

Labor Movement Barrier under GATS Mode 4

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Abstract

Temporary cross border labor movement is an integral part of globalization. This paper analyzes temporary labor migration barrier under WTO's GATS Mode 4 commitment. Theoretical and academic approaches show that temporary labor movement is beneficial for developed countries to achieve productive efficiency and remittance income in developing countries helps to reduce poverty level. However, existing GATS Mode 4 commitment is unclear and overlapping among Modes of supply. Some developed countries drag only talent graduates which obstructs poor and small countries long-term development. There is implicit underestimation and less cooperation among academicians, policy makers and international organizations in the labor movement implementation aspects.

Keywords: Temporary Labor Movement, Theoretical Approach, Academic Approach, GATS Mode 4 Barrier

I. Introduction

International migration population accounts 3 percent of the world population and official world remittance flow is US\$440 (World Bank, 2011). Therefore, from the start of the 21st century, international migrants' remittance represents one of the main resources for economic development. The fact is that developing countries own surplus labor as seasonal and disguised unemployment with poor economic performance, social unrest, and political instability while developed nations are facing declining demographic structure with significant capital stock. To achieve economic efficiency in the world economy, either capital should move to the surplus labor area or labors should move to the capital surplus area.

Aging and declining population is alarming issue for Europe, Japan, and North America. United Nation's demographic projection shows that population of the European Union and Japan are expected to fall by 10 percent and 14% respectively between 2000 and 2050, that is about 55 million in total, however, United States' population is expected to increase over the same period (UN, 2000). In the coming decades, political reasons, globalization, and climate change will also increase migration pressures across borders. Author argues that if temporary labor movement barrier form South to North is minimized then poor countries income increases significantly and production cost decreases in rich countries. Empirical findings show that skilled and mainly unskilled labor temporary international migration will produce a win-win situation for the world economy (Hamilton and Whalley, 1984; Winters et al., 2003; World Bank, 2006). However, existing GATS (General Agreement on Trade in Services) Mode 4 commitment is unclear and insufficient to bring under the preview of trade. This policy is confined to highly skilled workers and migration practice is determined by bilateral immigration policy.

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Under these circumstances questions arise as: What is the significance of temporary labor movement? And what are the labor movement barriers under GATS Mode 4 commitments?

This paper discusses the significance of cross-border labor movement by a theoretical approach in section 2. Detail literature reviews are presented in section 3. A labor movement barrier under GATS Mode 4 regime is analyzed in section 4. Brain drain issue is discussed in section 5 focusing developing countries. Underestimation among academicians, politicians and policy makers is discussed in section 6. The way forward is presented in section 7. Section 8 concludes.

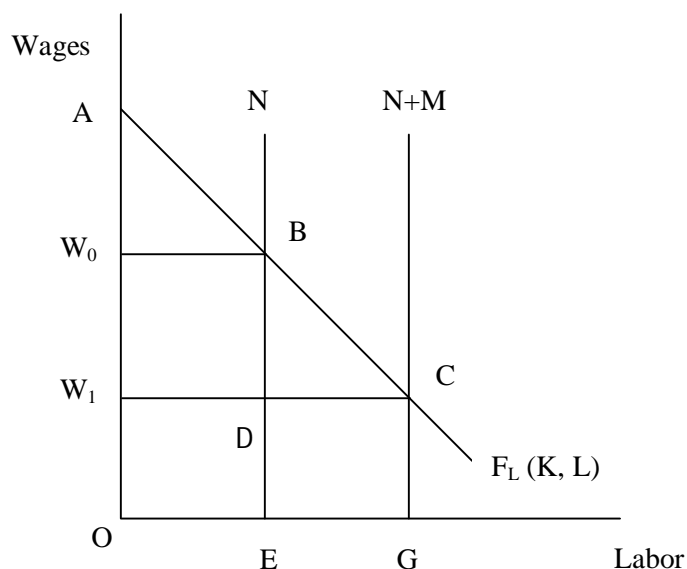
2. Theoretical Approach on International Migration

Central economic principle is to allocate scarce resources effectively so that economic issues will be minimized. Comparative advantage theory argues that due to cost and specialization differentials among economies trade liberalization increases quantity and quality of production to improve the world living conditions. Assuming labor as one of the inputs of production, international migration will produce a comparative advantage for both developed and developing countries due to wage, education, and specialization differences. Viewing the importance of immigration in the USA, Borjas (1999) writes:

“The principles of free trade first enunciated by David Ricardo almost two centuries ago suggest that the world would be much richer if there were no national borders to interfere with free movement of goods and people. By prohibiting the immigration of many persons, the United States inevitably shrinks the size of the economic pie, reducing the economic opportunities that could be available to many persons in the source countries (Borjas, 1999, p.181)”.

International labor flow can be analyzed by simple economic theory. Consider that labor is a homogeneous factor of production and wages are determined by perfect competitive market. In the short-run, downward sloping labor demand curve is shown as $F_L(K, L)$ indicating an inverse relationship between wage rate and the quantity of labor demand. Suppose that there are an increasing number of people joining the international labor market. An increase in the labor force (capital keeping constant) through the wave of immigration leads to a decrease in the wage rate and marginal productivity. The total labor force becomes $N+M$ by adding immigrants and consequently native labors' wage rate decreases to W_1 from W_0 . $F_L(K, L)$ is a constant returns production function. Here addition in immigrants leads to an increase the GDP (Gross Domestic Product) from the area OABE to OACG. Surplus as profit for destination countries is the triangular area BCD. This means an increase in labor force results in decrease in production cost and increase in profit as capital earnings for entrepreneurs (see Figure 1).

Figure 1: Impact of Immigration with Homogenous Labor and Fixed Capital



Source: Cahuc and Zylberg (2004). Labor Economics, pp. 608-609.

One limitation of this theory is it cannot categorize skilled and unskilled labor market. In reality labor demand and labor supply curve of skilled one appears more inelastic than the unskilled one. Another point is that this is not sufficient to exhibit the significance of the temporary migrants' labor market which will be analyzed in the following section.

3. Literature Review: Academic Approach on Temporary Migration

Empirical works strongly indicate positive signal on economic growth by temporary migration flexibility. For example, two decades ago Hamilton and Whalley (1984) have suggested that the liberalization of labor market could double world income where developing countries proportionately gain more than developed countries. Similarly, Winters et al. (2003) applying global general equilibrium Model postulated that if developed countries introduce temporary visa system to permit temporary natural person movement quota up to 3 percent of their labor force from developing countries then the world economic gain would rise by US\$156 billion. Gains are expected to distribute as remittance for developing countries and through licenses fees, certification of qualification, labor living costs, insurance costs and others for developed countries. Developed countries' educated people are less interested to work in agriculture and construction sectors. In addition, labor-intensive works such as medical-personal care services for an aged population cannot be substituted by capital. Low-skilled temporary migration would lead to greater productivity and their remittances would offset the original loss in origin countries.

Walmsley and Winters (2005) again warned that if there remains restriction on the flow of natural persons through cross-border then the world economy should bear the cost over US\$150 billion. Low-skilled labor restriction accounts greater cost than the high-skilled labor. Downward demographic effect could reduce US living Standard by 10%, EU by 18%, and Japan by 23% in 2050(Moses et al. 2004). The World Bank (2006) claims if observed migration rate during 1970-2000 continues then developed nations labor force will increase by 3 percent over the period 2001-2025 and wage rate declines slightly but it will be offset on average by capital returns gain. Migrants' wages will be higher in destination places than their country of origin and finally total welfare gain (output) would account US\$365 billion by 2025. Focusing poverty, Adams and Page (2005) showed that international migrant's remittances have a strong impact on the reduction of poverty in developing countries.

Currently, some international organizations also emphasize labor movement as the key factor of economic development. Previous UN Secretary General and senior economist Joseph Stiglitz in the Report of the Global Commission on International Migration (GCIM) have suggested that understanding potential of labor movement from developing to developed countries it should be brought into negotiation in the World Trade Organization (WTO), whose impact will be better than existing subsidies and agricultural sector liberalization (Stiglitz and Charlton, 2005). In addition, Human Development Report 2009 also argued that human mobility from one place to another is an essential part of the freedom. Migration, whether it is internal or external, helps to raise incomes, better access to health and education, and better prospects for future generations. Removal of human mobility barriers will improve economic and human development enormously (UN, 2009; Chami et al. 2003; Cox- Edwards & Ureta, 2003).

4. Policy Approach: GATS Mode 4 Barrier on Labor Movement

General Agreement on Trade and Tariffs (GATT) could not address new trade issues so WTO established. General Agreement on Trade in Services (GATS) was one of the achievements of Uruguay Round (1986-1994) which covers a wide range of service sector's trade liberalization. Trade in services under GATS has four Modes of international service supply. Mode 1 refers to cross-border trade, defined as the delivery of a service from one territory to another (for example, legal advice from abroad given by letter or telephone). Mode 2 is related to consumption abroad (such as visiting law office abroad). Mode 3 is related to commercial presence (for instance, when a service supplier establishes a base in another country and supplies services from that base or FDI). Mode 4 is concerned with the movement of natural persons who travel to another territory to deliver services (labor mobility while providing services) (WTO).

Technically Mode 4 is defined in Article I: 2(D) of GATS as being "a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member".

Further elaboration is provided in the GATS Annex on Movement of Natural Person Supplying Services under the Agreement, expressively provides that the GATS "measures affecting natural persons who are service suppliers of a Member, and natural persons of a Member who are employed by a service supplier of a Member, in respect of the supply of a service". The annex also states that the GATS "shall not apply to measures affecting natural persons seeking access to the employment market of a Member, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis". Moreover, governments are free to regulate entry and temporary stay, provided these measures do not nullify or impair the commitments. The WTO Secretariat background note on Mode 4 further states that differential visa requirements are also not to be regarded as nullifying or impairing benefit under a specific commitment(WTO).

Here the first part is clear, "presence of natural persons who are a service supplier of member" means self-employed or independent service suppliers who obtain their remuneration directly from customers. However, the second part "natural persons of a Member who are employed by a service supplier of a Member" brings some confusion about what is covered. For instance, WTO secretariat background note suggests foreigners employed by host country companies are also included under Mode 4 if they work on a contractual basis as independent suppliers for a locally-owned firm and they will be excluded if they were employees of that firm. However, Article I.2 (d) covers only foreign employees of foreign firms established in another member. GATS covers only services and supply of services does not cover the persons working in agriculture and manufacturing sector. For example, 'a fruit-picker is temporary agricultural labor (does not lie under Mode 4) or fruit-picking services? Another confusion seems for the wording "temporary" which do not clearly classify period of stay for different types of natural persons. Only about one-third of commitments include any specified duration of stay, most of them are for intra-corporate transferees (generally two to five years), and business visitors (generally three months)' (Nielson and Taglioni, 2003). Hence vague terminology of coverage of types or workers and the period of stay gives sufficient room to misinterpret labor movement issues by governments and immigration officers.

A category of service suppliers mainly include highly qualified and skilled manpower but exclude those people who want to enter in the employment market. They are Intra-Corporate Transferees (ICT) - that is the same company which has commercial presence in another member's territory as a branch company. The contract is made between the home and host companies (movement within juridical spheres). Business Visitors (BV)-prospecting business opportunities such as preparing establishment of a branch; Contractual Service Suppliers (CSS), provision of a service on a pre-obtained contract possibly within the context of a legal person; Independent Professionals (IP), and individual service supplier such as architect who moves abroad to supply a service. Mode 4 accounts for less than 2 percent of total value of services trade and commitments are biased to higher level personal. More than 40% commitments are for ICTs whose mobility is directly related to FDI and another 50% of commitments cover executives, managers and specialists and business visitors (World Bank, 2004).

There is a complement clause and difficult to determine precisely which Mode it is among 4 Modes of supply. For instance, US owned hospital established in Australia (Mode 3) may employ foreign doctors and nurses (Mode 4) and receives medical advice through the internet from the US- based specialist (Mode 1). Some services can be settled down among member countries in a very short period of time through the internet. However, it is challenging to identify which work is done form abroad or from domestic level (World Bank, 2008). For example, one housing construction company can provide service by one Mode; however, if labor movement is obstructed in another Mode by government policy or any political reason then whole project will be disturbed.

5. Rethinking Highly-Skilled Migration from Developing to Developed Countries

Permanent migration of skilled workers is a sensitive issue, especially for developing countries. This is because on a hand poor economies are still facing education and innovation traps to exhaust their existing resources but on the other hand there is high demand of qualified people in the developed countries and migration is continuous. Fact shows that poor regions' migrants are significantly more qualified than the rest of the population. For instance, more than half of the migrants from Sub-Saharan Africa and South Asia are with tertiary education (see Table 1). Moreover, brain drain from developing countries accounts 7 percent of the total migration but it is 43% in countries having population less than 1.5 million. Polynesia and Caribbean islands have even higher rates; with 75% of tertiary educated individuals leave their country of birth (Docquier and Schief, 2008). In OECD countries, 18 % existing doctors and 11 % nurses are foreign born. Countries with small population may suffer more than highly populated countries like India or Philippines by expatriation of health workers migration.

Education produces many positive externalities. From micro level perspective, permanent migration of a few qualified youths from a particular rural society will have negative impact on economic, political and social activities. Fifty-seven UN member countries (36 Sub-Saharan African countries) are facing a critical shortage of doctors and nurses. Hence, huge health workers migration threatens to achieve the Millennium Development Goals (UN, 2010).

Table 1: Education and Migration by Geographic Region, 2000

Region	Migration Population (%)	Ratio of University Education and Migration
Latin America and Caribbean	2.39	37.61
Western Europe	3.56	34.30
Eastern and Central Europe	1.55	44.98
Middle East and North Africa	2.09	30.34
Sub-Saharan Africa	0.39	55.37
South Asia	0.21	55.34
East Asia and Pacific	0.36	49.86

Niimi, Y., Ozden, C., & Schiff, M. (2010). *Remittances and the Brain Drain: Skilled Migrants Do Remit Less*, p.129.

In many countries it is also observed that qualified migrants feel depressed because they are not paid wage as per their qualification. Oreopoulos (2011) finds that highly skilled recent Canadian immigrants wage is 36% lower than native workers.

6. Academicians Verses Policy Makers Underestimation

Researcher better knows complex economic models than real societal issues. For example, Winters et al. (2003) and the World Bank (2006) have already explored huge gain from temporary labor migration; however, GATS Mode 4 barrier is standing as a big giant stone on the implementation part. Instead of implementing appropriate policy for the issue which is already explicit, some researchers are limited to publish several papers. On the other side, majority of politicians are devoting for votes but keep little knowledge on research findings. International organizations' policy makers are more influenced by rich nation's political leaders. For instance, there is no any academic research showing a positive relationship between the American –Muslim war with economic growth and development but it is going on. Hence, author argues that reasons behind existing economic issues, political instability and social unrests are not only due to limited resources but by underestimation and lack of coordination among academicians, policy makers, politicians, and international organizations.

7. The Way Forward

First, world migration data should be updated including permanent and temporary migrants. Existing migrants' statistics do not meet Mode 4 criteria. Migration and remittance fact should be recorded in survey and census data properly matching with Mode 4 provision. WTO should clearly classify types of occupations as of ILO regarding international migration. This facilitates exact economic impact analysis and draws appropriate policy for economists.

Second, there is emergent of various rounds of talk and negotiations in the GATS Mode 4 to foster practical and action-oriented outcomes. There requires a new level of policy co-ordination between relevant regulatory agencies, particularly those responsible for trade, immigration and labor market, in order to find workable solutions and to move forward with liberalization. Interpretation of commitments, classification of workers and host country regulatory regimes should be clear in Mode 4. De-linking Mode 4 from Mode 3 is another importance. Labor flow between countries seems positive step so needs more coordination among bilateral and regional level ministers.

Finally, it is not a farsighted economic decision to drag academic talents permanently from south to north instead it will be wiser to allocate a certain quota for the low-skilled temporary working visa. Migrants should abide by host countries rules and regulations. Developing countries are heavily subsidizing education sector so permanent skilled migration is direct flow of human capital investment to developed countries. Therefore, promotion of return and circular migration minimizes migration cost.

Not only developing countries and academicians but also developed countries and international organizations' policy makers should realize the gain of productive efficiency by admission of temporary labor. The business group also will be benefited by increased labor market flexibility, profitability and competitiveness. This facilitates an incentive for trade and search of new markets especially in the primary sector which is very difficult by hiring developed countries' expensive labor.

8. Conclusions

Theories and findings show that overall effect of temporary migration in a selected industry from developing to developed economies is positive to gain productive efficiency, assuming that the migrant moves from less productive to a more productive place. Of course, all of these gains do not directly accrue to the poorest countries, developed countries also incur costs but on average reaping scale effect and increasing competitiveness in the labor market, international migration may be one of the most effective means of shrinking the income gap between rich and poor countries and capital-labor adjustment. GATS Mode 4 commitment is unclear, insufficient for temporary labor movement and is confined to the multinational organizations' top executives. Data shows that most poor regions such as Sub-Saharan Africa and South Asian migrants are most educated than other regions. Permanent migration of high-skilled graduates from developing countries is beneficial for developed countries; however, in the long-run it will impact negatively on less populated countries. Moreover, there need further coordination among academicians, politicians and policy-makers for global prosperity. Developed countries must allow more visas on temporary work related migration.

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