



BRAIN DRAIN- THE MELANCHOLY OF GLOBALISATION: NEED OF CONCRETE LAWS IN DEVELOPING NATIONS

By Aditi Richa Tiwari

From Dharmashastra National Law University

Abstract

Brain drain or the exodus of potent minds has been a constant issue confronted by nation-states, particularly during this era of globalisation. This exodus is mostly observed in developing countries, where citizens, majorly youth desires better opportunities, higher recognition of work and more monetary value of mind and efforts than their native developing nation would provide. Consequentially, an exodus of brains to developed nations is observed. This leads to drain of potent brains which could have contributed to the advancement of their native developing state. This issue undisputedly exists in the era of globalisation, where easy international access is always explicitly available. However, due to this exodus, the developing nations consistently loose those efficacious minds that have been nurtured by the nation to bolster the economy of their native state. It is even more desolate that the developed nations use these minds to upkeep the pace of their progress, thereby denying the availability of these human resources to the developing nations. There is a clear need for laws to function as a regulatory mechanism for brain drain. This paper explicates the concept, throws light on the problems that

developing, or less developed nations confront as a result of this, and suggests viable and concrete

solutions to substantially curb the ill effects of the same by way of legislation.

Keywords: brain drain, exodus, globalisation, advancement, economy, developing nations, laws, regulatory mechanism.

Introduction

Brain drain is the term used to define the exodus of potent minds from their native developing nation to a more developed nation in search of better opportunities, higher recognition and greater monetary value of their mind and effort, substantially more than their native developing nation could provide.

On the supply side, skilled workers in the developing countries continue to be interested in emigration for a wide variety of reasons, which relate both to the opportunities that individuals are able to pursue abroad and to the changing structure of the global economy. Any adequate explanation of the phenomenon of brain drain, therefore, needs to consider both its objective and subjective dimensions.¹ To further simplify, the “Brain” that the developing nation has nurtured by its resources is being “Drained off”, in order to contribute to a more developed nation, thereby denying its potential to its native developing nation. The most common form of migration is the migration of doctors and engineers from their native land, as science remains a universal constant and does not depend much on the kind of milieu that

¹ Fazal Rizvi, *Rethinking “Brain Drain” in the Era of Globalization*, TAYLOR & FRANCIS ONLINE (Aug. 15, 2006),

<https://www.tandfonline.com/doi/full/10.1080/02188790500337965?scroll=top&needAccess=true>



adapts it. However, this mobility is not solely restricted to the intelligentsia. The current form of brain drain also includes skilled workers and persons of any constructive attribute originally nurtured by their native nation, now contributing to another nation more developed than their native nation.

This inter-boundary displacement lays its roots in the desire of materialistic advancement that people of all classes predominantly have. Given the fact that the developing nations lack proper facilities that could provide luxuriant thrift, people choose to offer their services, skills or intelligence to a place that could gratify their desire of extravagance in economic materialism. The era of globalisation further creates conducive fluidity for this exodus. Given the fact that international relations outrageously occupy a significant aspect in today's world and national assets are more recognised as global assets, this departure of brains becomes an even more obvious choice.

Statistical elucidation:

The last two decades have witnessed an exceeding increase in the migration of quality brains from their native countries. Statistics clearly reveal that this has become an obvious choice for brains, and is increasing with increase in time.

Among Asian countries, India continues its trend of top the list of immigrant scientists and engineers to the US, says the latest report of National Centre for Science and Engineering statistics, adding that with 950000 Indians out of Asia's total of 2.96 million, this report of 2013 represented an 85 percent increase from 2003. Overall, the

number of immigrant scientists and engineers in the US has risen to 18 percent from an earlier 16 percent and 57 percent of those were born in Asia. From 2003 to 2013, the number of scientists and engineers residing in the US rose from 21.6 million to 29 million. This 10-year increase included significant growth in the number of immigrant scientists and engineers, from 3.4 million to 5.2 million, said the report from the National Science Foundation's National Centre for Science and Engineering Statistics (NCSES).²

The statistics are daunting, and there is a pristine need to consider this issue not merely for elaborate contemplation, but also for substantive solutions.

Consequential Implications of Brain Drain

Brain drain results in the concrete denial of capable contributors to the national economy. In addition to this, the unemployment rates become higher in those countries where the transnational mobility is greater. This is because the potent people, who choose to work for another nation, refuse to create opportunities in their native nation, which is already struggling for economic gratification of population.

These opportunities which the drained off brains deny to their native state could be in the form of startups, which most of the business schools in developed countries sufficiently teach. These could also be in the form of services like that of management, engineering, science etc. which people offer to more developed nations than their native nation. This is mainly because brainy students choose well recognized Universities

² A. Sulthan, *Brain Drain of India – Some Statistics*, SAR PUBLISHER (Jan.25,2019),

<https://www.sarpublisher.com/brain-drain-of-india-some-statistics/>.



for their post graduation, which is offered by the developed nations. Most of these people do not return to their native nation. They rather choose to offer their hard earned attributes to a developed nation. As an apt example, most of the Chief Executive Officers of global I.T. giants are of Indian origin, but offer their skills, brain, talent and brilliance to foreign sectors. Mr. Sundar Pichai, the Chief Executive Officer of IT giant “Google” (U.S.) is from Indian origin. Similar examples include the Chief Executive officers of Microsoft, PepsiCo, Hotmail etc. All these are originally Indian brains, nurtured by the best institutes in India, but available ultimately to the “Developed West”.

This further defeats the intent of globalization. Intense debate has revolved around the term ‘globalization’, but it has now been accepted as shorthand for the intense and deepened cultural, economic, political and institutional interconnectedness and interdependency that has developed between corporations, communities and states, particularly since the 1970s.³ However, presently, if a broader spectrum is considered, all the acumen and brainpower of the globe is concentrated to a few industries of even fewer countries. This creates a virtual rule and explicit dominance of developed nations, inflicting detriment on the intent of globalization. Intent of globalization, which is essentially to bring fluidity, accessibility and flexibility among rigid boundaries of nations, gets defeated with this concentration of brains within restrained boundaries. Therefore, for the true core and spirit of globalization to outshine, it is of immense significance that this concentration of brains

is diluted. To simplify, this means that the brains available to the native country should take the best of resources, from the best of institutions that are available at their access owing to globalization, but after imbibing all these resources, should serve their native land, so that the essence of globalization could succeed, and wholesome progress could persist. For this, there is a dire need, specifically in the developing nations for explicit laws, which is presently not very appreciably observed.

Legislations as the concrete solutions

If there has ever been a concrete and drastic change that has created a widely perpetual impact, it has been by way of legislations. It is substantially because legislations contribute in bringing a concrete transition that is always the need of a particular society in a specific period of time. Therefore, legislations have to be dynamic in nature, pertaining to the fact that diverse changes in societal structure over a period of time give rise to varied needs that are required to be addressed.

It is high time now, that the developing countries consider the effective instrument of law to eradicate and exterminate this issue of brain drain before it turns the solidity of developing nations’ progress into hollowness.

Following are the possible solutions that could be manifested by the instrument of law to bring about a materialistic transformation in the existing ill-effects of transnational mobility:

³ A. AMIN AND N. THRIFT, GEOGRAPHIES OF ECONOMIES ‘Globalization, socio-economics,

territoriality’, 147–157 (R. Lee and J. Wills (eds), London: Arnold, 1997).



Tax based approach:

The most viable way of providing economic compensation to a country is by way of imposing taxes. In the United States, a similar approach is used by the State to prevent its brain from draining off to other countries. The tax which U.S. imposes, however, is a credit tax, which means that the tax remains in the form of credit. A bit different approach can be viably used by the developing countries, where considering the dire need of economic growth, a non-credit tax could be imposed on citizens that contribute to the development another nation. It should be noted, that this tax is not analogous to the income tax. Income tax has to be paid by everyone, be it a non resident citizen, or a resident one, if income exceeds a particular amount. In addition to this, there should be a tax imposed on the “drained off brains”, as the native country invests a lot of resources to nurture the brains that are eventually gripped by transnational mobility. However, there should be some criterions to identify whether the migrated ones are “branny”, or just a result of salubrious international relations.

A first step in assessing this proposal is to understand to whom it applies. While the idea of “brain drain” is applied in many circumstances (such as, for example, graduates of universities or colleges in Philadelphia leaving the city, or better students in Kansas leaving the state to attend an out-of-state university or leaving after graduating from an in-state university), this proposal focuses on people from developing

or least developed countries who meet the following conditions:

- 1) They have received higher education or skills training;
- 2) This training or education was provided largely or completely at public expense, either in the home country or abroad; and
- 3) The person in question has left the country to work in the developed world within a set number of years after completing education or training (perhaps five years, maybe as many as ten, depending on the nature of the training and education and the needs of the home country).

To understand the nature of the proposal, it is important to see who is not included in this list. Those who do not fall under the proposal include at least the following people:

- 1) People from middle-income or wealthy countries, regardless of whether they meet the other criteria;
- 2) People who self-finance their education, as opposed to those who are educated at public expense;
- 3) People whose education is financed via first world government or university exchange programs.⁴

Taxing this specified stratum of people will make sure that the effect of brain drain is compensated without causing detriment to the liberty of individuals who decide to migrate to a more developed nation than their native nation.

⁴ Matthew J. Lister, *A Tax-Credit Approach to Addressing Brain Drain*, 62 ST. LOUIS UNIVERSITY L. J., 2017, at 73,75.



Mandating the return to native states via legislation:

If individual liberty is considered, transnational mobility does not seem to be inflicting any detriment. However, reasonable restraints can be imposed in order to maintain the pace of economic advancement of the native nation. These proposed restraints include the mandatory return to the native nation after completing higher education, as most of the “drained off brains” are ones that continue to thrive in more developed nations after their education, denying their availability to their native state. These are the ones that cause the greatest harm to the economy and materialistic advancement of the native state. The report of National Centre for Science and Engineering Statistics found that immigrant scientists and engineers were more likely to have earned post-baccalaureate degrees than their US-born counterparts. In 2013, 32 percent of immigrant scientists reported their highest degree was a master’s (compared to 29 percent of US-born counterparts) and 9 percent reported it was a doctorate (compared to 4 percent of US-born counterparts).⁵ This evidently proves that the desire to earn a master’s degree and stay in a developed country is mostly materialized by majority of exodus. Hence, the ones who attain a degree from a developed country should be bound by way of contract before entering into the visa formalities. The terms of the contract should include the post completion of degree and a practice of a specified time, the pupil should return to homeland and contribute in the advancement of their state.

This would further help nation-states to materialize the intent of globalization to its

fullest, thereby preventing the restriction of brains to specific kind of states that generate monetary value in exchange of priceless brains that could voluminously contribute to the progress of their native state.

Conclusion

The real essence of globalization rests in the fact that it provides fluidity and accessibility of resources across transnational boundaries, without concentrating these within few specified nations. However, with factors such as brain drain, the serene intent of globalization is explicitly defeated, because the best of brains are available as a concentrated cluster within particularized outlines. The instrument of law is thereby assistive as a regulatory mechanism, in order to up thrust the advancement of developing native nations which brilliant minds leave, for sake of individual materialistic advancement. Therefore, concrete solutions taking into account the dynamic nature of law are pristinely viable to curb the ill-effects of transnational mobility, and to compensate for the “drained off brains”.

⁵ A. Sulthan, *supra* note 2.