

Article

Ana Tanasoca*

Double Taxation, Multiple Citizenship, and Global Inequality

Abstract: National membership in itself aggravates global inequality, and plural membership does all the more so. A key mechanism by which that occurs are double taxation agreements that (given certain contingent facts about the world) have the effect of favoring the global rich at the expense of the global poor. One egalitarian solution is a levy on multiple citizenship; another is redesigning double taxation agreements along prioritarian lines. Revising the OECD Model Tax Convention could be a feasible strategy for implementing such reforms.

*Corresponding author: Ana Tanasoca, Department of Government, University of Essex, Wivenhoe Park, Colchester CO4 3SQ, UK, E-mail: amtanaa@essex.ac.uk

Different reforms of global taxation (from the Tobin tax to Pogge's Global Resources Dividend and Shachar's Birthright Levy) have been proposed to alleviate global inequality.¹ Some aim to address specific causes of global disparities: an unequal distribution of resources or an arbitrary distribution of state membership. In this paper I focus on a specific type of membership – multiple citizenship – and on its consequences for global equality. I first explore the mechanism, double taxation agreements, by which multiple citizenship most impacts global equality; while multiple citizens are not the only taxpayers to take advantage of these agreements, multiple citizenship incentivizes and makes it easier to benefit from them to the fullest and over the long term. Thus I go on to argue that the present distribution of multiple citizenship, coupled with the current international regime governing double taxation, increase global inequality. Finally, I propose two remedies: a multiple citizenship levy and a reform of double taxation agreements.

¹ James Tobin, *The New Economics, One Decade Older* (Princeton, NJ: Princeton University Press, 1974); Thomas Pogge, "Eradicating systemic poverty: brief for a global resources dividend", *Journal of Human Development*, 2, 1 (2001): 59–77; Ayelet Shachar, *The Birthright Lottery: Citizenship and Global Inequality* (Cambridge, MA: Harvard University Press, 2009).

1 Citizenship and global inequality

Ayelet Shachar makes a luck egalitarian objection to national citizenship being distributed through what she calls *The Birthright Lottery*. Citizenship is distributed on the basis of birth circumstances, and thus of luck – the luck of being born on a certain territory (*jus soli*) or the luck of being born in a certain family (*jus sanguinis*).² Insofar as global inequalities arise from or are maintained by citizenship, and citizenship results from unchosen circumstances like birth, these inequalities appear to luck egalitarians as *unfair*, and should be mitigated. Shachar draws an analogy here between citizenship and property.³ We tax inheritance because it is unfair for some to be advantaged by circumstances that are well beyond their control. Why shouldn't we do the same for citizenship?⁴

For left egalitarians, however, what matters is that citizenship affords different life chances – and that is true regardless of how citizenship is acquired, through the luck of birth or deliberate naturalization. Citizenship is by its nature “internally inclusive”, while “externally exclusive”, as nationalist theorists rightly remark.⁵ Egalitarian social justice schemes implemented inside each welfare state target only those in that state; redistribution is governed by the logic of citizenship and of states. That citizenship has the effect of producing inequality across the globe is therefore unavoidable. From a left-egalitarian standpoint that's a good reason to neutralize national citizenship's effects *tout court*.

2 Multiple citizenship, inequality, and the birthright levy

Against this background, what are we to make of *multiple* citizenship? We have particular reasons to fear it – I argue – because of its potential bad influence on global equality.

² Shachar, op. cit., 7–18.

³ Ibid., ch. 1.

⁴ See Joseph Heath, “Rawls on global distributive justice: a defence”, in Daniel Weinstock (ed.), *Global Justice, Global Institutions, Canadian Journal of Philosophy* (Calgary, AB: University of Calgary Press, 2005), 211.

⁵ Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, MA: Harvard University Press, 1992), 21.

Consider first the global luck egalitarian argument. Shachar's proposal is to redress global inequalities by the imposition of a birthright privilege levy on political membership of wealthy nations.⁶ But if we do that, then by the same logic ought we not also impose an additional *tax on multiple citizenship* if people derive extra benefits from that?⁷

An arbitrary distribution of citizenship affording different life chances must be neutralized. On the same ground, we could impose a tax on multiple citizenship, when this beneficial status arises solely from luck, i.e., when we are talking of *birthright* multiple citizenship. Individuals born in multinational families, who enjoy particular benefits from having accumulated citizenships solely because of their nationally diverse blood ties, should pay a tax to those less privileged. In comparison to single nationals, dual citizens are advantaged: however much or little one citizenship brings them, the other brings them (a lot or a little) more. A second citizenship might compensate the shortfalls of the first citizenship, acting as a safety net, or might magnify existing opportunities. Or it might just provide "option value" in cases of uncertainty, where you do not know which option will eventually prove most valuable to you.⁸

It is not that clear that we should do the same when multiple citizenship arises from naturalization, at least not according to global luck egalitarianism. After all, naturalization comes as consequence of an individual choice and effort. But elements of luck, as well as choice, intervene in the naturalization process.⁹ It is, for example, often a matter of luck whether your chosen profession is one that appears on the "priority" list for fast-tracking immigration to (leading to naturalization in) the country in which you want to acquire a second citizenship. So too it is a matter of luck whether you are the descendant of former citizens deprived of their membership in unfortunate historical circumstances, which can lead that state to fast-track your (re)naturalization.

6 Shachar, op. cit., 96–108.

7 On Shachar's logic, we ought presumably impose a birthright levy on dual citizens twice, in respect of each citizenship. But should we not also impose a "*multiple citizenship levy*" on them insofar as those multiple citizenships interact in such a way as to confer yet further advantages on them globally?

8 Kenneth J. Arrow and Anthony C. Fisher, "Environmental preservation, uncertainty and irreversibility", *Quarterly Journal of Economics*, 88, 2 (1974): 312–19.

9 Consider the case of investor citizenship or citizenship-by-investment. (See Jelena Dzankic, "Citizenship by investment: can money buy citizenship?" <<http://eudo-citizenship.eu/news/citizenship-news/583-citizenship-by-investment-can-money-buy-citizenship>>). Birth citizens of advantaged nations (those who are already pretty well off globally) will be better able to "buy" a second citizenship, with the resources brought by their birthright citizenship. Thus, the global rich will have a greater propensity of becoming multiple citizens (and of maximizing their advantages subsequently).

Multiple citizenship is objectionable also from a global left-egalitarian perspective. Dividing the world into separate states and allocating *one* citizenship accordingly creates and sustains global inequalities. Two or more citizenships just widen these inequalities.¹⁰ First, multiple citizenship can entail an aggregation of the benefits attached to each separate citizenship, giving the multiple citizen more benefits than a mono-national has. Second, citizenship and international taxation regimes interact in unfortunate ways for global inequality. Dual citizens can further maximize the benefits brought by their citizenships via double taxation agreements, to be discussed next. This in turn will affect their already worse off fellow nationals.

3 Interactive effects, extra benefits, and double taxation agreements

Double taxation agreements are bilateral treaties between two states, aimed at avoiding the imposition of the same tax twice on the same individual.

A state's jurisdictional claim to tax income rests on two different grounds. One is the state's relationship to the taxpayer, established by residence or citizenship. The other is the state's relationship to income generated on its territory. Most states tax both income at source (arising within their jurisdiction) and residing individuals (living within their jurisdiction). In general, people derive their only income from the state in which they reside, so there is no potential for double taxation. But when this is not true the same income can be taxed twice. One state can tax it at source, on the ground that the income is generated on its territory, while a second state can tax it by virtue of the taxpayer's residence on its territory.¹¹

10 In a world in which all national citizenships promoted identical life conditions, citizenship itself would not give rise to global inequalities, but multiple citizenship still would. If national citizenships give access to equal resources, welfare, opportunities, and capabilities, then multiple citizenship allows some to double or triple their otherwise equal share. Imagine, for example, that each state would pay the exact same pension (this could apply to other citizenship benefits as well) to all its citizens over 65. In virtue of a dual or triple citizenship, an individual would, in principle, be able to collect two or three pensions, whereas a mono-citizen only one. It depends on how each country sets up the rules for the distribution of its benefits of course – but the mere possibility is evidence that multiple citizenship can remain problematic even under ideal conditions of perfect global equality.

11 A few states also tax on grounds of citizenship alone, irrespective of a person's residence or source of income (e.g. US, Eritrea). In those cases, income could be taxed thrice: by the third state in virtue of the citizenship of the taxpayer generating that income. This might be rationalized on the doctrine of "perpetual allegiance". In Blackstone's words, citizenship creates

Double taxation entails additional burdens for individuals and impedes economic activity. While states have long opposed all interference in or limitation of their right to tax in general,¹² they have concluded double taxation agreements with precisely the effect of limiting their exclusive taxing rights. Under double taxation agreements, the contracting states agree on what each state is entitled to tax or not, and on what relief measures to provide to taxpayers when double taxation cannot be avoided.

The mushrooming of bilateral double taxation treaties¹³ called also for a unitary legal framework that could be used as a reference point in international negotiations. Nowadays most double taxation agreements follow the *OECD Model Tax Convention on Income and Capital*. In settling the competing claims of states of residence and states of source, the OECD Convention confers (as a general rule, with various exceptions noted below) the exclusive right to tax to the state of residence. Insofar as that rule is followed, taxation by the state of source is precluded, preventing thus double taxation.¹⁴

Several types of income can be taxed by the state on source alone. These include: income from immovable property situated in that state and from the sale of such property (art. 6, 13, 22 of the OECD Tax Convention); income from artistic or sport activity in that state (art. 17); profits from firms with permanent establishment in that state, and from sale of the capital forming business property of the establishment; income from employment in the private sector,

“a debt of gratitude which cannot be forfeited, cancelled, or altered, by any change of time, place and circumstance”. William Blackstone, *Commentaries on the Laws of England* (Chicago, IL: University of Chicago Press, 1979), 357.

12 According to Lord Mansfield “One nation does not take notice of the revenue laws of another”. The “notice” doctrine was iterated in two eighteenth century cases: *Holman v. Johnson* and *Planche v. Fletcher*. William J. Kovatch, Jr., “Recognizing foreign tax judgments: an argument for the revocation of the revenue rule”, *Houston Journal of International Law*, 22, 2 (2000): 265–86.

13 There are also multilateral double taxation treaties like the 1996 *Convention between Nordic Countries for the avoidance of double taxation with respect to taxes on income and capital*, or the 1971 *Andean Pact*.

14 2010 Browsable Full Version of the OECD Model Tax Convention (OECD MTC), I-5, <http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/model-tax-convention-on-income-and-on-capital-2010_9789264175181-en>. In cases of exceptions to that rule, double taxation can occur, and two “methods of relief” are available: exemption and credit (ibid, I-8). Under the exemption method (preferred by European states), income taxed in the state of source shall be exempted from taxation in the state of residence; but the state of residence may take this income into account when calculating the rate at which the taxpayer’s remaining income will be taxed in that state. The credit method (preferred by the US) provides that the tax levied by the state of source shall be credited against the tax levied by the state of residence on that income.

if the employee was present on state territory for more than 183 days of the fiscal year (art. 15); remuneration from government service (art. 19).¹⁵ Again, insofar as taxation of these sorts of income stream are the exclusive prerogative of the state of source, further issues of double taxation do not arise.

Dividends and interests can be taxed by both states (art. 10 and 11), but with a limit on the tax imposed by the state of source: up to 5% of the gross amount of the dividends and 10% of the gross amount of the interest. What cannot be taxed by the state of source are: royalties (art. 12); private sector pensions (art. 18) and gains from sale of shares (art. 13); capital represented by shares and securities (art. 22); business profits that are not attributable to a permanent establishment in the state of source (art. 7).¹⁶ As a rule, permanent establishment and physical presence in the state of source for more than 183 days of the fiscal year can give this state the upper hand in taxation, despite the general priority enjoyed by the state of residence in raising taxes.

3.1 What do double taxation agreements entail for dual citizens?

Let's assume person *K*, citizen of both states A and B, earns income in state B from private services he provides there. However, he resides in state A (he is present in state B for less than the required period, 183 days, to count as resident there under double taxation agreements). Then it is state A which gets to tax this income. State B loses dual citizen *K* as a taxpayer, despite the fact that dual citizen *K* still enjoys a range of public goods made available by state B to its citizens.

K takes advantage of these public goods when he pursues his employment there. The judicial system protects his labor rights and enforces other state regulations supporting his activity. He also enjoys other public goods, without which his employment would be impeded: monetary stability, political stability ensuring a predictable legal framework, labor market regulation, and so on.

The public goods he enjoys, however, go beyond the ones just mentioned, strictly connected to his economic interests. As a citizen of state B, *K* enjoys the consular services and the diplomatic protection offered by state B. His citizenship may also be a token of his affective ties to state B, thus providing him some sort of psychological comfort. The same comfort may come from the fact that as a citizen of state B, having thus a vote in B and a say in B's businesses, *K* has

¹⁵ OECD MTC, I-6-I-7.

¹⁶ Ibid., I-7.

some means of protecting the family he left behind in B, some friends there, or, who knows, maybe just the fellow citizens he still cares about (if having some folkish romantic feelings for them).

The problem is that *K* does not pay for the benefits he gets as a citizen of state B, be they of a material or psychological nature. According to the ordinary tax laws of A, a citizen with a total income the size of *K*'s should pay taxes totaling *a*; according to the ordinary tax laws of B, a citizen with a total income the size of *K*'s should pay taxes totaling *b*. But, thanks to double taxation agreements, the income he earns in B is taxed only in residence state A. Hence *K* does not cover his share of the costs of providing the public goods he uses in B.¹⁷ Even if his use of the public good does not in any way increase the cost of providing it, the dual citizen is not paying what his society in B has determined is his fair contribution to the costs of providing it (*b*), by virtue of his residence in state A, which is facilitated by his being a citizen of state A as well as B. *K* is *totally* free-riding. When the dual citizen doesn't have to pay anything, his fellow citizens have to cover his share of the costs for the provision of public goods.

The same remains largely true even where the double taxation treaty allows both states to claim some tax. Take the case of dividends. Dividends can be taxed by both state of source and state of residence. However, the taxing power of the state of source is limited: the tax it imposes on this revenue cannot exceed 5%. Assuming that this state would have imposed a tax far greater than 5% on the dividends – had it not been for the double taxation agreement – the state of source obviously incurs a financial loss as a result of this limitation. The loss seems particularly unfair when the dividends come from shareholding in a national company (the national airline, say), shareholding in which is permitted only to citizens. The shareholding, and thus all income derived, is made possible precisely by *K*'s citizenship in state B; yet state B cannot fully tax the dividends. Suppose that for the dividends *K* has in B, this state would have normally (absent the double taxation agreement) levied a 15% tax. By virtue of double taxation agreements, state B can tax only 5%, losing thus 10% of the income tax, which will have to be made up by the community of citizens of B. *K* is then, at least, *partially* free-riding. His fellow citizens from B will have to cover for the remaining part of the tax that this state cannot impose on *K*'s income, and which would have been normally owed to this state.

¹⁷ One's contribution to the public welfare is not reduced to taxation. However, I am referring to public goods provided through public expenditures and thus dependent on fiscal contributions.

This means that K 's fellow nationals will either have to contribute more (to sustain the same level of provision of the public good) or else enjoy a lesser provision of the public good. Thus, dual citizen K increases the costs of his co-nationals in B . Such situations created by double taxation agreements are akin to the “tragedy of the commons”.¹⁸ The dual citizen can enjoy the full benefits while contributing less than his fair share (or nothing at all), and hence he has an incentive to support higher benefit levels (big government and strong welfarism) when voting. This vote in effect gives rise to externalities for his co-nationals. In order to control these externalities we might consider either making the dual citizen pay in full his taxes to the state or decreasing the value of his vote proportionally to the reduction in his taxes he gets through double taxation agreements. If he pays only a third of the tax were it not for the double taxation agreement, his vote should perhaps count for a third of what would normally be worth according to the principle of “one person, one vote, one value”. If he doesn't pay anything at all, then, perhaps, his vote shouldn't be counted (or should be weighted 0).

4 Impact on global inequality

We saw how double taxation agreements make dual citizens better off (enjoying more and paying less) at the expense of their fellow nationals from the country in which they are not resident. But what are the consequences of multiple citizenship for global equality more generally? To answer that we need to know two facts: first, who has access to dual citizenship; and second, who loses from double taxation agreements. Only then can we establish who is benefiting and who is bearing the costs arising from dual citizenship. My point here will be that dual citizenship works against global equality in each of these respects. First, those who are globally worse off are less likely to become dual citizens. Second, double taxation agreements, in their present form, disadvantage the global poor.

4.1 The poor don't move

The global poor generally do not become dual citizens. The rich do, and in so doing they expand their resources – thus potentially increasing global

¹⁸ Garrett Hardin, “The tragedy of the commons”, *Science*, 162, 3859 (1968): 1243–8.

inequality. Start with the case of dual citizenship via naturalization. Casual empiricism is more than sufficient to reveal that those who naturalize and become dual citizens are not the most deprived individuals worldwide. The reason is obvious: residence is a requirement for acquiring citizenship through naturalization, and residence in a foreign place will not be an easy option for the poor. It is not possible without some additional costs, which they can ill afford. The travel and re-settling that make residence possible (payment for flights, visas,¹⁹ and other related expenditures) require a certain financial autonomy that poor people simply do not have. And this is true even in the case of illegal immigration (people smugglers do not offer their services for free). In the case of naturalization via citizenship-by-investment, things are even clearer.²⁰ Even as concerns *jus sanguinis* dual citizenship (inherited dual citizenship), for one to be born in a mixed family, previous immigration of the parents is required; and because poor people can less afford to migrate, they will be less able to confer on their children the benefits of dual citizenship.

Another reason why predominantly the better off hold dual citizenship concerns the citizenship laws of different countries. For someone to become a dual citizen, his birth state must allow its citizens to retain birth citizenship upon acquiring citizenship elsewhere, while his host state must not insist on renunciation to previous citizenship upon naturalization. States that are better integrated in the world economy (states whose citizens both invest elsewhere and benefit from foreign investment) are more prone to accept dual citizenship. They simply have more incentives to do so. But the states better integrated in the global economy are also richer states. Thus, citizens of rich and developing countries will have increased access to dual citizenship. This reasoning seems borne out looking at the citizenship laws of many African states. Sometimes the poorest states, whose citizens might benefit the most from dual citizenship, ban this practice.²¹

19 Visa regimes usually favor skilled workers (e.g. medical professionals) to cope with shortfalls of the labor force. Yet these are not the poorest individuals out there. Fewer visas are granted to unskilled workers, although they are the most vulnerable. Giving the poorest also fewer opportunities to migrate diminishes the probability for them to become dual nationals.

20 See fn. 9.

21 Putting together 2001 information from the World Bank <<http://data.worldbank.org/indicator/NY.GDP.PCAP.CD?page=2>> and the US Office of Personnel Management <<http://www.multiplecitizenship.com/worldsummary.html>>, states with the lowest GDP per capita did not recognize dual citizenship. These states are the Democratic Republic of Congo (US\$ 92), Afghanistan (US\$ 92), Burundi (US\$ 127), Malawi (US\$ 149), Niger (US\$ 172), Liberia (US\$ 175), Eritrea (US\$ 180), Sierra Leone (US\$ 187), and Rwanda (US\$ 198).

Theorists already observed this trend: the richest world citizens are the first to endorse a cosmopolitan ethic and enjoy the benefits of globalization, plural membership included. Richard Falk, for example, talks of a global financial elite made up of global citizens who support cosmopolitan reformist schemes, but lack, nonetheless, a global civic sense of responsibility.²² Craig Calhoun talks of a class of global frequent travelers that endorses a cosmopolitan rhetoric. In this sense, cosmopolitanism is profoundly elitist.²³ Because of its cosmopolitan character, dual citizenship is the prerogative of the world rich. Bottom line: dual citizenship nowadays has the potential to widen global gaps.

4.2 Dual citizens reside in and pay taxes to the richer of their countries

Dual citizenship increases global inequality also through the working of double taxation agreements, disadvantageous to the poor. As currently written, they broadly give priority to the state of residence, generally conferring on it an exclusive right to tax even foreign-sourced income.

We have seen that the world's very poor are less likely to become dual citizens. However, imagine that someone finds himself with two citizenships, one of a wealthy state and the other of a much less prosperous one. Presumably, such a person will ordinarily want to have his permanent residence in the richer state, where better life conditions prevail. Under double taxation agreements, as presently cast, by choosing to reside in the richer state the dual citizen will contribute more to this state, and less or nothing at all to the poorer state of which he remains a citizen. This is indubitably bad news for global equality.

“So what?”, we might ask. What's so particularly problematic about dual citizenship, insofar as both migrants and residents take advantage of double tax treaties in a similar way?

Dual citizens, by comparison to mere migrants find it easier to relocate to, and to remain for long periods in the richer state. They have unlimited rights of entry and exit, they cannot under any circumstances be expelled from that state (as legal migrants or even permanent residents can). Also, their relocation is less costly, in terms of the paperwork and money involved. Upon relocating to the richer state, the dual citizen automatically has the right to accept employment

²² Richard Falk, “The making of global citizenship”, in Bart van Steenberghe (ed.), *The Condition of Citizenship* (London: Sage, 1994), 133–5.

²³ Craig Calhoun, “The class consciousness of frequent travelers: toward a critique of actually existing cosmopolitanism”, *South Atlantic Quarterly*, 101 (2002), 872–3.

there. He may also want to transfer his business and resources to the richer state (this having a more predictable economic environment, a stable currency, low interest rates on its sovereign debts, being less vulnerable to downgrading of state credit ratings and so on). This way, the state of residence becomes also a source of income, further undercutting the revenues of the poorer state. The consequence for this state is not only a brain drain, but a money drain as well. With fewer taxpayers, the poorer state has its public revenues diminished for a long time to come, if not permanently.²⁴ When the global poor have to incur more costs, global inequality increases. Brain drain from poor states boosts the economy of rich receiving states, at the expense of the former.²⁵ Money drain is just another nail in the poor states' coffin.

How is global equality affected? We have seen that, in a few cases, the poorer state, as a state of source, might still has an exclusive right to tax a few income streams.²⁶ But, for example, with dividends and interests, the tax it can impose, even as state of source, is limited. The consequence of such limitations is to reduce the tax take of the poorer state and to increase the financial burden on the rest of its remaining citizens. The non-resident citizen's free-riding on contributions to his compatriots entails additional disadvantages for those already comparatively disadvantaged.

Because the dual citizen will, in most cases, be a full contributor to his richer state's provision of goods, his better-off fellow citizens in that more prosperous state will not have to contribute more for his being a member of it. There would be no leveling down of the rich involved. On the contrary, it would be up to his co-nationals from his poorer state to contribute more in order to cover his share of the costs of the public goods he is still enjoying there. Insofar as the citizens of this state are already worse off than the citizens of his residence state, the free-riding of the dual citizen will leave the former, not the latter worse off, widening thus the already existing gaps between the citizens of poorer states and those of richer states.

Some may say that, while the provisions of double taxation agreements generally disadvantage one state (the state of source) to the benefit of the other

²⁴ Some states (like Canada and the US) have adopted "expatriation taxes" on deemed disposition of property to discourage renunciation of citizenship and relocation abroad for tax avoidance. See the US Internal Revenue Code (IRC) <<http://www.law.cornell.edu/uscode/text/26/877>>; <<http://www.law.cornell.edu/uscode/text/26/877A>> and, for Canada <http://www.cra-arc.gc.ca/E/pub/tg/t4056/t4056-e.html#P136_12387>.

²⁵ Jagdish N. Bhagwati, "Taxing the brain drain", *Challenge*, 19, 3 (July–August 1976): 34–8.

²⁶ It is far from absurd talking of poor states as sources of income for dual citizens: even the poorest states have plutocratic elites who can afford to relocate while retaining business interests in their states of origin.

(the state of residence), this does not necessarily amount to entrenching inequality. Both states can be simultaneously states of source *and* states of residence in relation to their various dual citizens.

True, on the face of it double taxation treaties are utterly symmetrical in their treatment of the contracting states and seemingly embody a fair division of the costs and benefits between the two states, making the agreement mutually advantageous. Imagine a double taxation agreement between states A and B, these states “sharing” also a group of dual citizens, members of both. State B loses some tax money to state A, when some dual citizens pay their income tax to state A; state B gains at state A’s expense when other dual citizens pay the preponderance of their income tax to state B. The contracting states thus swap the roles of tax winner and loser, so that in the end all evens out.

But while *formally* neutral and symmetrical, double taxation treaties are often radically asymmetrical in their *actual impact* on the contracting states. Symmetrical impact would be the rule if and only if both states would be, at the same time, and to the same extent, states of source and of residence for their dual nationals. As already stated, we have well grounded reasons to think that poorer states have more to lose than to win from double taxation agreements. Poorer states are simply less likely to be states of residence for the dual nationals.

5 Solutions

The existence of citizenship-based claims creates global inequalities, and multiple citizenship exacerbates them. What can be done to ameliorate those effects, or perhaps even reverse them?

5.1 A levy on multiple citizenship

Shachar’s solution to global inequality is a birthright levy. That’s a global redistributive mechanism redressing inequalities caused by national citizenship.

But as we’ve seen, dual citizenship is more damaging to global inequality than simple citizenship. Because multiple citizenship redistributes to the advantage of the greedy, not of the needy, we ought to impose a *tax on multiple citizenship* – on the particular benefits made available by multiple citizenship – as foreshadowed above. Such a tax could increase either with the sheer number of citizenships one has, or (better yet) as a function of the particular extra

pecuniary benefits afforded by those multiple citizenships through double taxation agreements.²⁷

The point of the levy is not to give any particular state its fair due in terms of taxation, but to counter the unfortunate consequences of multiple citizenship for global inequality. Hence the multiple citizenship tax should be paid to the poorest of the multiple states of which a particular person is citizen.

Some might worry that the levy would be counterproductive, if imposed accidentally on the global poor. The levy might take from both Malian–Ivorian and Australian–American dual citizens.²⁸ That would be both unfair and inefficient. The universal application of the levy, without further discrimination, might therefore be damaging to global equality.

Such worries are unfounded however. By targeting multiple citizens, a levy on multiple citizenship would, almost invariably, target the global rich, to the benefit of the global poor. The global rich are much more often multiple citizens than are the global poor. This is in part due to the ban on dual citizenship of most poor African and Asian countries. But even where it is legally allowed, poverty keeps the global poor from acquiring multiple citizenship. Poverty prevents relocation, which in turns prevents naturalization, hence eligibility for dual citizenship. These facts taken together virtually guarantee that we are taxing the right people: those who can afford being taxed for the benefit of the needier.

We might also fear that the distinction between “global rich” and “global poor” is too rough. But no sharp line is needed. So long as the transfer is from those who are richer to those who are poorer, the cause of egalitarianism is well served. If both countries are relatively rich, then the cash flow would be from a rich state to a similarly rich one (as might happen in the case of the Australian–American dual citizen). If both countries are relatively poor, then the cash would flow from a poor state to a similarly poor state (as might happen in the case of a Malian–Ivorian dual citizen). This might lead us to think that the redistributive effects of the tax are limited. Indeed, they are in the cases mentioned. Yet, the

²⁷ If S_1 is the total tax the individual would have to pay to both states normally, and S_2 the total tax after the application of the treaties, then we should tax $S_1 - S_2$, either as a flat tax (say 5%), or progressively (2–7%).

²⁸ For sure an Australian–American dual citizen would be better off than a Malian–Ivorian one. This is however beyond the point I am trying to make, concerning the negative externalities of multiple citizenship. What matters is: (a) that the Malian–Ivorian citizen is still better off than his Ivorian fellow citizens; (b) that his dual citizenship is making his fellow nationals worse off, increasing global inequality (following tax exemptions he gets via double taxation). Thus we should assist these people even when this would involve a reasonable individual cost for the dual citizen who may not be particularly rich.

tax will also apply to pairs of countries that are very different in terms of wealth and living conditions. Such pairs of countries are the main targets of the levy, as well as of the OECD Model Tax Convention reform I propose.

Insofar as the proposed tax reform also applies to similar countries, the redistributive effects will be more limited. But there is redistribution even there, only less. Certainly, it is true that Australia would pocket more money per Australian–American dual citizen from the levy than Mali would for the Malian–Ivorian one. Still, the cash flows would nonetheless be *egalitarian* for: (a) the money would always go from the richer to the poorer of concerned states *and* (b) the money would go from dual nationals to mono-nationals who are on average almost invariably worse off than their dual counterparts. Indeed, for the levy to have egalitarian effects overall, all that is required would be for the *average* multiple citizen to be better off than the global average mono-citizen.

There may be rare cases where such a tax would be levied on already economically disadvantaged individuals. Even so, the levy would not strip the dual citizens of all benefits obtained from the double taxation treaty, but only of *a part* (say 5% of the net benefit they get by avoiding double taxation). After paying the levy, dual citizens would still be better off than their fellow nationals. On balance, making some moderately poor individuals worse off could still pay off for global inequality insofar as even poorer individuals and states benefit in consequence.

5.2 Alter double taxation arrangements

The agreements currently serve as mechanisms of global redistribution in the wrong direction. Recast, they could be global equality-friendly. Imagine that double taxation agreements were written in such a way that – regardless of where the dual citizen is resident or where his income is sourced – he would always have to pay his income taxes in full to the poorer state (and only pay to the richer state the balance, if any).²⁹

This amounts to suggesting a *prioritarian clause* in all double taxation agreements. The dual citizen³⁰ should be obliged to pay his taxes in full in the state with the lowest GDP per capita (or other measure of global living standards), thus requiring full contributions toward those in most need, and to pay the balance (if any) to the state with the next lowest GDP (and so on, for citizens with many citizenships). This would make his fellow citizens in the poor country

²⁹ If the credit method is preferred – or nothing at all (if the exemption method is preferred). See fn. 14 above for definitions.

³⁰ And all other beneficiaries of double taxation agreements, of course.

better off, while making his fellow citizens in the rich state worse off, reducing thus global inequality. The effect of that would be to increase the tax revenues of poorer states, while at the same time decreasing the tax revenues of richer states. Such transfers would have leveling effects similar to those that might be obtained through global taxation.

6 Objections to the proposed solutions

Public policy sometimes has perverse effects, often unforeseen. When possible, such effects can seriously challenge a policy proposal. However, what is crucial for decision-making is their probability. What perverse effects can we envisage for the solutions proposed above?

6.1 People would renounce their additional citizenships

Taxes are efficient only if people pay them. It's useless to impose a tax if people can avoid being subject to that tax altogether. What use is the French government's 75% income tax on fortunes over 1 million Euros, if the potential taxpayers can simply "pull a Depardieu"? We might fear the same for a multiple citizenship levy. Multiple citizens might simply decide to give up citizenship(s) in order to avoid paying the tax altogether. What then?

Citizenship renunciation is not a problem, at least not for global equality. On the contrary, it would simply eradicate altogether one factor aggravating global inequality. The aim of the multiple citizenship levy is not to collect tax money in and of itself; its aim is to alleviate the negative consequences of multiple citizenship. If people renounce multiple citizenship in response, the levy will have accomplished that goal. Citizenship renunciation would entail a decrease of the benefits rich people get precisely from being multiple citizens.

Nobody is advocating new taxes just from a love for taxes as such, but as solutions to a problem. We should be undisturbed if the introduction of the tax would go beyond ameliorating the problem to actually neutralizing the problem in the long run, if indeed the tax acts as an incentive for citizenship(s) renunciation.

6.2 Countries would close borders to immigrants from poor countries

We might also worry that richer states will be deterred from accepting immigration from poorer ones if the tax revenues they receive from those

immigrants are reduced. We certainly do not want to give states another incentive for granting differentiated territorial access to individuals on the basis of wealth. If we believe in the global justice mission of open borders, we will not want to risk a border closure. Yet, this apocalyptic scenario might well be on its way if the treaties give tax priority to the poorer countries. Or so the thought would go.

Such scenarios are unlikely for several reasons. First, even if poorer states were lexically prioritized, richer states would still have more to gain than to lose by accepting immigration from poorer states. Remember that in respect of most of their revenues there would be no tax conflict (insofar as the richer state – the state of residence – would also be the major source of income for the immigrant). In those cases, the richer states would get to fully tax the income of multiple citizens (immigrants, in the first instance). Hence richer states would not be so economically vulnerable to the introduction of a prioritarian clause in double taxation agreements as to take extreme measures like closing borders.

Second, the gains from immigration of richer receiving states go beyond taxation. We are often talking of a dependence of richer nations on qualified migrant labor. This imported labor drives economic growth, while also ensuring the provision of basic public services (like health care) to the populations of the richer states.

6.3 The money will end up in the wrong hands

Consider one last objection to both the levy and reform of double tax agreements. The solutions I propose would treat all poor states alike, irrespective of their political situation or cause of their poverty. Some states (yes, more than we would like) are poor largely because of incompetent (or worse, corrupt, and often authoritarian) political elites. Boosting these states' tax revenues may fail to help their populations. Both solutions I propose assume that the poor states will use the new revenues to benefit their populations. Yet, if corrupt elites are in power, they may use any new revenues merely to consolidate power, to the detriment of their populations. In such cases, the levy and the prioritarian clause would have the perverse effects of entrenching poverty instead of curing it. This proves once more how the road to hell can be paved with good intentions. This is a powerful objection to be sure, but note that it is one that applies not only to my proposals, but to all

international financial aid (or debt relief for what is worth)³¹ to poor corrupt states.³²

Note also that some – but *not all* – poor states have corrupt or authoritarian elites in power. Other poor states are led by legitimately elected leaders who want to help their populations but cannot for the lack of resources to do so. Not supporting my solutions for fear of not supporting corrupt regimes means penalizing *all* poor states, including all those that might use the resources for a good cause. Provided there are more poor states that would use the money for good causes than poor states that would do otherwise, we should strive to help the former even at the cost of helping the latter as well. We won't succeed improving the welfare of all poor populations. Yet it's better to improve the welfare of some rather than none of them.

Might remittances better serve the goal of helping the poor states' populations? Remittances go directly to private individuals, not to corrupt leaders. By not taxing multiple citizens we could encourage the flow of remittances by leaving more money in their hands to remit. Some poor states of emigration (such as Mexico) changed their citizenship laws as to accept dual citizenship of their emigrants, with the clear intention of thereby encouraging the flow of remittances. If Mexican emigrants can keep their Mexican citizenship upon naturalization in the US, then surely they will remit more – at least the Mexican government hopes so, supposing that stronger ties (like citizenship) give rise to stronger duties. In short: multiple citizenship encourages remittances; not taxing multiple citizenship means more money multiple citizens can remit; and money from remittances goes directly to the people. But does it go to the *poorest* people?

We are forgetting some things here. First, since citizenship typically serves as grounds for family reunification, it's less likely for (naturalized) multiple citizens than for migrants at large to have close family abroad to whom to remit. Second, many multiple citizens are second or third generation migrants who are born into immigrant families, and thus already living with their close relatives in the richer state. Third, spending more time abroad in virtue of their citizenship, multiple citizens will have less incentives to remit to the poor states:

³¹ Some types of aid, debt relief included, are subject to conditionality arrangements. On the justification of such conditionality, see Christian Barry, "Sovereign debt, human rights, and policy conditionality", *Journal of Political Philosophy*, 19, 3 (2011): 282–305.

³² Of course helping such states may not only be inefficient but also morally wrong (a dirty hands problem or a compliance objection to helping the bad guys could be the reason).

fading ties are less likely to be rewarded by remittances.³³ Fourth, remember that the worst off do not migrate, and hence do not naturalize as multiple citizens; but poverty or wealth usually runs in families. So even if multiple citizens remit, it's doubtful the money will go to the worst off from the poor states. By going to those already well off, remittances might even increase already existing inequalities within poor states.³⁴ My proposed levy, on the contrary, might help the worst off. The state, if not too corrupt, could distribute the resources in a prioritarian way (favoring the neediest), whereas such a prioritarian distribution of resources is unlikely to be achieved through remittances.

7 An implementation strategy

Rewriting double taxation treaties along prioritarian lines might seem wildly unrealistic. But it might actually be easier than it seems. An international institutional framework for decision-making on, and implementation of such reforms is already in place, in a way that it is not for other taxation solutions, such as Shachar's birthright levy or Pogge's Global Resources Dividend. That these opportunity structures already exist should not be taken lightly, given the costs and efforts involved by additional institution building.

The mechanism in question is the OECD Model Tax Convention, basis of more than 3,000 bilateral treaties nowadays. The Convention is revised

³³ For example, studies show that skilled workers remit less than unskilled ones, although earning more than the latter. This is explained by two things: their families back home *are not in need of money*, or the *ties to their families are not so strong* as a consequence of their living abroad for a longer time. In fact, the flow of remittances decreases with the time spent by the migrant abroad. See Richard H. Adams, Jr., "The demographic, economic and financial determinants of international remittances in developing countries", Policy Research Working Paper 4583, *World Bank Development Economics Department*, available at <<http://elibrary.worldbank.org/doi/book/10.1596/1813-9450-4583>>, and Riccardo Faini, "Remittances and the brain drain: do more skilled migrants remit more?" *World Bank Economic Review*, 21 (2007), 177–91, at p. 179. What can the above tell us about multiple citizens? Spending time abroad is of course facilitated by their citizenship. Just as skilled workers, multiple citizens will be unlikely to remit (or remit less) because of their fading ties (as a consequences of spending more time abroad) or because their families are not in urgent need of resources.

³⁴ Although remittances might promote economic growth (consumption-induced, not investment-induced, and thus unsustainable), this economic growth will not spread throughout society.

regularly. Hence a change of the Convention would be the best way to implement the redesign of double taxation agreements in question.

Just how welcoming of these reforms would the decision-making process inside the OECD be? Well, procedurally, the Committee on Fiscal Affairs is charged with drafting amendments to the OECD Model Tax Convention. That Committee consists of a team of bureaucrats and experts who make their recommendations to the OECD Council – the political and decisional body of the organization comprised of delegations from member states. Following the Council’s decision, it is then up to the member states to conform to the new model within the limits of their own reservations and the commentaries of the Council.³⁵

Prosperous receiving states, the big losers from the proposed solution, might be expected to oppose it. Given that the OECD is *par excellence* a coterie of the wealthiest states, we could expect them to succeed in burying it. But other features of the OECD might make friendlier to the redesign.

The independence of the bureaucracy and expertise provided by the Committees would help. The OECD employs its own international bureaucracy and expertise. The mission of the Committee for Fiscal Affairs is not to promote the interests of member states specifically. Rather, it is to “contribute to the shaping of globalization for the benefit of all through the promotion and development of effective and sound tax policies and guidance that will foster growth and allow governments to provide better services to their citizens”.³⁶ The OECD itself was founded precisely to “think the unthinkable, because the many existing national and international bodies (universities, ministries, and Cold War organizations) somehow were too enmeshed with the establishment ... In short, the OECD should care about its *independence* and should use it actively to say *some of the things that national politicians did not want to hear*”.³⁷ OECD civil servants are “reform entrepreneurs” much more than old-fashioned bureaucrats.³⁸ Put it otherwise, the OECD officials are not just mouthpieces of state governments, but visionaries setting the agendas of member states.³⁹ Surprising

35 OECD MTC I-1.

36 <<http://webnet.oecd.org/OECDGROUPS/Bodies/ListByIndexView.aspx>>.

37 Martin Marcussen “The Organization for Economic Cooperation and Development as idealist artist and arbitrator”, in Bob Reinalda and Bertjan Verbeek (eds.), *Decision Making Within International Organizations* (London and New York: Routledge, 2004), 92, my emphasis.

38 Ibid.

39 Martin Marcussen, “OECD governance through soft law”, in Ulrike Mörth (ed.), *Soft Law in Governance and Regulation* (Cheltenham: Edward Elgar), 103–28.

though that conclusion may seem, it is nonetheless supported by empirical evidence.⁴⁰ Noaksson and Jacobsson, comparing the OECD and EU's knowledge and policy advice on the labor market, conclude that "the EU is characterised by a more pragmatic knowledge-use, while the OECD can be characterised as a 'truth-seeker' and 'truth-teller' with a more dogmatic relationship to knowledge (in the sense of believing firmly in one orthodoxy and attempting to put aside political considerations and values when assessing economic situations, based on that orthodoxy)".⁴¹ The authors explain this difference partly by the nature of the organizations themselves. While the EU is a *political* organization, the OECD is an *expert* organization. Peer pressure, the social culture of the meetings, and other discursive mechanisms are also more powerful in shaping the actors' choices inside the OECD than inside the EU.⁴² The OECD is an epistemic community par excellence, successful in ensuring international policy coordination through entrenched patterns of cooperation, but also through the creation of an independent institutional identity.⁴³ Hence, the OECD officials act independently from particular members states, to some extent even subverting state sovereignty.⁴⁴

The independence and competence of the OECD officials are useful, but would they be enough? Economic experts are not necessarily global justice groupies after all. Interestingly enough, however, the OECD has previously adopted measures with a global justice character, measures not particularly in the interest of the wealthiest states. For example, the organization participated in the drafting of the Millennium Development Goals, constantly monitors progress toward them, and provides funding for them.⁴⁵ Moreover, one of its

40 The main goal for developing an international civil service was to insulate the international domain from pervasive national interference, which impedes cooperation. See James O.C. Jonah, "Independence and integrity of the international civil service: the role of executive heads and the role of states", *N.Y.U. Journal of International Law and Politics*, 14, 841 (1981–1982): 841–59.

41 Niklas Noaksson and Kerstin Jacobsson, *The Production of Ideas and Expert Knowledge in OECD. The OECD Jobs Strategy in Contrast with the EU Employment Strategy*, SCORE Reports 7 (2003), <<http://eucenter.wisc.edu/OMC/Papers/EES/noakssonJacobsson.pdf>>.

42 *Ibid.*, 10.

43 Peter M. Haas, "Introduction: epistemic communities and international policy coordination", *International Organization*, 46, 1 (1992): 1–35.

44 Libertarians are, for example, baffled by how the Congress accepted the OECD's interference with an exclusive right that it has: to tax American citizens. Richard Rahn, "Rise of the global tax collectors: Congress is giving international bureaucrats the power to intrude", *Washington Times*, 9th July 2012, <<http://www.washingtontimes.com/news/2012/jul/9/rise-of-the-global-tax-collectors/>>.

45 The OECD and the Millennium Development Goals, <<http://www.oecd.org/dac/theoecdandthemillenniumdevelopmentgoals.htm>>.

committees (the Development Assistance Committee) is specifically concerned with global challenges, spearheading the OECD's development strategy.⁴⁶ There are thus potential supporters of the solution within the OECD bureaucracy.

Of course, formal decisional power is vested in the OECD Council, consisting of member states' representatives. Would the OECD Council agree with the proposal? According to *Realpolitik* logic, certainly not. Thankfully *Realpolitik* is not the states' only logic for action. There are good chances for an agreement because of reasons having to do with the particular institutional and collective decision-making context which makes the pursuit of narrow state interest more difficult.

The legitimacy and the accountability of the national representatives in such intergovernmental settings is fuzzy. They are appointed representatives, not directly elected. The decisions they take are collective ones (individual responsibility is blurred and peer pressure is high). Decision-makers are not legally bound by their decisions, as there are no sanctioning mechanisms.⁴⁷ For all these reasons, agreement of precisely the form that is firstly secured inside the OECD comes easier among lower level national representatives. Council delegates would thus be relatively more prone to agree to compromise their national interests at the margins.

Decision-making structures and rules designed to facilitate agreement on thorny issues further cultivate hyperbolic discounting and procrastination of the agents,⁴⁸ weak commitments ("keep talking") and easy exit ("no strings attached").⁴⁹ Issues might clash directly with national interests, often displaying a tragedy of the commons dimension.⁵⁰ Progressive implementation of the decisions is another facilitating factor of agreement. Present decision-makers would be more likely to agree when implementation is a lengthy process depending also on future decision-makers. A potential failure to implement would be considered the latter's responsibility.⁵¹ Implementation of a new Model Tax Convention could be such a lengthy process requiring the

⁴⁶ *OECD Strategy on Development*, Meeting of the OECD Council at Ministerial Level, Paris, 23–24 May 2012, <<http://www.oecd.org/development/50452316.pdf>>.

⁴⁷ Diane Gibson and Robert E. Goodin, "The veil of vagueness: a model of institutional design", in Morten Egeberg and Per Lægred (eds.), *Organizing Political Institutions: Essays in Honour of Johan P. Olsen* (Oslo: Scandinavian University Press, 1999), 357–85.

⁴⁸ According to which it's better to agree on an imperfect general solution *now*, than to wait for an agreement on a detailed one; details can be worked later on (Gibson and Goodin, op. cit.).

⁴⁹ Gibson and Goodin, op. cit.

⁵⁰ The ban of chlorofluorocarbons followed this model. Progressive small agreements ultimately lead to important reforms and tight international regulation.

⁵¹ Gibson and Goodin, op. cit.

participation of successive national administrations. All of that means that the present national representatives might be more tempted to accept the prioritarian clause as part of a revised OECD Model Tax Convention.

But what guarantees *implementation* of a reformed Model Tax Convention that is merely a soft law instrument?⁵² True, the OECD does not have the same enforcement instruments that some other organizations have. Still, it scores well on implementation. The success of the OECD in implementing decisions in the absence of sanctioning or monitoring mechanisms has been explained in terms of its “ideational authority”.⁵³ This form of soft power relying on expert knowledge has proved so far very efficient in making unpopular decisions palatable for state governments.⁵⁴ There are other psycho-sociological explanations however.

Both agreement and implementation might arise simply because they are *appropriate* in the institutional setting of the OECD. Blind, headlong pursuit of national self-interest will simply not do for agents enmeshed in cooperative international institutional settings.⁵⁵ Having given their word in the negotiations of the OECD Council, representatives of states will thus have an incentive to pursue and push for actual implementation of the agreement reached. This is how “in principle” agreements turn into “in practice” agreements.⁵⁶ And this is how the prioritarian clause might come to be included in new or revised double taxation agreements.

Once the revised Convention is out, states concluding subsequent double taxation agreements will almost automatically follow the model, just as they have always done. It’s easier to “copy-paste” the Convention than to engage in drafting a brand new agreement. When the states are members of the OECD, implementation comes as natural. (This is what the Convention is for, after all; if states would not bother complying, the OECD would not bother drafting every few years a revised Convention; the regular redrafting of the Convention comes

52 Kenneth W. Abbott and Duncan Snidal, “Hard and soft law in international governance”, *International Organization*, 54, 3 (2000): 421–56. The OECD Council issues a non-binding Recommendation to the member states to conform to the Convention.

53 Marcussen, “The Organization for Economic Cooperation and Development as ideational artist and arbitrator”, 91.

54 Much to libertarians’ chagrin, for example. See posts on the *Cato Institute’s blog* such as: Daniel J. Mitchell, “Acting as the typhoid Mary of the global economy, the OECD urges higher taxes in Latin America”, 7th February 2012, <<http://www.cato.org/blog/acting-typhoid-mary-global-economy-oecd-urges-higher-taxes-latin-america>>.

55 James G. March and Johan O. Olsen, “The logic of appropriateness”, in Robert E. Goodin (ed.), *Oxford Handbook of Political Science* (Oxford: Oxford University Press, 2009), 478–97.

56 Gibson and Goodin, op. cit.

thus as proof of its success.) As for double taxation agreements already in force, these will come to include the clause when the contracting states start the renegotiations. That might take a while; hence the implementation of the prioritarian clause would be a gradual process. But that is perhaps a good thing, since the absence of time pressures further incentivizes actors to go along with the proposal.

8 Conclusion

Through double taxation agreements dual citizens boost their benefits while cutting their costs. Unfortunately, those in greatest need have slim chances of taking advantage of such opportunities. Furthermore, double taxation regimes are detrimental to the poor states' communities. Happily, there is a solution in view – and unlike so many wishful proposals from global egalitarians, there are actually institutional structures in place that might well be willing and able to help implement it.

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