempted solution for a cultural neutral immigration narrative and Ypi and Carens, and how his solution, too, falls short. Lastly, I will explain how moving from ideal to non-ideal theory, such as with Debra Satz's "theaters of inequality" framework, can prevent these historically uninformed arguments from occurring while also creating effective just migration theories.

Section II: Joseph Carens & the Problem with "Fit" & Language Competency

Section II.A: Summary of Joseph Carens' Arguments & Identifying the Problem

To get a picture of Carens' views on immigrant admissions, it is necessary to understand his views on criteria of exclusion, refugee admissions, and ordinary admissions. Firstly, in *The Ethics of Immigration*, Carens explicates that criteria based on race, ethnicity, and religion – essentially, criteria that is related to one's

social identity, is illegitimate. He states that criteria like these – criteria of exclusion, are “clearly morally impermissible” (Carens, 174). He also notes that diverse states like Canada, Australia, and the United States used “explicitly racial criteria to exclude potential immigrants in the past. These criteria were not officially abandoned until the 1960s” (174). So, while the practice of not discriminating and excluding immigrants based on their racial, ethnic, or religious social identity is contemporarily obvious, it was not commonly perceived fifty years ago.

Carens continues to explain while states are free to take in as many or as little immigrants as they like, they cannot be *allowed* to exclude immigrants based on race, ethnicity, or religion. This may seem paradoxical initially – states can exclude immigrants altogether, and that is not perceived as morally impermissible; however, if they do admit, they cannot exclude based on one’s racial, ethnic, or religious identity. Carens compares this apparent moral limitation with anti-discriminatory practices in domestic employment: “a potential employer is under no obligation to hire anyone, but if the employer does hire, she must not exclude on the basis of race, ethnicity, or religion” (Carens, 174-175). Anti-discriminatory laws in employment are used to protect the social identities of American citizens. Even if someone identifies as Muslim and Asian-American, their religious and/or racial identity should not detract from any potential employment opportunities. Likewise, if someone identifies as Buddhist and Afro-Latino, their religious and/or racial identity should not detract from any potential admissions opportunities. At the end of this

argument, Carens also adds sexual orientation to morally impermissible criteria, stating that homosexuality has often been used as grounds to declare potential immigrants inadmissible. “As with the case of race, ethnicity, and religion, the use of sexual orientation as a criteria of exclusion in immigration policy reflects deeply rooted prejudices that cannot any longer be defended publicly” (175). Carens then, establishes that criteria that has been based on irrational prejudice cannot morally and soundly be defended, and should be considered impermissible.

In the chapter titled “Refugees,” Carens claims that a refugee should be a “fit” for their new society, so that it may be easier for them to assimilate and adapt to their new environment. This fit is tied with the state’s willingness to admit a refugee based upon how their current population identifies with the refugee and the plight they are turning away from. This is an addition to other factors a state should consider before admitting a refugee. This includes: the state’s economic capacity, their ability to “absorb” the refugee and settle them efficiently, and the wants of the refugee themselves. These all seem to be viable and effective criteria for a refugee.

When it comes to fit, Carens believes that:

It will be easier for the refugees themselves to adapt to the new society and for the receiving society to include them, the more refugees resemble the existing population with respect to language, culture, religion, history, and so on. It would serve no one’s interests to ignore the question of fit. (Carens, 214)

If all other criteria are met, such as reasonable accommodations for the refugee, “fit” would be the last thing the state would consider before admitting them. For Carens, considering fit is in the interest of the refugee *and* the state’s current population. If

the refugees and their plight were unpopular in the state, it could lead to further oppression. And, as a refugee seeking asylum, that would be a highly undesirable outcome.

Fit, then, should be used in a way that will benefit the refugee and the state. If the state's population is sympathetic to the refugee's plight and the refugee can quickly adapt within the state either through shared language or cultural similarities, then that "fit" would not only be optimal, but ensure that the refugee was provided a safe and welcoming environment. However, in respect to fit, Carens goes on to insist this notion should not be elevated or used to justify the marginalization or exclusion of refugees based on their race, cultural identity, religious affiliation, gender, etc. As demonstrated in his argument above, Carens argues that such exclusionary tactics for admittance into one state – refugee, migrant, or otherwise – are unethical and can perpetuate discrimination, prejudice, and oppression of underprivileged races, ethnicities, genders, religions, and nationalities. He also goes on to claim that while it is easier for states like the United States, Canada, and Australia to accept a variety of diverse immigrants and refugees over states that do not, more "homogenous" ethnic or racial states still have a responsibility to treat any admitted immigrants and refugees as full members of their societies. He concludes that it "would be wrong to use a history of insularity as a justification for refusing to resettle any refugees" (Carens, 215). Although a democratic state could have ignored, lacked interest, or excluded migrants and refugees in the past because of

their social identity, in an ethical, liberal theory of migration, they would be just as responsible as any other state for taking refugees in when asked to do so.

As noted above, Carens includes language as an acceptable “resemblance” for refugees to enter a host state. Carens also believes that language competency is an acceptable criterion for ordinary immigrant admissions. A state can prefer a potential migrant with adequate efficiency of their official language(s) because it can lead to immediate inclusion within the state and its population. For Carens, it is morally permissible because it does not break the state’s responsibility of *not* favoring immigrants who would fit and adjust more easily, so long as this is not based on prohibited grounds like race, religion, etc. Carens claims that competency of a state’s official language will help with immediate social inclusion, and will also aid immigrants in finding viable occupations where the state’s official language is necessary for their work to be accomplished. He also states that knowledge of official languages can be acquired and is obtainable for everyone, and therefore should not be covert markers to discriminate based on religious or ethnic identity. Since linguistic competency is something that can be obtained by most people, Carens does not see any real reason to object to it as a viable criterion for admissions. He does make a note that this is an obvious advantage for immigrants who are competent in the official languages of a particular state, and a disadvantage to those who are not. Still, Carens affirms that if “fit” is not based on such prohibited grounds like race or religion, a state can prefer one immigrant over the other through this

competency. Any democratic state can create this language competency preference, as then their admitted migrants could better adjust to their new environment and population through a shared language.

Carens' arguments for his claim – that fit and language competency are acceptable admissions criteria – suggest that these features are neutral with respect to ethnic and racial identities, despite these same criteria having been used to historically undermine oppressed and marginalized racial and ethnic identities. In the United States, the argument for fit is most infamously remembered through the Chinese Exclusionary Act of 1882, which prohibited the immigration of Chinese laborers. The Chinese, due to their differing physical features, clothes, communication style and traditions, were perceived as a danger to the expansion of white America. The United States government legalized the act to prevent the further endangerment of the “local” (i.e. white) population’s economic, cultural, social success.ⁱⁱ While white America could not expel African-Americans or Native Americans as easily, Chinese immigrants were foreigners they could legitimately expel and turn away on the simple basis that they would not promote American values and “fit” in with American culture. In this way, the Chinese were excluded based on “fit” – they were fundamentally othered, their culture deemed both dissimilar and a danger to white privilege and success. Similarly, the term “White Australia policy” has been used to collectively speak about numerous policies from the 1850s to the 1940s that were legalized in Australia to control and restrict the

number of non-white immigrants who entered the country. The most prominent of these policies was the Restriction Act of 1901, which successfully legalized the preference for white British migrants over all others for four decades. Despite Australia being an almost exclusive indigenous country before the British used it as a source of banishment for criminals, once a state was created, the white Australians in power created legislation that would bar any who did not culturally fit within their society (which, in this context, culture is made a covert marker for race).

Lastly, calls for language competency tests in the United States and Canada are often targeted against certain areas of the immigrant population. Despite various European immigrants having little to no ability to speak English conversationally, they are not deemed unworthy to take part in American or Canadian society. Rather, the targets for such competency tests are often Asian or Latino/a immigrants, their first languages perceived as a threat to American or Canadian culture and values. Therefore, calls for language competency are not necessarily for the benefit of the migrant, but rather to prevent further racial and ethnic populations from entering either country.

Given the history above, we can conclude that fit and language competency have been or can be used to exclude migrants of a particular racial and/or ethnic identity. Therefore, they cannot be so neatly divorced from those practices. These practices excluded and prevented various populations from migrating and becoming citizens in democratic states beforehand. If these practices became uncritically universal,

they could lead to covert forms of exclusion, and those who had been previously marginalized and oppressed could continue to be so. It seems, then, that the criteria of fit and linguistic competency cannot separate themselves from a predetermined ideology of what a citizen is, what a citizen is supposed to look like, and what a citizen is supposed to racially and culturally *be*.

Section II.B: The Problem with “Fit”

Between fit and linguistic competency, the “fit” of an immigrant appears more pressing, as it is affected by the criteria of exclusion Carens defends in his earlier chapter. Citizens of any state are expected to fit in in some capacity. They are expected to abide the law, and they are expected to treat others with respect. While the United States is not a homogenous ethnic society, there are still a variety of cultural and social norms that are expected of its citizens. If Carens means “fit” in that capacity, in which migrants and refugees alike are admitted based on their cultural and social knowledge of the state they would like to be admitted to, that would be acceptable. However, Carens makes a point within his earlier chapter to disavow “fit” for ordinary admissions – states should *not* select immigrants that will “fit in” more easily based on race, ethnicity, or religion. Yet, for refugees, he explicitly writes that fit based on religion and “culture” is legitimate. While they are immigrants due to special, extraordinary circumstances, refugees are still immigrants, and should have the same admissions protections that ordinary immigrants enjoy and have access to. One of those protections is the *exclusion of*

racial, ethnic, or religion criteria from the admissions process. Since Carens states that religion is a criterion that could be used for “fit,” this appears to be in direct contrast to what he previously discussed in his criteria of exclusion. Even if a refugee has a minority religious affiliation, it should not explicitly serve as a denial of admission, especially since ordinary immigrants are protected by such explicit denial. As for race and ethnicity, both are often conflated with cultural and/or national identity. Terms like “black culture” or “Chinese culture” signify that race and ethnicity are prominently tied to what it means to be a part of a specific culture. And, they signify that most imagine one’s race and/or ethnicity grants them access to these cultures initially. Likewise, a term like “Russian nationality” or “Catholic faith” can produce the image of a specific person that could stereotypically “fit” into those molds, regardless if a large portion of Russia or the Catholic Church’s population would not. Through ordinary admissions, immigrants are protected from these types of conflation. Under a refugee status however, religious and cultural fit can be used to determine admissions, and protections from such exclusionary tactics are no longer accessible.

This argument can be furthered amplified by using Carens’ employment analogy. When considering ordinary potential employees, employers are barred from excluding based on race, ethnicity, and religious affiliation. The same criteria are used for temporary employees as well. Temporary employees are hired on either for a specific span of time, or once a specific project is completed. Regardless

however, they are still temporary. Their time with the employer will end unless the employer can afford to keep them after their work is complete. The temporary employee can be compared to the refugee. The refugee, like the temporary employee, is expected to stay with their host state until the threat to their livelihood in their former state is over. Afterwards, like the employer, the state can decide if they have the capacity to keep the refugee. However, while the temporary employee is just that – temporary – they still have the same protections that a permanent employee has. One of those protections relies on the employer not barring them from employment or terminating their employment based on race, ethnicity, or religion.

Even if one potential temporary employee would “fit” in more over another due to their religious affiliation or racial identity, an employer cannot use that criteria to make their decision. The decision to employ must be based on the employee’s qualifications, not their social identity. So, the same could be said for the refugee. While a temporary member of their society, a state cannot bar a refugee from admissions or deport them based on their race, ethnicity, or religion. The decision to admit must be based on the refugee’s needs and the state’s ability to compensate and sustain the refugee. Of course, the refugee’s claim to sanctuary must be legitimate to be admitted, similarly to how a temporary employee must claim competence in the minimum qualifications of their desired position. If both the refugee and temporary employee meet those qualifications, then the state and employer cannot and should not exclude them from the admissions/employment process based on any

sort of cultural fit. Rather, exclusions would have to stem from an inability to house and maintain the refugee, like how the continuous hiring of a temporary employee depends on the amount an employer can afford. Once an employer decides to take in either permanent or temporary employees, they are barred from accepting any based on their social identifiers. In the same vein, if a state decides to take in migrants, either of an ordinary or refugee status, they must and should exclude criteria that has been and can be used to discriminate against them such as race and religion.

Of course, the distinction between an ordinary migrant and a refugee, like a permanent and temporary employee, is prominent in that one desires to establish a life within the host state while the refugee is seeking asylum for one reason or another. Therefore, from Carens' point of view, refugees should find states where they can easily assimilate for an assumedly shorter time span. From this implication, this would mean that only "cultures" resembling a refugee's could possibly be used as sanctuaries. In this sense, then, it seems that fit cannot be divorced from culture. From what was induced above, culture could mean a religious culture, an ethnic culture, and/or a racial culture. Furthermore, culture is prominently reliant and tied to the beliefs, social norms and traits of either a religious group, racial and/or ethnic group, and/or nationality. While refugees and ordinary immigrants arrive to states under different circumstances, they should still be granted the same protections from discriminatory and exclusionary practices. And, as Carens pointed out throughout

his book, the word “culture” *has* been used as a covert marker to discriminate based on race and ethnicity.ⁱⁱⁱ Therefore, refugees should be protected from exclusion by culture, which would protect them from exclusion by religion, ethnicity, and/or race, regardless if any of the three would somehow provide them with a better “fit” into one state over another. By using the word “culture” to determine a kind of “fit” for any potential migrant, refugee or otherwise, it allows a state to fall back on to previous discriminatory practices.

Given the above, it seems difficult to divorce culture from fit, and similarly difficult to divorce culture from race, ethnicity, or religion. So, it should also prove difficult to determine if a state’s culture is similar enough to another without discriminating based on race, ethnicity, or religion. For example, if a state is predominantly Catholic and a Buddhist seeks asylum from it, under Carens’ system the Buddhist may face a possible and seemingly well-intentioned rejection on the basis that their religious ideologies will not “fit” with the predominant religious culture. Consider however that a large part of racial and ethnic identities, especially within predominately non-white states, are *tied* to their cultures. The same could be said in respect to religion, where religious affiliation is tied to a specific cultural identity, which in turn is tied *to* and interwoven *with* specific racial and ethnic identities. Buddhism is tied to East Asia and is specifically tied to Japanese and Indian ethnic identities. Another religious example would be Catholicism, which is tied to a variety of Spanish-speaking countries, with special emphasis on Mexicans.

By believing that “culture” can be used to determine one’s “fit” for any host state, Carens disregards the intersection of culture, race, and religion, and forgets that such nuances are not forgotten by discriminatory governments.

This intersection becomes even more apparent if we are to consider that Carens believes sexual orientation should be added to excluded criteria. Sexual orientation, along with transgender identities, has been and is considered a subculture. Terms like “gay culture” and “the LGBTQ+ community” illustrate that sexual orientation and gender identity are integral to an individual’s social identity. However, if “culture” can indicate fit for a refugee, their sexual orientation and gender identity could easily be used against them if either were outside the norm for their potential host state. Given that the global population of gay, lesbian, and bisexual people is (at its largest estimate) around ten percent, it would appear that no matter where a homosexual or bisexual person sought sanctuary, much of a state’s population would not partake in integral parts of that refugee’s culture. This would make it easy for states to deny refugees by sexual orientation, so long as they justified their denial by claiming gay cultural norms are not compatible with their overall social culture. Using culture to help determine fit could effectively bar LGBTQ+ refugees’ sanctuary from various states. Just the same could be applied for any minority religion, ethnicity, and race of any state. So long as a state’s overall social culture does not ascribe to the same norms as another – be it racially, religiously, or otherwise – than culture could continue to be used as an effective covert marker to

exclude refugees based on their social identity. Therefore, “fit” is not a justifiable way for any kind of refugee or potential migrant to be admitted into a host state, as these kinds of practices have been historically used to exclude predominantly non-white populations from seeking admissions to host states. This is especially true with marginalized populations, as their ethnic and racial identities are often tied to their cultural identity, and the preference of one culture over another is a covert way to exclude these marginalized ethnic and racial identities in the first place.

Section II.C: The Problem with Language Competency

While fit cannot be divorced from culture, it also appears that language competency cannot be divorced from its roots in oppression and colonialism. Language competency is not as easy to obtain as Carens believes it to be. Western languages are presented as the standard, considered universal, and are usually necessary to be successfully admitted to a developed state. While Carens makes a point to say that language is something that is obtainable for everyone, he disregards *how* obtainable any one language actually is. Since English is the contemporary *lingua franca*, most countries (developed or underdeveloped) teach English statewide, and it remains more accessible than other Western languages such as French, German, Spanish, etc. Underdeveloped states, especially, may only have the resources to teach the languages of their past oppressors. For example, French remains one of Vietnam’s major languages, and English is the official language of a variety of African states that lived under the British Empire such as Nigeria, Ghana,

and Kenya. Therefore, the only states potential migrants could be admitted to, if language competency was required, would predominantly be the very states they had been previously colonized by.

This further ties non-white populations to their previous oppressors, and makes it so that their language of origin is *less economically valuable* than the Western languages that could provide them more financial opportunities. Colonized languages are degraded: they have limited economic and cultural capital outside of their own states. Meanwhile colonizer languages are elevated, and provide a prospective migrant with an economic and cultural capital that can be applied to almost any part of the developed world. Language competency tests, even if they would provide an admissions advantage to the migrants of formerly colonized states, would continue to affirm that the languages of colonizers are fundamentally more viable than the colonized languages. Languages of the formerly colonized are not perceived as relevant to the global economic market. So, formerly colonized people must use Western languages to achieve the same economic success as their former colonizers. This is despite that such success had previously been denied to them by the very states who colonized their country previously. This learning of their former colonizer's language, then, is not necessarily a disadvantage but an affirmation that the languages of the colonized have little to no place in the developed and/or Western world. Colonized languages are tied to their people and their culture rather than a way to achieve economic success. To be a part of developed society, formerly

colonized people must accept, learn, and use the languages of their past colonizers in work and/or educational environments to achieve socioeconomic success, and can only use their first and/or original languages in strictly private and/or familial environments. Furthermore, colonized languages are only economically viable if they are spoken *in addition to* a western language, like English or French. Colonized languages can be a plus to economic success, but they cannot be the basis of it. Therefore Carens' language competency criterion ignores the fundamental historical inequality between previously colonized, exploited states and states that *have* previously colonized.

By using language competency as a preferred criterion for admissions, Carens disregards that the languages often "preferred" within a democratic state (and thus, the languages that can provide the most financial success) originate from states that have previously colonized and exploited. States like the United States, the United Kingdom, France, and Germany have all been former colonizers, and their effects on the colonized remain. The lack of economic success of many previously colonized states is dependent on their exploitation and the practices used by the colonizer to keep them reliant. The relationship between the colonizer-oppressor and the colonized-oppressed relies on domination, and one way to oppress the colonized was through the erasure of the colonized language and the teaching of the colonizer's language in its stead. By forcing these states to learn their colonizer's language, the colonizer could potentially *and* effectively make the colonized reliant on the

colonizer. To enter the “developed” world, the colonized must still rely on their former colonizers in one form or another. Even after the colonized obtains their independence, they continue to rely on the colonizer for their socioeconomic success: either by using the colonizer’s language, or immigrating to states where that language can be used as a tool for financial success.

Examples of these tactics can be found in the Americas: Mexican missionaries taught Spanish to the Native Americans working on the missions of El Camino Real in California, stripping them of both their original language and spiritual beliefs. This, then, made the Native Americans dependent on the language of their colonizer. In the east, slave owners would often separate Africans from their friends and families, limiting their ability to communicate in their language of origin. More recently, the jeers many within the Latino/a community receive speaking Spanish in public is a modern tactic to silence non-white populations, creating a power dynamic where only *one* language is viable. Ultimately, the language that *is* viable, that is essential for socially acceptable communication within many host states, is the language that has been used to oppress, colonize, and exploit. Therefore, a linguistic competency criterion remains tied to race, as the very tool of language perpetuates the growing inequality between people who speak predominantly Western languages and those who do not. To make language competency a preferred criterion for admissions continues the trend that only certain languages could prove to be economically and culturally fruitful. Moreover, language competency criterion can

be used as a covert way to discriminate towards states that do not have the resources required to effectively teach a specific language to their general public.

Section II.D: Possible Objections & Counterarguments

Both arguments presented can be faced with objections. In regards to fit, one could object that despite criterion based on cultural and religious fit being used to oppress and restrict migration in the past, it does not mean that similar criterion cannot be contemporarily used to justly and ethically admit immigrants in the present. If there is a way to make an ethical case for fit either culturally or religiously (at least in the case of refugees), then we should not exclude such arguments even if they were used to restrict and limit migration beforehand. This is what Carens attempts to construct with his fit argument for refugees: while admissions based on cultural similarities have been used as covert markers to reject immigrants beforehand, contemporarily, using a cultural or religious fit for refugees *benefits* the refugee more than it hinders them. By providing the refugee with a cultural and/or religious fit, they can potentially feel safer and more welcomed in that state environment than in a state that is less like their cultural or religious background. From that angle, I agree. Refugees should feel safe and welcomed in the state they receive sanctuary. They should have neighbors that they can confide in, and they should feel enabled to partake in similar cultural or religious traditions.

However, to rely on “fit” as a contemporary, ethical criterion for refugee admission without investigating its history and understanding why ordinary

migrants are and should be protected from such criterion presently, defeats that very purpose. Fit cannot and should not be used as a criterion for any admissions, be they permanent or temporary, until the origins and history of that criterion – how that criterion has been used to restrict and reject the migration of multiple races, ethnicities, and religions – has been thoroughly investigated and analyzed. Once the initial criterion (in our case, the criterion of cultural and religious fit) has been deconstructed, then and only then should one be allowed to construct and defend any ethical claims they have for the use of the criterion contemporarily. If the history of the fit criterion is not analyzed however, then almost any ethical claims made in favor of fit criterion immediately lose their force. Understanding the history of criterion used to previously discriminate against large populations is essential in creating a compelling and effective argument for the criterion's contemporary use. Of course, not every instance of the criterion used to discriminate needs to be mapped and detailed. But, specific cases and how they hinder populations from migrating are necessary to provide the argument with the examples to move away from. Again in regards to fit, one must initially look at its history as an exclusionary tactic in migration, and then proceed to make the case as to why, despite its history, it would not be used as a covert marker now.

Where fit is a criterion that requires its history to be detailed so that it can be properly defended, it is not in the same vein as language competency. The primary objections to my language competency arguments would rely on socioeconomics

and migrants being productive members of the state. Where cultural and religious fit primarily restricts those who are not a member of a state's cultural or religious majority, language competency seems to restrict on an even more basic level. If a potential migrant does not know one or more of the major languages in their host state, then it could be concluded that they would fail in being a thoroughly productive member of the state. Their interactions with fellow citizens would be limited, they would be unable to work in an environment that relies on a major state language for communication, and they could possibly face further scrutiny and ostracizing due to their limited competency. Often, this argument is made for the case against illegal immigration in the United States and is predominantly targeted towards the Mexican population. If immigrants have yet to learn a state's major language, then they will be reduced to work in jobs that requires little to no communication, such as farming, cleaning services, cooking, etc. Language competency provides a migrant with full access to their new state. It not only provides them with more socioeconomic opportunities, but with further access to their new social and cultural communities.

Still, language competency is not an absolute to being a productive member of a state, especially if other criteria are met. Although illegal immigration is a special case, it can still be argued than even illegal immigrants primarily provide the manual labor necessary to continue the production of agricultural products, to maintain school grounds and hospitals, etc. And even outside their labor, these immigrants

also produce capital and consume like average citizens. Outside of illegal immigration, potential migrants who have yet to satisfy language competence requirements could be tested in other areas, such as cultural and social competence. As stated previously, testing for proficiency in a state's cultural and social norms helps the state evaluate if the migrant can effectively transition into their new environment in a reasonable amount of time. If some criteria are met, language competency should not bar a migrant from any particular state, especially one that has yet to designate an official language like the United States. Lastly, states could accept migrants on the condition that they learn one of the state's major languages during their transitional period. This would give the migrant a chance to not only learn the language, but to integrate and communicate with other migrants in their communities.

In every instance above, migrants can still contribute, produce, and be a part of their host state without proficient language competency. If they meet other criteria, and the criteria are not covert markers to discriminate based on race, ethnicity, religion, sexual orientation, etc., then the state has the means to effectively evaluate and accept/reject their application. One of these criteria however, could be the skills that a migrant possesses. As argued in the next section, the divide between skilled and unskilled migrants plays a large part in how migrants are evaluated and admitted, with one deemed worthier of admissions than the other due to its initial, prejudicial roots.

Section III: Lea Ypi & the Problem with Skill-Based Criteria

Section III.A: Summary of Ypi's Argument & Identifying the Problem

To summarize Lea Ypi's argument, justice in migration built upon the supply-and-demand of skilled human capital is both non-discriminatory and culturally neutral. Instead of relying or focusing on the social, historical, or political aspects of social statuses such as race and gender, Ypi believes that a theory of justice in migration built around the skills and talents of those immigrating to/emigrating from legitimate states is essential. A just theory of migration based on skill considers "a balance between the rights of citizens in receiving societies to benefit from the public goods guaranteed by their collective institutions and the right of individuals to move freely across borders in search of better life opportunities" (Ypi, 397). In this regard, receiving societies (or host states) would only accept immigrants who could improve one aspect of the state's community at large, such as the economy or the state's technology. Ypi uses real-life successes of this tactic to strengthen her argument. In Canada and Australia, "point-based" immigration systems are used to employ skilled migrants for understaffed parts of their job market (Ypi, 413).

She continues to claim that exercising one's right to freedom of movement should only be invoked if the rights of the citizens in the host states are accommodated as equally as the migrants who seek admission. "Human capital is famously essential to the improvement of social and political institutions" (Ypi, 410). In other words, citizens of host states should receive substantial benefits from

these immigrants. Of course, immigrants come with their own share of burdens to citizens, as with each immigrant admitted into a host state, they take citizens' job opportunities, housing, and economic capital. Still, Ypi believes that a balance between benefits and burdens should be constructed (or at least, the benefits of an immigrant should outweigh burdens of them being admitted). These benefits would theoretically economically advance and/or further the development of goods and services within the host state. For Ypi, this would provide a mutually beneficial relationship between immigrants and citizens of all classes, and would continue the economic and technological advancement of the host state. Ensuring immigrants of host states are skilled and will, in some capacity, contribute to its success *protects* the domestic working class of the host state. If only immigrants of skilled backgrounds are admitted, the working class of that host state would only have to compete with each other for job opportunities that do not require the same amount of skill as, for example, engineers or medical and IT professionals. For Ypi, "equal consideration of both immigrants and existing members leads to a set of criteria for admission taking into account both the skills of immigrants and the needs of the host society" (399). Therefore, Ypi's just theory in migration is focused upon preserving the opportunities of the host state's working class while continuing the progression of the host state through any type of "skilled" need.

Then, to establish viable criteria for admission into host states, Ypi believes one should consider "the potential of migrants for economic contribution so that any

impact of admission and integration on the welfare state is compensated by the benefits migrants bring into the host-society,” (Ypi 399). In other words, migrants should be a benefit to the citizens of host states based off their economic potential, progressing the host state forward by paying taxes and providing necessary, meaningful work for the state as a whole. As consistent with the rest of her argument, a skill-based criterion must keep the livelihood of the host state’s citizens in mind. Therefore, only immigrants that are necessary to the host state, based on the skills they can provide, could be admitted. This, Ypi believes, would be the only way a just immigration platform could be achieved, as it excludes all types of other criteria that discriminates on the basis of race, nationality, religion, gender, etc.

Section III.B: The Problem with Skill-Based Criteria

However, Ypi disregards that a dependency on skill-based criteria ultimately falls into discriminatory territory, as racial exploitation during colonialism and imperialism created the “skilled” vs. “unskilled” framework in order to preserve white privilege and all its benefits. Her criterion confirms the claim that has been prevalent since the skilled vs. unskilled divide was conceived – where some skills are more worthy than others, and skill-based preferences are even morally desirable. This divide perpetuates the systematic inequality created more than 150 years ago: where “skilled” labor was likened to white, male, *and citizen* labor, whereas “unskilled” labor was equated to either women’s labor, immigrant labor, or non-white labor.^{iv}

This divide also demonstrates how skill-based preferences (and their moral desirability) are linked to privilege, and particularly the privileges of whiteness, maleness, and citizenship. This is most prominently demonstrated in the creation of the American Federation of Labor, or the AFL, in 1886. While at its inception it admitted nearly all genders and ethnic identities of various trades and crafts, it became more exclusionary during the 1890s, and clearly defined “skilled” labor as something white men could predominantly (and perhaps, only) participate in. “Skilled” labor, to the AFL, meant something that required thorough amounts of training, which in 1886, varied from today’s standards. Skilled could mean boilermakers, bakers, hat makers, conductors, fire fighters, etc. Contemporarily however, “skilled” as indicated by Ypi is any occupation that requires significant training and education. Which, historically, has excluded non-white populations.

What separated skilled and unskilled employment depended on the number of women and non-white populations within a specific field. For instance, manual labor was a predominantly non-white occupation. It was dangerous, dirty work, and was often the only work non-white populations could find, as apprenticeships for trades and crafts (what would become known as skilled labor) excluded non-white populations en masse. For example, the Transcontinental Railroad was infamously built off the labor of underpaid Chinese, Mexicans, and African-Americans. The work was grueling, perilous, and required the ability (*the skill*) to endure long hours, fluctuating weather conditions, and muscle fatigue. Still, while such unions like the

Brotherhood of the Railway Clerks, Railway Mail Association, and Brotherhood of Railroad Signalman of America were admitted into the American Federation of Labor, manual workers remained unprotected, underpaid, and exploited by their white employers. Manual labor became equated to non-white labor, which was further equated to *degraded* labor and *non-citizen* labor. Whereas citizens (white and male) could reap the benefits of training and education, those who were either deemed non-citizens or not citizen enough (non-white and female) had to find occupations that were beneath that of citizens, and often required the exploitation of their physical bodies. In this way, the AFL was used by American citizens – the dominating white male class – to preserve and protect the privileges they had created for themselves. By creating the divide between skilled and unskilled labor, class became *experienced as* race. What one's racial identity was tied them to either a life of possibility or limitation. Creating that divide was essential, as it contemporarily continues and perpetuates the myth that one occupation is more valuable and vital than others. This notion is especially demonstrated in Ypi's piece.

Ypi clearly indicates that only those who are more educated and trained than other citizens in their source states are permitted to exercise their freedom of movement. This freedom of movement seems to be strictly based off their economic potential. But this economic potential, this skilled and unskilled divide – is a *fabrication*, borne out of white privilege to continue the divide between races and classes. By using this language and only providing examples of professions that

require prominent training and education, Ypi perpetuates this fabrication: those who were exploited in the past will continue to be exploited, and those who benefited from white privilege and exclusionary tactics will continue to benefit. Besides the United States, the skilled and unskilled divide can be charted globally as well: states that were colonized and ruled under imperial regimes had their crafts and trades reduced to unskilled labor, their manual labor degraded and used as a means to exploit resources from their lands. This ultimately creates a fundamental problem with Ypi's theory: that the very idea of skilled labor and all its economic potential cannot be divorced from the white supremacy that created it. Skilled labor is still linked to the privilege of whiteness – to the belief that one skill or profession is either superior or more morally desirable than another. Migrants, skilled or otherwise, must fit into this racially and class-coded framework. Or else their possibilities, like the marginalized before them, will be limited.

For Ypi, a migrant's freedom of movement is *tied* to the skills they possess. This is ultimately problematic in that it restricts and confines potential, working class migrants to their source states. As indicated previously, it *racializes* class, where the clear majority of unskilled migrants are part of non-white populations/communities of color. If working class migrants cannot find a prospective host state that seeks their skillsets as economic contributions, then they would have to remain within their source state. And while remaining in a developed source state such as Canada and Australia is less of a hardship for those potential working class migrants, it would

be much more difficult to remain in an underdeveloped source state, where the economic potential of the state is either stagnant or declining. Since underdeveloped source states are states that have been stripped of their resources and economic potential due to colonialization, systematic oppression, and racial exploitation, it seems less likely that one can divorce the ideas of skill and skillsets from class and race. Because these underdeveloped source states were prevented from advancing alongside other states – because their people’s very occupations and *livelihoods* were deemed “unskilled” – it can be concluded that many of their citizens would not have skills be deemed capable of producing a substantial economic contribution to any prospective host state. This poses a challenge to Ypi’s argument that skill-based criterion is culturally neutral since it ignores the very cultural and historical context that has prevented citizens in undeveloped source states to learn the skills required *to be* economically viable. While the word “skilled” could imply a multitude of different professions and talents, Ypi’s examples of skilled migrants leaves out a substantial amount of the workforce, including the working class itself.

Initially, Ypi’s argument for a skill-based criterion does not provide examples of the type of skills being sought after. Thus, it could be concluded that if host states were legitimately looking for skills often found in the working class (where work is largely racialized and considered unskilled), this would provide the ability to accommodate those migrants. As Ypi continues however, her criterion alludes to the skills and professions that would *actually* make a productive contribution to host

states. Several times throughout her paper, Ypi equates “skilled” with “high-skilled,” indicating that the skills that would qualify one for admissions to a host state would come from talent, training, or education. Due to the evolution of skilled labor, this would mean high-skilled labor directly correlates with labor dominated by white, male populations. Towards the end of her argument, Ypi provides a prime example: “or it may be the case that high-skilled emigrants, even much needed, would be badly employed at home because source states lack institutions able to absorb all the educated workforce” (Ypi, 413). Here, Ypi also uses the word “educated” to further divide those of skill and those apparently without it. This indicates exactly the type of skills required to immigrate to prospective host states: skills that require education and training, and skills that are predominantly found in the white, male population.

This notion – that substantial education and training is required to market a migrant to a prospective host state – is further backed by all Ypi’s examples of skilled migrants throughout her argument. These include: medical staff, doctors, IT professionals, and engineers. These are professions that require both training and education to be proficient, and which can garner substantial amounts of income in developed host states. Income in these professions would not be of the same capacity as professions that require less training and education, such as administrative positions or copy editors. They would however, still require *some amount* of skill to be competent at the job. Thus, in regards to Ypi’s criterion, it is implied that those

who do not fit into “high-skilled” professional categories do not have the luxury of seeking the same opportunities in prospective host states that their skilled counterparts can. With this type of admissions criteria, “unskilled” migrants would not have any seemingly marketable skills that could productively contribute to the host states they wish to immigrate to. Just as in the past, it *prioritizes* occupations that have largely been white and male. All other occupations that have been predominantly non-white or that have become more diverse (such as administrative positions) are not only less economically viable, but less viable as means for immigration admittance in general.

Section III.C: Possible Objections & Counterarguments

Of course, objections can be made to these critiques of Ypi’s argument. Namely, that while the divide between skilled and unskilled labor was originally an implicit way to discriminate against either female, non-white, or foreign workers, it is no longer applicable to Ypi’s criterion. As it stands now, many migrants who find work in developed states are people of color in “high-skilled” professions. They are the IT professionals and the medical staff Ypi discusses in her paper, the skilled workers that emigrate from underdeveloped states. In obtaining the skills originally mastered and preserved for white males, these immigrants diversify these high-skilled, upper class professions, and obtain a socioeconomic capital that was previously unachievable. They can send their children to schools that will provide them with

quality education, can afford comfortable living arrangements, and provide themselves and their families with various social and material goods (transportation, status, access to internships, etc.). While Ypi does critique her own position on emigration (in that it is not necessarily ethical for high-skilled migrants to leave their underdeveloped states behind in pursuit of their own socioeconomic success), it is void of any historical or racial context. As noted by Ypi herself, these professionals are the best of what their states can offer. They are the exceptions, the people who can be successful in the Western world. And there lies the problem: for a person of color to be considered worthy of admission, they must prove to be exceptional. They must prove that they are not like the rest of their kind, and that they have the capacity to assimilate.

For a person of color to be considered “skilled” by Ypi’s standard, they must go through the prominent training and education necessary to achieve it. That much is obvious. No matter what profession someone has, it still requires a certain level of skill and expertise to maintain and finish the job. However, the only professions that seem to matter when it comes to immigration are those that are considered high-skilled, and require a significant amount of resources to obtain. From the beginning, any individual from an underdeveloped state must be exceptional: they must have access to reliable transportation to go to school, steady income from their guardians or a scholarship to continue their education and training, etc. From there, they would have to select a field that can provide them with substantial economic success, such

as a profession in science or medicine. And, unsurprisingly, both fields were originally (and almost exclusively) populated by middle to upper class white men. White men shaped the global cultures of medicine and science. These professions were (and still are) considered prestigious and profitable because white men *said* they were. Therefore, for a person of color to “move up” the social hierarchy and achieve the same socioeconomic success as white men, they would have to enter a field that was originally dominated by whites alone.

The norms of these fields, then, were created by white men whose lifestyles and experiences differed than that of people of color and individuals from underdeveloped states. To make it in high-skill professions then, it requires not only prominent training and education, but social capital as well. To achieve the same socioeconomic success as white men, immigrants must also assimilate and imitate their lifestyles to truly “move up” the social hierarchy. Such assimilation can lead to the model minority stereotype, as seen with Asian-Americans. As the model minority, Asian-Americans are pitted against other people of color and are told that if they assimilate into white culture, they will achieve the same socioeconomic success. This means that they must strip themselves of their culture and promote white values instead. Therefore, regardless if the fields of science or medicine are diversified through immigration, they are still classified as white spaces, and assimilation is required to be successful. This indicates that any objection to Ypi’s skill-based criterion that relies on diversity is misguided, as diversity by assimilation

continues to keep white culture as the standard, and promotes whiteness as the ideal people of color must obtain to be successful.

Again, the above observations continue to demonstrate the fundamental problem between developed vs. underdeveloped states and the faults with Ypi's skill-based criterion. Underdeveloped states must adhere to the standards of developed states, even though their resources were depleted and their people oppressed by the very same states. Migrants of underdeveloped states not only have to train and be educated in fields that are predominantly white, but they must assimilate and promote white values and attitudes to achieve prominent socioeconomic capital. Had this oppression not taken place, underdeveloped states would most likely not have the same kinds of emigration problems as they currently do. Their "high-skilled" citizens would not prioritize their lives around assimilation and around the means to leave as soon as their training and education was complete. Rather, these underdeveloped states would have the means to be a fully-functioning, *developed* society, and the likelihood of their citizens leaving would be based on a preferred location, not opportunity.

Section IV: Possible Solutions & Conclusion

Section IV.A: Adam Hosein's Attempted Solution

I have argued that both Carens and Ypi favor immigrant admissions criteria that have historically been racialized, classed, and religiously intolerant. Whether through language competency or skill-based criterion, these criteria are rooted in

discriminatory tactics. Since these tactics are a part of the conception of immigration reform and policy, it can prove difficult to promote just theories that are either completely free of racism and classism or cannot be co-opted for prejudicial reasons later on. Even when attempts are made to distance immigration from its prejudicial roots, it can further stigmatize the very groups it wanted to protect. For example, while the term “undocumented worker” was created to neutrally discuss the issue of illegal immigration within the United States, it was soon racialized and casted an unsympathetic light on the undocumented plight. For various American citizens, the undocumented worker is now synonymous with the image of a complacent, non-English speaking Latino/a Mexican who drains tax dollars through their use of public hospitals and schools. A further attempt to neutralize illegal immigration was made in Adam Hosein’s paper “Immigration: The Argument for Legalization.” There, he replaces the term “illegal” and “undocumented” with “unauthorized migrant:” “these migrants are sometimes called "unauthorized" and sometimes "illegal," but since those terms have become so politicized I will just use the (I hope) more neutral term "unauthorized"” (Hosein, 1). While that can neutralize the stigma associated with the undocumented worker and prevent the reader from viewing every undocumented worker as Mexican, the term unauthorized migrant (like undocumented worker and illegal immigrant before) could be used against the very populations it sought to defend. While providing alternatives for racially-coded language, Hosein creates a space where ethical theories of immigration can be

separated from their stigmatized cultural ideals. At the same time however, he also creates an opportunity where his terminology can become racially charged as well.

While the previous example has more to do with the language used in ethical migration theories rather than the criterion critiqued in this paper, it demonstrates that discussions of immigration reform and policy still rely on racialized frameworks. Even when there is a potential to alter that framework, the alterations do not strike at the heart of its problems. The undocumented worker was meant to be a representation of *all* illegal immigrants within the United States. However, even before the term was introduced, illegal immigration was construed as a problem with a particular people – a Mexican problem. Instead of deconstructing that belief, it was assumed that if the terms were changed, the belief and all its racialized prejudice would vanish. Yet, the term “undocumented worker” was quickly co-opted to fit a certain agenda: that particular illegal immigrants were more harmful than others. Because, again, the primary problem – that Mexicans and the general Latino/a populations were targeted over other ethnicities in discussions surrounding illegal immigration – was not addressed. It was merely glossed over. Which is precisely why Carens and Ypi’s criteria do not sustain themselves.

The same logic applied to the undocumented worker vs. unauthorized migrant applies to the criterion used in ethical migration theories. Carens and Ypi’s criteria glosses over the original problems of immigration policy and reform. Whether they notice it or not, they still conform to the racist and classist tactics used to oppress

the working class and people of color. While Carens' language competency criterion should be ideally used to test the language skills of migrants, it is the very value of one language over another (colonizer languages vs. colonized languages) that creates the problem. Similarly with Ypi, she conforms her skill-based theory to the skill vs. unskilled divide that was shaped under prejudicial, racial means, and affirms that the only professions of true value are those that can give migrants substantial socioeconomic capital, condemning unskilled (predominantly non-white) work in the process. Both Carens and Ypi's arguments ignore and/or dismiss to various degrees the racialized history of their proposed criteria. Their theories, then, seem to fall more in line with ideal theory in that respect.

Section IV.B: Moving from Ideal Theory to Non-Ideal Theory

As defined by the Stanford Encyclopedia of Philosophy: "ideal theory assumes reasonably favorable social conditions, wherein citizens and societies are able to abide by principles of political cooperation" (John Rawls, plato.stanford.edu). For Carens, his fit and language competency criteria would be ideal if our society had not formerly used these criteria to exclude people of various marginalized identities. However, while Carens excludes criteria that can further marginalize specific migrant populations, he then brushes off such "fit" criteria for refugees, and does not analyze the significant correlation covert racism and language competency tests have with one another. And for Ypi, her skill-based criterion assumes that our contemporary skill hierarchy was ideal from its inception. Her theory falls into ideal

territory because it assumes that skill-based immigration is culturally neutral, free of any prejudicial claims, and is thusly the ideal way states should operate their immigration policies. Yet, Ypi's argument ignores the initial racialization of the skilled vs. the unskilled divide, and does not account for the oppression in underdeveloped states that led to vast majorities of their population falling into "unskilled" territory.

As evidenced above, the migration criteria suggested by Carens and Ypi to promote ethical theories of immigration are stunted by not giving proper attention to the history of immigration and colonization. Without properly analyzing the history of marginalized, oppressed, and colonized migrants, and Carens and Ypi's theories can easily be led astray. "Skilled" labor and language competency could potentially be used as a covert marker for discrimination towards a plethora of non-white populations. As fundamentally, underdeveloped countries are deprived of the resources required to provide adequate training and education for their populations. A possible way that Carens and Ypi can improve on their theories is to analyze the historical racialization and marginalization of immigration, *how* marginalized people have been excluded and exploited based on their racial and ethnic identities. This of course, would distance them from the ideal frameworks they use, and move them towards non-ideal.

While ideal theory is useful in navigating what is possibly best for our society, non-ideal theory is perhaps more effective when it comes to ethical theories of

migration. Non-ideal theory can diagnose the injustices of our actual lived world and account for historical marginalization and oppression (rather than simply constructing what an ideal world would look like in its absence). As noted by Elizabeth Anderson in her book, *The Imperative of Integration*, non-ideal theory is a way to construct ethical theories while investigating the systematic disadvantages that marginalized people are still affected by. If we know the root cause of an ethical dilemma, such as the racist origins of immigration policies, then we would be better equipped to deconstruct the original policies and build an ethical framework that is fair and just to all. Whereas, “starting from ideal theory may prevent us from recognizing injustices in our non-ideal world” (Anderson, 5). As explored in both Carens and Ypi’s arguments, their use of a more ideal framework prevented them from recognizing the historical injustices perpetuated through the criterion they proposed. Fit cannot be divorced from culture, and the divide between skilled vs. non-skilled cannot be divorced from its original attempts to hinder the socioeconomic opportunities of women and people of color.

A possible way either Carens or Ypi’s arguments could transition from ideal to non-ideal theory would be to follow Debra Satz’s theaters of inequality framework, explained in Amy Reed-Sandoval’s paper, “Deportations as Theaters of Inequality.” A theater of inequality charts the way one “character” is systematically oppressed by another character, creating a history of injustice. Ultimately, that history is reinforced in public: the inequality of one character is normalized, and certain tactics

used by the other character reaffirm their oppression and exploitation. “A history of injustice – including status inequality – explains the systematic roles, and it reinforces the very status inequality that brought about the theater of inequality” (Reed-Sandoval, 205). Reed-Sandoval uses the deportations of Latino/a workers in the United States to illuminate her point. Latino/as are permanently casted in the role of a “deportee,” where they are systematically treated as an “other” in American society, even if they legally immigrated or were born within US borders. “Being presumed to be undocumented affects not only undocumented Latin Americans, but also “legal” Latino/as who are regularly presumed not to belong in the United States” (Reed-Sandoval, 211). This is despite, of course, that a large part of the United States used to belong Mexico, and numerous Mexicans remained within its borders afterwards. Whether documented or not, Latino/a immigrants have a fundamentally different immigration experience than others, and their unique experience should be given proper scrutiny before creating an ethical theory on deportation. Therefore, Reed-Sandoval demonstrates that one cannot form an ethical theory of deportation in the United States without distinguishing the significant, stigmatized (and racialized) differences between the undocumented migrants themselves. Moreover, she creates an alternative that could be useful for immigration criteria that was racially charged and/or co-opted by racial prejudice.

With this framework, Carens and Ypi are given the tools necessary to create ethical immigration criteria. For Ypi, she would cast underdeveloped states in the

role of the “impoverished” state, and developed states as the “plentiful” state. She then could discuss how developed states have systematically and historically oppressed underdeveloped states, and how that oppression continues to be reinforced in areas such as skill-based criterion for immigration. Underdeveloped states *remain* underdeveloped and are labeled as poor, backwater, and socioeconomically and intellectually inferior, whereas developed states continue to have power over them. Underdeveloped state citizens are at a disadvantage if they wish to immigrate, especially if they do not occupy a high-skilled profession. Then, through this analysis, Ypi could potentially create a skill-based migration theory that does not assume underdeveloped and developed states share an even relationship. She could account for skills that may not be “high-skilled,” but are still required for any state to thrive, such as with agricultural professions within the United States. She could even call for a reevaluation of the skill-based criterion, similar to how Reed-Sandoval calls for a reevaluation of deportation practices given the injustice faced by Latino/a immigrants in the United States. Reevaluation of what makes a profession more “skilled” than another could be helpful in creating immigration programs that would suit a state’s socioeconomic and technological needs. For example, a program designed for agricultural immigration within the United States would target specific skills without prioritizing “higher” or “lower” skillsets, and would effectively assist with an understaffed part of the United States’ economy. If Ypi could achieve this, her theory on skill-based migration would carry much more

weight, especially if it allowed her to differentiate the impact of skill-based migration between developed and underdeveloped states.

As for Carens, by using a theater of inequality framework, he could provide ethical immigration criteria for migrant populations that have historically been excluded and exploited from immigration legislation. These marginalized migrant populations would be casted into an “oppressed” role, with state immigration policies casted in the “oppressor” role. Then, Carens could detail how these marginalized populations were historically oppressed through immigration legislation, leading to a history of injustice where these migrant populations are continuously and systematically portrayed as the “other.” For, as the other, marginalized migrant populations either must “fit” with any particular state trying to receive refugee status, or learn that state’s language before receiving admittance. This type of injustice reinforces the belief that marginalized populations are different, inferior, and should be excluded from immigration admissions. If Carens could account for the transgressions committed against marginalized migrant populations, it prevents him from neglecting marginalized histories in respect to refugee fit and language competency criteria. While reemphasizing the global, systematic inequality marginalized migrant populations still contemporarily endure, Carens could create criteria preferences that would be fair to both marginalized populations and the states they are attempting to migrate to. Or, he could address how states could implement these criteria with marginalized migrant populations in

mind. Instead of an emphasis on “fitness,” states could evaluate how they can properly integrate a refugee into their communities, while also providing resources that could allow for a smooth transitional period. This puts the burden of fit onto the state instead of the refugee. As for language competency criterion, states could grant admittance on a conditional or probationary basis, where migrants could take classes for a state’s official language while still working and integrating into the state. This, again, puts the burden more on the state rather than on the marginalized migrant. However, it also considers the state, and provides them with a way to conditionally accept migrants. Both possible solutions act as reparations for the marginalized migrant in a sense: where previous generations were excluded from admittance and furthered marginalization, the tactics suggested above can mitigate the effects of marginalization and oppression, and prevent such exclusion from happening in the future.

Section IV.C: Conclusion

Ultimately, segments within the ethics of immigration continue to preserve deeply-rooted racist and classist ideologies through the criteria preferences suggested throughout these theories. As I have argued, skill-based criterion cannot be divorced from the racially charged divide between skilled and unskilled labor, and ideas like “fit,” “culture,” and “language competency” cannot be divorced from the history of immigration policy. Such terms were used to exclude and subdue non-white populations, continuing ideals on who can and who should be accepted in any

one state. And any migrant determined by “fit,” be it through religious affiliation or language competency, continues to be subjected to the historically racist biases of immigration legislation and policy. If we do not analyze the history of the immigration criteria proposed, then we continue to be complacent with the oppressive and racist frameworks that initially conceived them. Therefore, non-ideal theory and its possible frameworks are the proper step towards creating fair and just immigration criteria, as it would consider and provide solutions for the marginalized populations that have been previously excluded from admissions.

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ⁱ For Joseph H. Carens, this is demonstrated in his book *The Ethics of Immigration*, in which he attempts to create just immigrant admissions criteria. For Lea Ypi, this is evident in her paper, "Justice in Migration: A Closed Borders Utopia?" in which she argues that admissions policies based on the skills of the migrant most likely provide a fair balance to the interests of migrants and citizens.

ⁱⁱ Jean Pfaelzer, *Driven Out: The Forgotten War Against Chinese Americans* (Random House: 2007), 259-260.

ⁱⁱⁱ Carens regularly mentions this marker, along with racial and ethnic identities, in Part One of his book.

^{iv} Ronald Takaki, *A Different Mirror: A History of Multicultural America* (Little, Brown and Company, 2008) 306.