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Third World Quarterly

International Migration of the Highly Skilled: Economics, Ethics and Taxes

Author(s): Jagdish N. Bhagwati

Reviewed work(s):

Source: *Third World Quarterly*, Vol. 1, No. 3 (Jul., 1979), pp. 17-30

Published by: [Taylor & Francis, Ltd.](#)

Stable URL: <http://www.jstor.org/stable/3990273>

Accessed: 31/01/2013 15:13

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INTERNATIONAL MIGRATION OF THE HIGHLY SKILLED: ECONOMICS, ETHICS AND TAXES

Jagdish N Bhagwati

The analysis of the consequences of highly skilled migration across countries has recently moved into novel economic, legal and social areas of intellectual inquiry.

However, progress in the scientific pursuit of these questions, and their possible implications has been handicapped partly by the rigid mental and emotional reflexes of some of the economists who actively participated in the early postwar debate on the consequences of 'brain drain' and who evidently seem to fear that the newly burgeoning interest in the subject somehow breathes life into a public policy issue that they had hoped to have successfully buried. However, part of the explanation lies also in the fact that the new developments have resulted almost entirely as a result of 'advocacy economics' in the form of a proposal advanced by the author to tax brain drain in the shape of a supplementary income tax to be paid by the highly skilled migrants from the poor countries on their incomes in the developed countries.¹ This proposal has economic, ethical, tax-legal, human rights, sociological and political implications and has, therefore, proved to be a powerful stimulus in opening up afresh what was until recently a rather moribund field of inquiry. But it has also correspondingly tended to provoke more heat than light.

The Postwar Debate

The earliest economic analyses of the international migration of highly skilled manpower were almost wholly stimulated by the concerns of policymakers in the countries that were experiencing a net emigration of professional personnel such as doctors, engineers and academics. The emigration was therefore described typically as 'brain drain': a persuasive phrase that predisposed one to see the phenomenon in an unfavourable light.

The late Harry Johnson, writing first in *Minerva* in 1956 and often elsewhere thereafter, was to lead the 'counter-revolution', noting that brain drain could be

¹ Originally mentioned in an article of mine in *Daedalus* (1972) on 'United States in the Nixon Era: the end of innocence', the idea was developed in other writings at greater length and was the subject of an international conference at Bellagio whose deliberations led to the two volumes: *Taxing the Brain Drain: a proposal* (Vol I) edited by J Bhagwati & M Partington. Amsterdam: North Holland Publishing, 1976; and *The Brain Drain and Taxation: theory and empirical analysis* (Vol II) edited by J Bhagwati. Amsterdam: North-Holland Publishing, 1976.

beneficial to the countries of emigration and arguing passionately that it often was.

The ensuing debate paralleled the classic division of economists into two different philosophical traditions which the author once described as the 'benign neglect' and the 'malign neglect' schools. The orthodox, professional economists typically tended to follow Adam Smith in looking for the non-zero-sum-game (i.e. every party to a transaction gains) aspects of an economic phenomenon. The resulting 'benign neglect' view of these economists contrasted sharply with the concerns of the economists whose 'malign neglect' analysis focused instead on the harmful aspects of the same economic phenomena for specific groups, and therefore raised more pointedly questions of desirable policy intervention on grounds of both efficiency and distributive justice.

Thus, while the economists led by Johnson tended to emphasise the advantages to the skilled migrants themselves and to the countries of origin and destination, the economists and policymakers arrayed on the other side emphasised the losses to 'those left behind' from such emigration, whether permanent, or of a to and fro variety.

Unfortunately, however, it became fashionable to consider the complacent, everyone-gains viewpoint as an 'internationalist' or 'cosmopolitan' position, whereas the group of economists more impressed by the possibility of the adverse impact of highly skilled migration on countries of origin came to be described as 'nationalist'. The very same economists who had brilliantly debunked the phrase 'brain drain' by noting that one had to draw a distinction between the brain drain phenomenon and the brain drain problem and that migration of the highly skilled could be beneficial to those left behind, were now to be guilty of describing their own position in self-congratulatory terms that equally prejudiced the ethical demerits of their opponents' position.

As it happens, there is nothing ethically reprehensible in worrying about specific groups within a social entity. Indeed, Rawls' *maximin* principle requires us to put a decisive weight on the impact of a policy change on the welfare of the least privileged, so that if highly skilled migration does affect those left behind adversely, and the incidence of such losses is on the underprivileged, the principles of Rawlsian distributive justice would indeed make it morally obtuse not to worry about the migration. Indeed, on more traditional utilitarian ethics as well, if the migrants are earning more than those left behind, one could argue that the migration, if it imposes losses on those left behind, will be an ethically undesirable phenomenon.

Evidently, therefore, the moral basis of those concerned with the impact of emigration of highly skilled manpower, especially from poor countries of origin, was more than defensible. And the description of these intellectuals as 'nationalists' was somewhat propagandistic.

Who Loses?

When we have abandoned the fetching but foolish term 'brain drain' and the 'internationalist' and 'nationalist' positions, we are left with the enhanced awareness that migration need not worsen the welfare, however defined, of the non-migrating population in the countries of origin.

However, the arguments on this question have remained primarily qualitative, as always. For, even when economists are agreed on the criteria by which they judge policies as desirable or otherwise, they can and will often disagree because several relevant variables will be quantifiable only with a generous input of imagination and goodwill, qualities that vary from individual to individual.

Thus, does the permanent emigration of a talented professor from India to the US hurt Indian education? The optimist will argue that his research output will be available to other Indians, that his research will be of significantly higher quality in better conditions and thus will inspire other Indians at home to better work; and that his knowledge will also be available on frequent summer visits to Indian institutions, to take only some of the more obvious and persuasive arguments in favour of the Johnsesque position. On the other hand, the pessimists can equally well argue that his research output may be constrained by patents or by CIA secrecy requirements; that his research may then turn to fields where India derives no real economic advantage; that his success in research abroad may serve only to reinforce the feeling that it is not possible to work at home; and that success requires emigration abroad, and that the summer visits will often serve to create resentments among those not so fortunate as to leave and succeed abroad.

Several such questions do not lend themselves to easy quantification. The field is thus left open to the immediacy of one's own experience in these matters. It has, therefore, been customary for the pessimists to come from the poor countries where institution building and retention of professional manpower in several fields are important problems in the face of superior working conditions and enormously improved incomes abroad; and for the optimists to come from countries where this is not so because the countries of emigration and immigration are much closer to each other in working conditions and salary levels.

But while economists are divided, in the main, on what the empirical reality is, the optimist economists and the pessimist policymakers are divided rather on their assessment of the costs and benefits of the empirical reality. Typically, the policymakers have leaned to the pessimist view because they are concerned with shorter time horizons than the economists who write academically about the issues at hand. Thus, for example, economists will say that the emigrating scientist will probably return some years later, better informed and more experienced, and will be of greater value to the country than when he left it. After all, the Chinese nuclear capability was built by Chinese scientists who had returned to the mainland from American universities where they had earlier settled for long periods. This argument, however, makes little sense to politicians and planners who have to struggle with the problem of adapting their economy

to the immediately disruptive exodus of highly skilled manpower. In economic jargon, therefore, the difference in assessment of the policymakers and the economists is to be attributed to a great extent to different time horizons over which they make their welfare judgment concerning the emigration of highly skilled manpower.

These differences are further compounded by the tendency of most economists to underplay the importance of the 'non-economic' objectives that people often have. Welfare is not simply a function of the availability of goods and services. If migration of the highly skilled raises the incomes of the unskilled left behind, the economist will rejoice, but politicians will probably regret the technological backwardness of the society that follows.

Recent Analytical Arguments

It is therefore easier now for the objective intellectual to see that categorical assertions affirming or denying the presence of a brain drain problem are without merit. Recent analytical developments have further suggested that the 'benign neglect' view, which had many adherents among economists, may have been oversold.

Thus, a principal argument advanced by the proponents of this view was that the migration of the highly skilled was a reflection of domestic unemployment; that it was a 'spillover', or 'safety valve', or 'vent-for-surplus' phenomenon. Thus, if a doctor was driving a taxicab in Manila, and was, therefore, virtually unemployed, how could his migration to New York hurt the Philippines? Persuasive as this argument is, it reflects an implicit economic model which is quite unrealistic. Why not think instead of the Filipino doctor as driving a taxicab precisely because he is waiting to pass his US examination for foreign medical graduates and that if this opportunity were not available, he would have to start practice in the outskirts of Manila or even further away if Manila is getting overcrowded with doctors. In short, the external migration possibility, the brain drain opportunity, actually inhibits the 'internal diffusion' process which carries, however slowly, these professional skills to where they will create greater social impact.²

Let us also examine the alternative model where the migration at high salaries abroad of one hundred nurses in the Philippines, in an initial situation of a hundred currently unemployed nurses, leads to a greatly enhanced expectation reward for becoming a nurse and hence to the private expansion of training facilities so that annually one thousand rather than one hundred nurses are turned out. Since, given immigration restrictions, no more than one hundred nurses can go abroad annually, the Philippines is going to be faced with the problem of contending with nine hundred unemployed nurses annually, at least

²K Hamada & J Bhagwati, 'Domestic Distortions, Imperfect Information and the Brain Drain', in Bhagwati (ed), 1976, *op cit*.

for some time.³ This is not a fanciful example. It reflects empirical reality better than the one where the one hundred nurses, initially unemployed, leave for gainful foreign employment and the Philippines can rejoice at the outcome.

Again, if one presses this 'explosive expectations' argument home, it is easy to see that one does not need 'large' outflows to get the resulting expansion of unemployment and associated economic waste and political disruption. The mere integration of a professional market across countries, in the sense of expectations about earnings taking into account the probability of finding jobs in every national market, is enough to make the 'explosive expectations' effect possible. Moreover, if such integration also leads to an upward pressure in domestic salaries of such professionals in the poor countries, this will only accentuate the problem. In either case, the oft cited statistics about the 'smallness' of outflows of specific professionals in relation to total annual output or stock are really beside the point and do not invalidate the argument.

Moreover, these analytical developments indicate that the 'vent-for-surplus spillover' argument reaches optimistic results by incorrectly assuming that the unemployment is due to domestic reasons and emigration is exogenously superimposed on this situation with evident relief. Actually, it makes more sense to consider migration, actual and potential, as an integral part of the economic system and as itself being responsible for the unemployment phenomenon.

These and related new developments have left us with a keener awareness that losses to countries of origin cannot be ruled out and that, contrary to occasional assertions about the insanity or non-educability of policymakers in the poor countries that sometimes raise their voices in pleas for redress, there can be real problems here.

At the same time, it should be equally evident now that these problems will not generally apply to all professional categories in any one country of origin or to all countries in any one profession. There is considerable diversity of national objectives, the time horizon over which these objectives are sought, and the conditions in different professions concerning wage formation and employment. This makes it naive to make categorical assertions about the presence or absence of losses to countries of emigration.

Shift of Focus

While recent developments in economic analysis have served to lend more respectability to the contention that migration of the highly skilled can impose difficulties or losses on the countries of origin, other developments have served to undercut the relevance of this issue and to focus on quite different aspects of the migration process. These developments have arisen in the form of a systematic examination of the tax arrangements that govern highly skilled migrants.

The primary stimulus for analytical developments in this direction was provided by my proposal to levy a supplementary tax on professional migrants

³J Bhagwati & K Hamada, 'The Brain Drain, International Integration of Markets for Professionals and Unemployment', in Bhagwati (ed), 1976, *op cit*.

from developing countries, to be levied and assessed on their incomes in the developed countries of immigration. The specific ethical rationale at the time involved the view that highly skilled migrants coming from poor countries ought to make an institutionalised tax contribution from their earnings to their countries of origin, and possibly for development financing to poor countries *en bloc*. It is somewhat hypocritical for developing countries to ask rich countries to tax their citizens in order to finance foreign development aid, while not undertaking any direct tax burden themselves.

A great deal of economic, legal and sociological thinking on the questions that this proposal stimulated, indeed often provoked, as also deliberations on it at international conferences and an intergovernmental expert group meeting in March 1978, suggests that the surest way to defuse emotional reactions and prevent them from overtaking one's ability to look dispassionately at these new ideas is to note that international migration of the highly skilled, often varying in duration and constituting a to and fro movement across countries, is an important aspect of the interdependence that characterises the modern world. It is, therefore, necessary to examine the equity and efficiency aspects of the existing and potential arrangements for taxing highly skilled migrants, much as it has been done by economists, political scientists and tax lawyers for multinational corporations and international capital movements.

It also helps to distinguish between two quite different ideas, namely taxation of the migrants themselves, and tax sharing by the countries of immigration with the countries of origin. The rationales for these alternative proposals, as also their legal, administrative, economic and political implications, are naturally different.

Taxing Migrants

The case for taxing highly skilled migrants on their incomes in the countries of immigration can be developed on alternative rationales. Two major ideas in the literature may be briefly noted here before I move on to a more sustained statement of a third, more compelling, rationale.

An obvious rationale lies in the fact that these migrants typically make substantial earnings when they manage to emigrate (except probably when they are expelled as in Uganda, in which case the decision to migrate is involuntary), whereas there is the distinct possibility that their emigration causes losses to the countries of emigration. It would then be appropriate to ask that some taxation should be levied on those who are allowed to migrate in pursuit of a humanistic world order for the compensatory benefit of those who are unwilling, or more often unable, to migrate.

A very different rationale, but one that is built partly on the identical premise that the migrants derive major gains in income, follows from the oldest argument for taxation in economic science: the taxation of economic rents. The stiff immigration restrictions in the rich countries, and the enormous differentials in economic rewards between rich and poor countries, imply that the professionals

migrating from the poor countries into rich ones enjoy windfall gains in the nature of economic rent. These rents, like all economic rents (for example, the monopoly profits enjoyed by those who manage to get the scarce import licences in exchange control regimes that confer scarcity premia on imports), can be taxed to social advantage without entailing any harmful effects through distortion of resource allocational incentives.⁴ Thus, migrants from the poor countries or the South may be taxed to raise resources for development spending in the poor countries, much as profits from the sale of IMF gold stocks at the substantially higher market prices are being used currently to assist needier member countries.

Both the rationales above are likely to apply with much greater force to the migration of the highly skilled from the South to the North than to the intra-North mobility of such people.⁵ The windfall gains are much higher for South-North migration; and the disruption and losses are more likely to arise for countries of emigration in the South.

The most compelling rationale, however, emerges if we reflect on the nature of modern migration of the highly skilled. We are, in a sense, back to the nomadic culture. We are born in one country, get educated there and elsewhere, work over a lifetime in several countries and may retire perhaps in a country different from the one we were born in. However, the most characteristic tendency of the modern, highly skilled migrants in this complex world is that they typically tend to retain their nationality as also their ethnic ties. The world has collapsed into a manageable geographical unit, with cheap transportation, conferences and foundation financed short term visits for virtually all those who fall in the highly skilled categories. Few change nationalities any longer, even when they have changed residence permanently. The professional and especially the academic world is truly international and the pressures of assimilation that led to the 'melting pot', and the need to affirm loyalty to one's host nation by changing nationality, are no longer operative in anything like the same degree.

The result is that the professional migrants retain their national status and associated rights, including often the right to vote, but carry no corresponding tax obligation, even of a minimal nature. The situation is one of 'representation without taxation'. The anomaly is particularly compounded because typically these highly skilled migrants are among the more prosperous and successful even prior to their migration, and their ability to work abroad additionally renders them the most taxable, but almost totally untaxed, citizens of their countries. When one considers that in Albert Hirschman's apt conceptualisation

⁴While these rents will generally imply that there are no resource allocational effects from their presence or their being taxed away, recent analysis of 'rent seeking' models has shown that rents, in fact, lead to the wastage of resources because they inevitably lead to 'rent seeking' activities: e.g. firms using people to obtain larger shares of the import licences. Thus, again, a great wastage of resources may be caused in the countries of emigration from 'rent seeking' activities directed at getting the scarce entry permits to jump over the restrictive barriers imposed by immigration authorities. This qualification, however, means that a tax that reduces the net rents accruing to the migrants will only reduce this 'rent seeking' loss of the less developed countries.

⁵The reference here is to first country of origin i.e. an Indian doctor coming to the US from England is still considered a South-North movement.

these migrants have not chosen to 'exit' but have retained 'voice' and 'loyalty', it appears legitimate to regard their escaping the tax system as altogether incongruous.⁶

Curious Anomaly

Curiously, this anomaly of 'representation without taxation' at the emigration end has been matched by the anomaly of 'taxation without representation' at the immigration end. The immigrants have been typically excluded from all voting rights, even in the US which has often been the champion of civil rights and whose Supreme Court has progressively struck down discrimination against resident aliens. However, there have been exceptions to this practice. For example, in the state of Victoria in Australia, aliens owning property within the municipality have been allowed local voting rights; in New Zealand, aliens 'ordinarily resident' for at least a year have the vote even in the general election; and in Ireland all foreigners have the right to vote and even to be elected in local elections.⁷ The question has further been vigorously debated in recent years in West Germany, France, Switzerland and Luxembourg, whereas Sweden actually allowed non-Swedes to vote in the elections of September 1976 for the first time.⁸

By contrast, the symmetric move towards elimination of 'representation without taxation' has surfaced only recently to the level of intellectual and policy discussions. Such reform, which would bring the highly skilled (and others) working abroad into the tax net, is in fact precisely what is done under the existing 'global tax' system, under which all nationals working and living abroad are taxable, as opposed to the 'schedular tax' system where they are taxed on the basis of residence rather than nationality. Countries such as the US, Mexico and the Philippines practise the global tax system to their advantage, and the poor countries, which generally do not, have forgone their right to tax nationals abroad, when they can least afford it.

Such a global tax system is fully acceptable under existing international tax law, is consistent with human rights conventions at the UN and elsewhere – no one has accused the US yet of violating human rights because of its tax laws – and reflects notions of equity that characterise nearly all western societies

⁶The relevance of Hirschman's concepts to the problems discussed in this paper was suggested by Kindleberger's review article in *Minerva* (1978) of the two volumes by myself, *op cit*, and H Grubel and A Scott's *The Brain Drain: determinants, measurement and welfare effects*, Ontario: Wilfred Laurier University Press, 1977. However, whereas Kindleberger uses Hirschman, to argue against the taxation of migrants, on the false assumption that they have 'exited' in the Hirschman sense, I use it to argue the exact opposite, on the assumption that they have not, but in fact retain 'loyalty' and 'voice'.

⁷Sica, 'Involvement of the Migrant Worker in Local Political Life in the Host Country', *International Migration*, 15 (2/3) 1977.

⁸Hammar, 'The First Immigrant Election,' *International Migration*, 15(2/3), 1977. The election, although described as the 'general election' by Hammar, appears to have been only to local bodies. Interestingly, the Swedish authorities not merely offered the vote to foreign workers, but in fact spent a great deal of time and money to educate them about the Swedish political system.

today.⁹ Moreover, it fits in very nicely with the emerging stress in intellectual circles in less developed countries that increased 'self reliance' is necessary. There is also the increased perception that the bargaining power of the less developed countries is not as great as was believed in the early euphoric days of the success of the OPEC cartel. For what could be better for developing countries than taxing their prosperous nationals working and living abroad in order to raise resources, especially when the developed countries are not really critical of this effort, as the tax can be levied and collected unilaterally without bringing them into the picture in any essential way?¹⁰ This is not to deny, of course, that in several cases the collection would be more efficient if, under bilateral or multilateral tax treaties, the developed countries were to agree to supplying minimal tax information on foreign nationals residing in their territories.¹¹

Harmonising Transition

While, furthermore, the global tax system can be adopted unilaterally by single countries, an advantage of several countries exercising such an option, more or less simultaneously, would be that they could then harmonise tax rates on nationals abroad, thereby making the transition to the global tax system appear legitimate, fair and hence defensible against special interest lobbying. At the same time, such simultaneous action would make it easier to seek tax treaties that would make the collection easier.

It is interesting to note therefore that in the concerted position of the Group of 77 reached at the UNCTAD Inter-Governmental Group of Experts meeting on highly skilled migration in early 1978, the possible adoption of the global tax system by less developed countries was incorporated in the draft recommendations and, by implication, in the agreed Report, signed, among others, by the developed countries.¹²

While, therefore, my original proposal to tax brain drain visualised a format where developing countries would levy the supplementary income tax with the developed countries of immigration agreeing to its collection and enforcement

⁹From the viewpoint of *efficiency* also, recent work on the theory of public finance underlines how the escape of one set of taxpayers from the tax net, just because they live and work abroad, is harmful to the country of origin. See recent work of Bhagwati, Hamada and John Wilson's thesis at MIT, 1979.

¹⁰Both the US and the Philippines collect their taxes on nationals abroad without the aid of the countries where their nationals reside and work. In the case of the Philippines, the collection is reportedly geared to passport renewal and the associated requirement that the documentation to be produced for such renewal must include a copy of the tax information that is issued by the tax authorities of the country of residence.

¹¹Bilateral renewable tax treaties may be the only way to proceed realistically. It is difficult, for example, to think of the Swedish government agreeing to a multilateral treaty which requires it to yield information on Chilean and Ugandan nationals in Sweden to their governments.

¹²The UNCTAD Expert Group met from 27 February to 7 March, 1978. The Group of 77 in its Draft Recommendations, urged the developed countries to 'render assistance, either on a bilateral or multilateral basis, to developing countries which exercise or wish to exercise their internationally recognised jurisdiction to tax their citizens abroad under a "global" tax system; such assistance could take the form either of "tax collection assistance" and/or of access to information.' [TD/B/C6/AC4/LI/Rev 1, 1978, Committee on Transfer of Technology, p 3, Section A(2)(d).]

under a UN treaty, and the revenues to be disbursed for development spending via some UN agency, the optimal format now seems to be essentially for the developing countries to exercise their global tax jurisdiction abroad and not to involve the developed countries of immigration into the process except through seeking bilateral or multilateral, mutually acceptable, treaties aimed merely at 'normal' exchange of tax information. In this version, the proposal to tax the brain drain turns into an action of 'self reliance' by the developing countries, rather than appearing as something that the developed countries would do for the developing countries. The onus thus shifts to the developing countries as far as policy action is concerned.

The extension of the global tax system to nationals working abroad can be undertaken without, in most cases, involving 'double taxation'. The principle of double taxation, of course, is by no means sacrosanct and its economic basis is derived from the assumption of perfect international mobility of factors, a postulate which is certainly invalid because of severe immigration restrictions. Nonetheless, if this principle were still considered desirable, it would create few difficulties, since tax rates in developing countries applicable to incomes in the developed countries would generally exceed corresponding tax rates in the developed countries, largely because the unadjusted incomes abroad would take these nationals into very high tax income brackets at home.¹³ If therefore developing country tax schedules were to be applied to incomes earned by nationals living abroad, it would be natural to make adjustments for the higher cost of living abroad, much as the US does with Section 911 of the Internal Revenue Code. An alternative, simpler procedure would be to follow the Philippines example, and to levy a flat rate of 1 to 3 per cent on the incomes of nationals working abroad, regardless of their residence status. The 'small' tax rate avoids the incidence of double taxation, while sparing the taxpayer and the Filipino authorities the costs of filling out and checking complicated schedules.

Again, it is true that the adoption of a global tax system would encourage some to change their nationality. I doubt, however, if US and Filipino nationals living and working abroad have changed nationality in significant numbers because of the incidence of domestic taxation. But even if nationalities were to be changed, why should that harm the countries of emigration? The revenues earned from global taxation would cease for such ex-nationals; but would that really matter?

Also, the fear that such taxation would cut into remittances appears to be groundless. Not merely casual empiricism, but also such statistics as are available, suggest strongly that remittances go mainly from unskilled and semi-skilled workers rather than from the highly skilled. Typically, the highly skilled migrants tend to come from successful families and hardly need to support needy members left behind. A global tax system which is suitably progressive and taxes skilled higher paid workers rather than the unskilled, lower paid workers, should not cut into remittances in any significant way.

¹³Table 1 in K Hamada, 'Taxing the Brain Drain: a global analysis', in J Bhagwati (ed), *The New International Economic Order: The North-South Debate*. MIT Press. 1977.

Substantial Gains

As for the tax revenues raised, there is little reason to feel that the adoption of the global tax system would not be worthwhile. The Philippines' experience with its extremely small tax rate (1 per cent in the main) and its revenue collection of roughly Filipino \$23 million in total during the four year period 1973-6¹⁴ suggests a tax base which is by no means negligible, especially since it is in foreign exchange. The US has been raising substantial revenues, estimated at \$150 million in 1975, for example, through its taxation of US citizens residing abroad. Substantially greater revenues are also suggested by tax revenue estimates that I made on the basis of a higher tax rate of 10 per cent on net-of-developed-countries-tax earnings of less developed countries' immigrants (belonging to the professional, technical and kindred category, PTK, in US law) into developed countries, taking the stock of these over a ten year period. The resulting estimate was close to \$500 million annually. It seems unlikely, however, that a tax rate of 10 per cent on net-of-developed-countries-tax incomes could be levied and enforced without the active cooperation of developed countries. But if, say, 5 per cent were considered reasonable, it would amount to \$250 million and 3 per cent to \$150 million at 1976 prices.

While, therefore, the adoption of the global tax system seems on current evidence and reasoning to be equitable, efficient, consistent with existing international tax-legal and human rights practices and conventions, and capable of raising revenues for the less developed countries on a self-reliant basis, its adoption should not necessarily be considered probable. Ultimately, the politicians and the policymakers in the less developed countries, as indeed everywhere, are likely to consider it expedient to avoid taxing their own nationals and to concentrate instead on seeking revenues from foreign governments in one form or another.

The major opposition to the idea from the intellectuals of the developed countries is likely to come from a philosophical direction. The late Harry Johnson, in private conversation, once expressed his distaste for the proposal on the ground that it would help extend the arm of the less developed countries' governments to people who had essentially left the country, and that this was particularly reprehensible since many less developed countries were now dictatorships. This viewpoint could be compelling, given the empirical premises, if the less developed countries' taxes were enforced by the countries of immigration and, besides, applied even after a change of citizenship, if any. The original format of my tax proposal did indeed have these features. However, the format suggested above, in the shape of the adoption of a global tax system, is entirely free from these sources of discord.

Sharing Tax Revenues

The idea of taxing the incomes of the migrants themselves must be distinguished

¹⁴G F M Sicat, *A Survey of Problems and Policies in the Philippines*, Transfer of Technology Division, UNCTAD, Geneva, TD/B/C6/AC4/5, 1977, p 19.

from the idea of getting the developed countries of immigration to share income tax revenues (raised from the migrants through the routine taxation apparatus) with the less developed countries of origin. The rationale for such migration-related taxation on developed countries can be provided in two alternative ways: either that the developed countries ought to compensate the less developed countries for the losses that the brain drain imposes on them, or that the developed countries gain from such migration and therefore, regardless of whether there is any loss to the less developed countries, they ought to share these gains (based on the inflow of less developed country nationals) with the less developed countries that need development resources.

The latter moral argument reflects a Nozick type of ethical criterion: the human resources 'belong' to the less developed countries and the division of the gains from their working in the developed countries ought therefore rightfully to be shared with the former. This form of argument, which is evidently not utilitarian in nature, therefore does not fall if it is contended that these human resources would have been utilised less profitably or not at all in the less developed countries themselves.

Of these two notions, the former (suggesting compensation for the less developed countries) would appear to be the main motivating force behind recent pronouncements from spokesmen of the less developed countries calling for a brain drain related transfer of resources/revenues by the less developed countries. Consider, for instance:

. . . I would also like to propose the establishment of an International Labour Compensatory Facility (ILCF). It could be elaborated along the lines of the Trust Fund for Compensatory Facilities of the IMF. The proposed Facility would draw its resources principally from labour importing countries, but in a spirit of solidarity and goodwill, other ILO members may contribute to it. The accumulated resources will be diverted to developing labour exporting countries in proportions relative to *the estimated cost incurred due to the loss of labour*.¹⁵

The Commission on Development recommends that, in order to *compensate* for the reverse transfer of technology, resulting from such exodus, amounting to several billions of dollars for the last decade, special arrangements including the possibility of establishing special funds, should be made to provide the necessary resources for strengthening the technological capabilities of the developing countries.¹⁶

However, given the controversy that surrounds the question as to the magnitude, if not the existence, of losses to less developed countries in a meaningful and measurable sense, it would appear to be pertinent to rest the case for a migration-related transfer of funds from developed countries to less developed countries so along the former moral rationale: namely, the gains by developed countries from the influx of highly skilled migrants. That such a gain exists is generally conceded, national immigration policies on levels and composition

¹⁵Address by Crown Prince Hassan bin Talal of Jordan to the 63rd meeting of the ILO, Geneva, 10 June 1977. Note the emphasis on 'compensation' and the notion of losses suffered by loss of manpower.

¹⁶*Report of the Contact Group on Industrialisation and Transfer of Technology, CIEC, Paris, 14 May, 1977.*

having generally been dictated by national interest (except in the case of political refugees).¹⁷

Thus, by bilateral or multilateral tax treaties, individual developed countries could agree, for example, to share tax revenues that they earn from the nationals of less developed countries on the basis of some formula. Thus, for example, if the formula involved the developed countries paying to less developed countries 10 per cent of adjusted gross domestic incomes (and hence definitely less than half of the tax revenues from PTK immigrants from less developed countries), it would appear that the less developed countries would earn under such an assessment formula more than half a billion US dollars annually.

There is legal precedent for such tax sharing, of course. Thus, for example, the revenues from taxing the French workers in the canton of Geneva are shared with the French principalities from which the workers come into Geneva. And again the proposal to have the developed countries share their tax revenues with the less developed countries of nationality/origin fits in well with the notion that the less developed countries are self-reliant. These revenues are, after all, paid by their own talented and skilled manpower which constitutes their 'natural resources' and this legitimises revenue sharing arrangements which enable the less developed countries to share in the taxes generated from the incomes of their nationals.

Other Proposals

Finally, two other tax and quasi-tax proposals have been recently made and are worthy of consideration as supplements to the two major tax ideas developed here.

First, it may be suggested that the US practice of tax exempting contributions to approved charities be extended so as to enable a generous and easier inclusion of many less developed country charities as eligible for such benefits and that this then be extended to other developed countries as well.¹⁸

Secondly, following the recent US practice of taxpayers being allowed to earmark part of their taxes to finance presidential elections, one might suggest that less developed country immigrants in developed countries be allowed, in the same way, to earmark (up to, say 10 per cent) of their taxes for routing to a

¹⁷The presumption that the developed countries gain from PTK immigration has recently been challenged by Dan Usher in the *Journal of Political Economy* (85) 1977, on the ground that the immigrants receive more from their share in public expenditures than they give up by way of taxes. However, his calculations are hardly persuasive, being mainly 'quick' estimates, often based on dubious procedures. The general presumption in this regard, which is hardly disproved by Usher's arithmetic, is that PTK immigrants, belonging generally to the developed country groups that are subject to progressive taxation in developed countries are likely to be making a net contribution to, rather than a net claim on, the developed countries through the tax system; hence the presumption of gain by the developed countries from PTK immigration can only be reinforced on this account.

¹⁸This suggestion is contained in the paper by O Oldman & R Pomp in Bhagwati and Partington (ed), 1976 *op cit* and is also in the Group of 77 Draft Recommendations at the Meeting of Experts, UNCTAD, March 1978. Also see Pomp and Oldman, *Legal and Administrative Aspects of Compensation, Taxation and Related Policy Measures: suggestions for an optimal policy mix*. UNCTAD Geneva, TD/B/C6/AC4/7, 1977. The eligibility need not be confined to less-developed-country-origin taxpayers in developed countries.

designated UN agency for development spending.¹⁹

Evidently, therefore, economists, lawyers, policymakers in less developed countries and international agencies are beginning to examine the migration of highly skilled labour from the fresh perspectives which are called for in the light of the nature of modern migration in a highly interdependent world. The result is likely to be the development of a whole set of new tax arrangements which, consistent with human rights conventions, replace the existing legal structure, which is a legacy of the past.

¹⁹J Bhagwati, *The Reverse Transfer of Technology (Brain Drain): international resource flow accounting, compensation, taxation and related policy proposals*, UNCTAD, Geneva, TD/B/C6/AC4/2, 1977.