The Case for Establishing an International Labour Compensatory Facility

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Executive Summary

- Moderate migration is nominally positive for both hosts and migrants and creates mixed outcomes for countries of origin depending on their size and wealth.
- In small and less wealthy countries, migration can often breach a tipping point, after which benefits associated with remittances no longer outweigh the loss in intellectual capital. Such 'brain drain' is a serious issue in these countries, for which coordinated international action is required.
- While propositions to 'tax the brain drain' or establish an International Labour Compensatory Facility have been circulating since the 1970s, the answer might lie in a combination of initiatives.
- Receiving states need to set limits through evidence-based migration policies and controls. The ways in which policies that protect labour-exporting countries can be encouraged are complex and requires further examination.
- Modalities to encourage migrants to return to their countries of origin, on the part of both host countries and countries of origin need further policy analysis and discussion.
- Where regarded as a necessary approach to counter-balance out-migration, compensation should be approached as a fluid concept that includes several aspects, e.g. investments, development projects, social security contributions and improved market access.
- Whether compensation should be directed into post-conflict economies needs further research, as well as policy measures to protect countries experiencing conflict from losing their economic and social human capital permanently through resettlement or post-migration labor market integration.

1. Setting the Global Context: Winners and Losers of International Migration

Human migration has become a defining issue of the post-Cold War global economic order. By 2013, 86 percent of the 96 million international migrants residing in developed economies came from the so-called 'Global South' — a total of 82 million persons.[1] Who wins and who loses as a result of such migration is a complex and politicised question. Cost-benefit analyses isolate three categories of potential winners and losers: migrants, host countries and countries of origin.

Economic migrants are self-selecting; they make rational decisions to take advantage of differentials in income and well being that exist between lower-income and higher-income economies.[2] By transferring their skills to higher productivity labour markets, these migrants accrue unambiguous benefits in terms of income. Such gains are offset, however, by social costs including cultural dislocation, isolation and family separation. Taking these outcomes together, over the long-term migration may not result in overall increases in happiness or well being.[3]

The impact on receiving countries is more complex as migration affects several domains — labour markets, wages, social attitudes, and governance — in different ways. At moderate levels, migration seems to have a positive effect on incomes within higher wage brackets, but a negative effect on those in lower wage brackets (the poor tend to compete with migrants, forcing wages down). Migration does, however, create new opportunities, stimulate innovation and facilitate the growth of certain sectors. These effects are overall nominal and must be weighed against losses in social capital; immigration decreases levels of trust between and within groups and discourages skills investment in the indigenous labour market, among other impacts.[4]

The effects on countries of origin are equally complex. The emigration of workers, especially the highly skilled, creates a fiscal loss in terms of foregone tax revenues. This may contribute to worsening income inequality because the fiscal resources available for income redistribution are decreased.[5] On the other hand, emigration drives remittances — the money sent back to countries of origin from those accruing economic gains abroad. Remittances are an important source of income in many developing countries, especially for the poorest and most disadvantaged. The larger issue, however, is 'brain drain'; that countries of origin lose people who might have played important economic or political roles in society. The idea that migrants are atypically entrepreneurial, innovative and robust, is supported by both evidence (in the US, for example, migrants and their children account for a disproportionate number of patented inventions) and anecdotal accounts of migrants who escaped poverty to become business and innovation leaders in the West (for example, Tidjane Thiam who left Cote d'Ivoire to become the CEO of Credit Suisse).[6] This may not, however, be the complete explanation. Some empirical studies suggest that it is the process of migration that drives exceptionalism, as opposed to pre-existing personal characteristics.[7] This is consistent with Collier's findings that moderate migration does not reduce the stock of educated people in a country of origin. This is because the possibility of (and aspiration for) migration boosts demand for and engagement in education.[8] The more potent driver of negative externalities for these countries is that, once a certain

[1] United Nations Department of Economic and Social Affairs, *International <igration Report,* Report No. 346 (2013) 1.
[2] The question of whether the notion of happiness is a legitimate measure of well-being is still debatable amongst economists, but is nonetheless being increasingly included in measurements of overall well-being.
[3] P Collier, *Exodus* (2014) 146, 171-173, 245.
[4] Ibid 111-116, 74, 126-128, 138-139.
[5] S Monaptra, B Moreno-Dodson, and D Ratha, 'Economic Premise' *The World Bank,* 80 (2012), 1.
[6] Collier above n 3 69, 117, 190-191.
[7] Ibid 117.
[8] Ibid 196-198.

threshold of out-migration is reached, governments invest *less* in public education because they believe that such investment is being lost to overseas economies.[9]

While the foregoing suggests that countries of origin are the overall losers in migration dynamics, the situation reverses dramatically if emigrants return. The reason lies in the institutional and political differentials between poor and wealthy countries. Acemoglu and Robinson argue that poor countries are poor because they lack 'inclusive' economic and political institutions, which encourage productive growth and innovation by providing secure property rights and opportunities, and distribute political power widely and income fairly equally.[10] Emigrants are more economically productive in wealthy countries, not because of their personal or academic characteristics, but because of these inclusive institutions. Critically, emigrants learn and absorb the norms and characteristics of these institutions, and they take these with them back to their countries of origin if they decide to repatriate. Whether they left for education or employment, the evidence is that returning migrants are disproportionately influential. Moreover, that this influence is wide – from democratic values, to electoral participation and family planning. The transformative potential of migration thus rests, not in remittances or income gains, but in idea and norm transfer.[11]
The issue then is how countries of origin retrieve this stock of economic and social human capital. The challenge is that countries of origin are weak actors when it comes to regulating migration; control lies in the immigration policies of receiving countries. Moreover, the smaller and poorer the country of origin, the lower the incentives for emigrants to return because of the lack of opportunity vis-à-vis high-income host countries. Larger, high growth economies do not suffer this problem to the same extent. China, for example, has had to do little to encourage the return of nationals who travel for business opportunities and education – they boast the fastest growing economy in the world.[12]

[9] Ibid 198-199.
[10] Acemoglu and Robinson, *Why Nations Fail: The Origins of Power, Prosperity and Poverty* (2012) 430, 308-309.
[11] P Collier above n 3 187-192, 221-222.
[12] Ibid 201. Note that this phenomenon is also cultural; in China, return is regarded in positive terms, whereas in Africa it is associated with failure Ibid 202.

2: Setting the Regional Context: Migration Within the WANA Region

Jordan provides a prime example of a small, lower-income country that is losing out because of excessive migration. Jordan is a lower-middle income economy with a population of 9.5 million and a per-capita GDP of USD 5,422.6 as of 2014.[13] The economy is among the smallest in the region, meaning it has to rely on limited sources of income. Inadequate supplies of water, oil, and other natural resources mean that Jordan has traditionally relied on foreign aid, public debt, remittances and — more recently — foreign direct investment to support its finances and generate productive economic activity. It can be argued that this reliance on external rents indicates that Jordan's economy is more rent-oriented than growth-oriented. Resource scarcity and consequent dependence on imports, also means that the economy is highly shaped by exogenous events.

Jordan's potential might be best likened to Singapore – also a small state with no natural resources, but one that has made the leap to become a highly prosperous, technology-driven innovation leader. To enable this, Jordan has made steady and high investments in education. Structural reforms buttressed the development of a high-quality, comprehensive, and accessible education sector, the country developing "one of the most advanced and sophisticated educational systems in the Middle East."[14] By 1983, enrolment in primary and intermediate education was in excess of 90 percent.[15] Today, Jordan's human capital endowment consists of a young and educated workforce where more than 70 percent of the population under 30 and 89.9 percent of women aged 15 and above are educated.[16]

This modern human resource base, coupled with investor-friendly policies and relative stability, should have provided Jordan with the beginnings of an economic competitive edge.[17] This has not quite come to fruition. The principal issue is weak foreign capital investment, driven by conflicts in neighbouring Syria and Iraq, Jordan's small coastal access and lack of fresh water and the absence of a large low-cost labour force. This crossroads has manifested in a complex series of subsequent events. Lack of opportunities has created an ongoing challenge of matching Jordan's young and educated workforce to the needs of the economy. At present there are insufficient jobs at the level that educated workers aspire to hold; it is well established that more than 100,000 jobs need to be created annually to accommodate newcomers to the market.[18]

Another ramification of this skill-job incongruity has been a net outflow of talent, mainly to the United States (US) and Gulf countries. In 2010, an estimated 600,000-670,000 Jordanians were employed outside the country.[19] A World Bank survey found that 13,000 young Jordanians studying abroad did not plan to repatriate after completing their studies. In the same survey, only 5 percent of Jordanian academics abroad intended to return given the low availability of good job opportunities and poor salary competitiveness on the part of Jordanian universities.[20]

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[13] http://data.worldbank.org/indicator/NY.GDP.PCAP.CD
[14] D Roy and W Ireland, 'Educational Policy and Human Resource Development in Jordan' *Middle Eastern Studies,* 28(1) (1992) 178.
[15] Ibid.
[16] International Labour Organization, *Jordan's country profile*, <http://www.ilo.org/beirut/countries/ Jordan/lang--en/index.htm> at 15 March, 2015.
[17] There are some positive indicators in this regard; the 2011 Global Innovation Index (GII) ranked Jordan 41st worldwide (out of 125 countries) and 4th among the regional countries covered by the index. Its place in the chart is particularly noteworthy because it is more than 25 positions ahead of its closest competitor in the region and income group, Tunisia, which came 66th.
[18] K Melkawi, 'Young Jordanians look Abroad for Better Jobs, Higher Pay,' *The Jordan Times* (Amman) 12 August, 2013.
[19] There is little information available on Jordanian expatriate workers; see 2010 report by the European University Institute: http://cadmus.eui.eu/bitstream/handle/1814/13447/CARIM_ASN_2010_12.pdf;jsessionid=A8B8700C1E22EEAAB7FA8C9D74A53B73?sequence=1 Another study conducted by Zarqa University claims that the Jordan Labour Market Panel Survey in 2010 says that 2.1% of households have at least one member working overseas: http://www.zu.edu.jo/MainFile/Profile_Dr_UploadFile/Conferences/Files/ConferenceFile_1164_47_15.pdf
[20] A Awad, above n 14, 23.

This combination of educated out-migration, poor labour force participation and the inflow of low-skilled labour, constitute a serious setback for advancing a knowledge-based and technology-driven economy. This includes a chronic disconnect between policy makers and intellectual elite (undermining the social contract), remittance-induced inflation and unemployment, and distortions to the housing market. Other externalities are specific to the WANA region. When Jordanians commit to long-term employment in the US and UK, there is often an opportunity to naturalise and take advantage of social welfare systems. More than half of the migration from Jordan, however, is to the Gulf,[21] where employment is facilitated under arrangements akin to guest worker programs. Long-term assimilation is generally not possible, creating a possibility that a worker could spend their productive life abroad and only return to their country of origin upon retirement, creating burdens that are not offset by domestic economic inputs.

These dynamics may also have a self-fulfilling, cyclical element. Despite Jordan's investment in education, companies still often need to reach to the international market to find managers with the required skill sets and experience. Likewise, although Jordan's research and development infrastructure and scientific research production being relatively high, the competencies available in the Jordanian economy do not link closely enough to the needs of the labour market. It is a widely held view that education standards in Jordan have dropped considerably in recent decades, with causal factors cited as including teacher shortages (particularly at the tertiary level), insufficient research into teaching methodology and inadequate investment in teacher training.[22] It is possible that these trends were triggered by high rates of out-migration in the 1970s. If so, Jordan provides a showcase example of how out-migration can encourage a government to invest less in education, subsequently undermining its macroeconomic goals.

Jordan's experience is by no means unique. Wide intra-regional income gaps have driven fast and sudden migration from resource-poor, labour abundant to resource rich, labour poor economies, for example from Egypt and Lebanon to Gulf Cooperation Council. According to a 2014 United Nations Development Programme (UNDP) report, Arab 'brain-drain' is worsening. The estimated loss of 10-15 percent of young Arabs in 2012 has increased to 20-25 percent in 2014. By 1996, it was estimated that 31 percent of the countries of the Gulf Corporation Council (GCC) 10 million expatriate population were from the WANA region.[23] By 2008, the number had reached 10.6 million.[24]

[21] http://www.zu.edu.jo/MainFile/Profile_Dr_UploadFile/Conferences/Files/ConferenceFile_1164_47_15.pdf
[22] http://www.jordantimes.com/opinion/ahed-al-wahadni/higher-education-jordan-%E2%80%94-who-blame-and-how-improve
[23] International Organization for Migration and League of Arab States, *Arab Migration in a Globalized World* (2004), 91.
[24] Middle East Institute, *Migration in the Gulf* (2010), 11.

3: The Justifications: Why Labour-Exporting Countries Should Be Compensated

As discussed above, moderate migration is nominally positive for hosts, ambiguous for migrants and creates mixed outcomes for countries of origin depending on their size and wealth. Where migration is not sudden or excessive, and where the country of origin is medium-large or growing, the brain drain suffered is largely compensated for by remittances. However, for poor and small countries — because the incentives to leave and not return are so high – migration often breaches a tipping point where the benefits associated with remittances no longer outweigh the loss in intellectual capital.[25] Brain drain for these countries is a serious issue for which coordinated international action is required.[26]

Such scenarios have given rise to debates about whether labour-exporting countries should receive 'brain drain' compensation.[27] The argument is that labour-exporting economies provide receiving states with the most valuable factor of production, i.e. labour, at the expense of their own economic development. Out of land, labour, capital and entrepreneurship, labour is the most valuable factor of production since it is what develops and utilises all the remaining factors for the purposes of economic growth and development.[28] Innovations and advancements in technology (capital) and entrepreneurship are contingent upon the effective use of human knowledge. The same applies to exploiting the utility of land through either agriculture or industry. While capital transfers are clearly valuable (and deemed by some economists as determinant in explaining income gaps between rich and poor countries), "it is becoming increasingly clear to planners and policymakers around the world that man is the primary development factor and capital occupies a secondary position".[29]

Suggested modalities for how such compensation would be derived and delivered have taken two main forms. The first is taxing the salaries of professional emigrants in developed countries or their employers, and feeding it back into developing countries. The other modality is for labour-receiving governments to redirect funds from their national budget, or provide other forms of compensation, such as soft loans or greater market access to country negotiated on a bilateral or multilateral basis to help offset deficits in trade balances.[30]
The counterargument is that countries of origin are 'naturally' compensated for exporting their labour through remittances. Remittances total around USD400 billion annually — four times the global aid budget;[31] in Jordan, for example, remittances accounted for around 10 percent of GDP in 2014.[32] The overall value of remittances, and thus whether they adequately compensate for labour-exports, is unclear. They certainly contribute to increased aggregate demand, as well as indirect tax revenues where such policy frameworks are in place.[33] Studies have not, however, been able to establish a clear

[25] P Collier above n 3 200.
[26] Ibid 135-136, 199, 217-223, 252-260
[27] The ideal of out-migration compensation is not without precedent. In 1976, renowned economist Jagdish Bhagwati launched a proposal to "tax the brain drain" (J Bhaghwati, 'Taxing the Brain Drain', *Taylor and Francis Ltd.* (19) 3 (1976), 34-38, See further J Wilson, 'Taxing the Brain Drain: A Reassessment of the Bhagwati Proposal' *Columbia University* (2005) 2). The idea was that the tax would be collected "under UN auspices," with the aid of the tax authorities in the host developed countries and then disbursed using the usual criteria for developmental spending. In his address to the 63rd meeting of the International Labour Organization in June 1977, His Royal Highness Prince El Hassan bin Talal proposed the establishment of an International Labour Compensatory Facility (ILCF) to compensate countries experiencing out-migration of their labour. This sparked a wave of discussion on the modalities for such a facility, including a December 1977 ILO paper by W.R. Bohnig. Such documents explored a range of schemes ranging from direct monetary transfers to be paid over to the country of origin as a lump-sum or in installments to allowing greater marker access to country of origins negotiated on a bilateral or multilateral basis to help offset deficits in trade balances.
[28] Entrepreneurship is a relatively recent addition to the list of factors of production, and one that remains debatable.
[29] P Collier, above n 3, 28.
[30] W W.R. Buhnig, *Compensating Countries of Origin for the Out-Migration of Their People,* International Labour Office (1977) 4; 18, 20.
[31] Collier above n 3 207.
[32] According to the World Bank, remittances total was USD 3,737,183,099 in 2014. That accounted for about 10% of GDP: http://data.worldbank.org/indicator/BX.TRF.PWKR.CD.DT
[33] S Monaptra, B Moreno-Dodson, and D Ratha, above n 5, 1.

and positive correlation with economic growth.[34] The larger issue is that remittances tend to be inelastic. Taxing foreign workers salaries would thus likely translate into a decrease in what they send back to their home countries. It might even be argued that placing money directly in the hands of poor families is more effective than funding governments, whose exclusive institutions largely encouraged out-migration in the first instance.[35] A further counterargument is that wealthy countries, at least in part, own these profits. Migrant labor is more productive in wealthy states because of their inclusive institutions — institutions that were built slowly and at high cost and sacrifice.[36]

[34] W.R. Buhnig, above n 32 210-211.
[35] Ibid 151-153; there are also socio-ethical strong arguments against migrant taxes, including exacerbating their economic challenges and reiterating to the indigenous population that they are negatively impacting existing social capital.
[36] Ibid 151-152.

4: Forging New Strategies

Cases such as Jordan elaborate the need for policies to protect small low and middle-income countries whose economic potential is being curtailed by poorly regulated out-migration. This paper does not aim to articulate who should be compensated, by whom, or who the mediators should be. Instead, it provides three broads recommendations to frame future policy research and discussion.

4.1 Not all labour-exporting economies require protection

The evidence suggests that migration is not necessarily a zero sum game with inevitable winners and losers. At moderate levels, both receiving states and migrants reap economic benefits. Receiving states do, however, need to develop more effective policies for countering the social externalities associated with migration, such as diminishing social trust. Even for countries of origin — the perceived losers of global labour flows —migration can provide an economic lifeline to the poorest and most vulnerable, and to the extent that migrants returns, they can be the greatest winners of all. Modalities to encourage migrants to return to their countries of origin, on the part of both host countries and countries of origin, need to be the subject of further policy analysis and discussion. Nevertheless, when migration is excessive and sudden, the outcomes are negative for all players, but particularly for small and poor countries. Receiving states need to set limits through evidence-based migration policies and controls. How governments can be encouraged to raise domestic policies that ultimately protect labour-exporting countries is complex and requires further examination.[37] For those countries that are paying the price of brain drain when their migration tipping point has been breached, remedial action is required. Whether this should be in the form of compensation or other development pathways is explored below.

4.2 A more fluid understanding of what constitutes migration

The global economy has undergone enormous change since the 1970s. Today migration is driven by many influences including economic gain, conflict and differentials in non-financial well being. There is also an increasing movement of people in a south-south context. While analyses have focused principally on voluntary economic migration,[38] the lines between economic and involuntary migration are not always conspicuous. Discussions on policy and compensatory schemes should include the case of states whose labour force leaves involuntarily. It is not being suggested that governments such as Syria, whose actions have driven mass refugee exodus, should be eligible for financial compensation for brain drain. At the same time, refugees that are resettled or absorbed in large numbers are increasingly being understood as an economic asset for growth and development. Canada's Prime Minister recently referred to Syrian refugees as the country's "Canada's economic future" and a study by the Organization for Economic Cooperation and Development (OECD) has projected "sizeable economic and public-finance benefits [stemming from refugee-hosting], provided that refugees are integrated into the labour market."[39] President Obama's welcoming into the US of Syrian scientist, Refaai Hamoo as a refugee,[40] showcases the intellectual and development losses that countries of origin suffer as a result of refugee resettlement, and the benefits that recipient countries can gain. Whether compensation should be directed into post-conflict economies is worthy of additional research, as well as policy measures to protect countries experiencing conflict from losing their

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[37] Ibid 245 255, 263, 189-190.
[38] W.R. Buhnig, above n 32, 5.
[39] Source : 'Syrian refugees are 'Canada's economic future'', *Al-Arabiya News* (Davos) 21 January 2016.
Source 2:Organization for Economic Cooperation and Development, *How Will the Refugee Surge Affect-the European Economy?,* Migration Policy Debates no. 80 (2015) 1.
[40] H Horton, 'President Obama welcomes Syrian scientist refugee', *The Telegraph* (London) 11 December 2015.

economic and social human capital permanently through resettlement or post-migration labour market integration.

4.3 A more fluid understanding of compensation

Migration, although a global phenomenon, remains a bilateral arrangement. Discussions on compensation should be grounded on an assessment of the needs and assets of both recipient and contributing countries. Moreover, compensation should be regarded as a fluid concept that might include several aspects:

4.3.1 Investment

To compensate for losses incurred through both inter-WANA south-south, and global north-south migration, investments might be an economically healthier and a more transparent alternative to periodic transfers. Not only is the WANA region in need of physical and social infrastructure investments, but such investments also foster economic growth and development by bridging the gap between domestic savings and investment, and by transferring technologies and management know-how from developed to developing economies. To enable this, institutional and financing gaps, which currently hinder cross-border investments, need to be overcome.

4.3.2 Development projects

Funds accrued through interregional compensation might be redirected in the form of social investments, or soft loans for the purpose of promoting and financing social projects.[41]

4.3.3 Social security contributions

As discussed previously, Arab nationals working in Gulf countries do so without being able to access social security or pension schemes. As a result, in the event of retirement, illness or injury, they rely on the welfare state of their countries of origin. Bi-lateral arrangements for labour-importing states to contribute to the social security and/or pension contributions of their foreign workers in their home countries might redress this imbalance.[42]

4.3.4 Increased market access

This form of compensation would address losses incurred by migration to high-income economies in the European Union and North America, and potentially conflict-affected states that suffer refugee-related brain drain. Negotiated compensation packages comprising more attractive free trade or market access agreements would also serve to increase the appeal of such countries for foreign investment.

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[41] His Royal Highness Prince El Hassan bin Talal, speech delivered at the 63rd meeting of the International Labour Organization, Geneva 10 June 1977, 8.
[42] Ibid 8.

Concluding Remarks and Further Considerations

It is not a coincidence that states that have the highest rates of out-migration are usually the ones that are most economically vulnerable or aid dependent. Whether it is the weak economic performance of home states that drives migration, or that migration leads to foregone economic growth is not a constructive question since the two phenomena are mutually constitutive. What is more important is quantifying the extent to which countries that experience out-migration are disadvantaged when their talented and skilled citizens choose to leave. What is clear is that small and less wealthy countries with high rates of out-migration, such as Jordan, are not capturing the benefits of their investment in the education sector and are suffering from economic and intellectual losses. Such countries require a compensatory arrangement that might comprise regulatory, financial and non-financial elements, perhaps carried out under the auspices of a Regional Bank for Reconstruction and Development. The broader aim is that adequate compensation will allow for the creation of new opportunities and adequate educational sector investment, placing natural limits on out-migration.

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