
From a global justice perspective, two objectives are desirable with regard to international labor policies. One is to protect the rights of migrant workers. The other is to remove the restrictions that impede international migration, in particular for low-skilled migrants. Martin Ruhs, who teaches political economy in the University of Oxford, argues that these two objectives are conflicting, in particular in high-income countries. This is to say that, *ceteris paribus*, rich countries are more likely to be willing to host more migrant workers if the costs of hosting them is lower – in particular if they are less constrained to protect the rights of migrant workers. Through a rich discussion of existing labor migration policies, *The Price of Rights* unfolds an inspiring analysis, with significant insights from the ‘law and economics’ tradition. It concludes with a normative argument according to which the human rights-based approach of migration currently advocated by most UN agencies needs to be reframed.

The book opens on a grim assessment of the protection of the rights of migrants in international law. Like ILO Conventions 97 and 143, the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) has achieved a very low level of ratification – it remains by far the least ratified of the UN human rights conventions. Ruhs wonders why states are so reluctant to commit to protect the rights of migrant workers. He proposes a ‘systematic, dispassionate analysis of the interests and roles of nation-states in granting and restricting the rights of migrant workers’ (p 2), suggesting that the labor migration policies of receiving states are guided by four main considerations: economic efficiency, distribution of national income, national identity / social cohesion, and national security / public order. Yet, the policies of receiving states are also restricted by their limited capacity to control immigration, the ‘liberal constraint’ (p 35) of the rule of law, and existing institutions (such as liberal democracy and the Welfare State). In general, states appear to be more willing to strive to attract higher-skilled migrants than lower-skilled migrants because of their different contributions to the economy. The costs that states incur, in particular through the welfare state, may decrease the net benefits that states draw from hosting migrants, in particular low-skilled migrants.

On this theoretical ground, the author formulates and discusses three hypotheses. Firstly, receiving states develop migration programs that are more open to higher-skilled migrants than to lower-skilled migrants because higher gains are expected from the former than from the latter. Secondly, migration programs that target higher-skilled migrants protect more rights than those targeting lower-skilled migrants because protecting rights comes with a price: states may restrict the rights of low-skilled migrants to maximize their net benefits, but need to protect these rights to attract higher-skilled migrants who are in higher demand. Thirdly, and somewhat relatedly, ‘there can be a trade-off (a negative relationship) between openness and some of the rights of some migrant workers admitted to high-income countries’ (p 39). In other words, states that offer a high level of protection to migrants could be more reluctant to host migrants because of the greater costs that this would involve. These three hypotheses, the third of which is perhaps the most contentious, are tested through quantitative and qualitative studies.

In chapter 4, Ruhs compares an impressive set of 104 migration programs in 46 receiving countries. To undertake this comparison, he builds two indexes that measure respectively the degree of openness and the level of protection of the rights of migrants, as are provided in the law establishing each of the migration programs. These indexes are inevitably established on
the basis of somewhat arbitrary indicators, and the aggregation – a mere addition of the normalized score of each criterion (p 71) – appears slightly perilous. Nevertheless, the findings corroborate the first two hypotheses by confirming that migration programs targeting higher-skilled migrants tend to be more open and more protective than those provided for lower-skilled migrants. However, these findings are less compelling regarding the third hypothesis. If there appears to be an inversely correlation between the protection of certain rights (e.g. social rights) and the openness to labor immigration in high-income countries, this is only with regard to programs targeting medium- and high-skilled migrants; no significant correlation appears with regard to low-skilled migrants (e.g. p 85, 89). Given the perilous nature of the openness index, one may wonder whether it would have been possible to simply compare the level of protection with the number of immigrants in proportion of the size of the citizenry. Surely, European countries with a high level of protection have proportionally less migrants than countries of the Gulf Cooperation Council or Asian micro-states with a lower level of protection, but not all countries may evidence the same trade-off.

While quantitative analyses show correlations, they do not prove causal links. Therefore, in the two following chapters, Ruhs complements his numerical survey of migration programs by a qualitative analysis of contemporary political debates on labor migration. On the one hand, chapter 5 focuses on receiving countries and reflects a growing sense on the part of national political leaders that a compromise needs to be forged between openness and protection on the basis of a rationale calculus about the costs and benefits of labor immigration. The author recognizes however that, ‘while some specific rights are restricted by skill level because of their perceived impacts, many other rights are granted to both low- and high-skilled migrants precisely because of their perceived economic and other net benefits for the receiving country’ (p 110).

On the other hand, chapter 6 explores the perspective of migrant workers and sending countries. While labor emigration can be expected to have a positive impact on human development for migrants and the sending country, Ruhs recognizes that ‘restrictions on migrant rights will lower migrants’ human development gains from employment abroad’ (p 126). However, more migration may also have a positive impact on additional migrant workers, and a larger positive impact on the sending country (e.g. more remittances). The author suggests that some actual migrants reveal a preference for migration over protection by migrating knowingly to countries notorious for their low level of protection (p 132). In this context, sending countries are often split between two conflicting objectives: maximizing temporary labor emigration and protecting the rights of their nationals abroad (e.g. p 143).

While most of the book develops a descriptive analysis of labor migration policies, the last chapter proposes a normative framework to guide the tradeoffs between open migration policies and the protection of the rights of migrants. The author starts by duly acknowledging that ‘there is no one right answer’ to such ‘exceeding difficult dilemmas’ (p 156). Thus, while consequentialist ethics may ‘tolerate a restriction of migrant rights as long as the consequences of more migration create net benefits for migrants’ welfare’ (p 162), in a pure rights-based perspective, ‘policies that involve restriction of rights are ... unacceptable’ (p 163). Between these two extremes, Ruhs adopts a pragmatic perspective that prioritizes the interests of citizens without ignoring those of migrants, recognizes ‘the moral weight of human rights principles’ but rejects ‘rights fetishism’ (i.e. the tendency to ignore all consequentialist dimensions of migration policies), while also recognizing that there is not necessarily a one-size-fits-all approach of an idea tradeoff (pp 165-166). The author states clearly that, ‘[g]iven [his] particular normative approach ... no labor immigration policy should restrict migrants’ basic
civil and political rights’ (p 172). He suggests however that some other rights could legitimately be curtailed for temporary migration programs, in order to limit the perceived costs for the receiving community and thus to allow greater openness toward admitting migrant workers. Such rights that could be curtailed in such circumstances would accordingly include means-tested social rights (e.g. assistance to the poor), the right to free choice of employment in the first months of employment (on the assumption that the employer has incurred significant recruitment costs), the right to family reunion, and the right to become permanent resident or citizen.

*The Price of Rights* develops original, interesting, and thought-provoking perspectives on labor migration policies, although, as the author recognizes, it ‘cannot and should not settle the positive and normative questions raised’ (p 199). In particular, how to deal with labor migrants is certainly a thorny issue in the context of soaring global inequalities, the liberalization of trade, and the entrenchment of developed states on their sovereign right to control migration. It appears reasonable to suggest that far-reaching obligations of granting rights to migrants may in principle increase the costs and decrease the economic net benefits that a state draws from labor immigration. Benefits should not be constructed solely by reference to economic costs – moral values certainly also play a role in the definition of states’ interests – but it remains that developed states are unlikely to host many more migrants while at the same time granting them more rights.

Human rights lawyers reading this book may however be slightly disturbed by its inconsistent use of the concept of ‘rights.’ The author seems to confuse the fundamental rights recognized in the international human rights conventions (including the CMW, which, despite its lack of ratification, constitutes a point of reference for the human rights movement in general) with other legal entitlements that states provide to migrant workers. Thus, when Ruhs argues that ‘it is plausible to expect high-income countries to selectively and strategically restrict some of the rights of migrants in a way that maximizes the net benefits for the receiving country’ (p 44), the reader wonders whether this suggests restriction to human rights or a more banal limitation of other entitlements that a state is not required to provide to migrant workers. The rights index on which the quantitative study relies is accordingly based on ‘twenty-three different rights, selected and adapted from the CMW’ (p 66). In fact, it includes rights that are mentioned by the CMW but are limited or only appear in a programmatic language, such as the right to vote or to family reunion, as well as rights that are simply not recognized by ILO conventions or the CMW, such as the ‘right’ to citizenship or to permanent residence (pp 221-225). Whether or not these rights are fully recognized in international law, the author suggests, ‘does not directly affect the choice of the indicators’ (p 66). At this point at least, Ruhs’s argument does not relate specifically to the human rights that the CMW or other instruments recognize to migrant workers, but to the treatment of migrant workers generally. Consequently, the argument does not come in support of the claim, suggested by the author, according to which the political need for a compromise between openness and protection is impeded by the CMW (e.g. pp 2, 189).

It appears in fact, throughout the analysis, that the rights recognized to migrants without regard to their level of skills or the openness of the migration program are also those that are recognized in the CMW – for instance the right to equal pay and equal conditions of work, to redress for violations of the employment contract, to a fair trial in criminal matters, and to join unions. By contrast, the rights whose recognition is either contingent to the level of skills or related to the degree of openness – such as family reunification and the spouse’s right to work, access to citizenship or permanent residence and free choice of employment – are not generally recognized by the CMW in unconditional terms. There are only few exceptions of rights
unconditionally recognized in the CMW whose recognition is contingent of the level of skills or degree of openness, such as the right to access to social housing scheme and to education or training (pp 81-86). When Ruhs concludes that migrant rights are ‘restricted’ in high-income receiving countries favoring openness over protection (p 187), he seems to include rights to permanent residence and citizenship, among others, within the corpus of fundamental rights – which goes far beyond the dominant discourse on the human rights of migrants.

Therefore, when concluding that this analysis calls for ‘a reframing of the human rights-based approach to migration as currently advocated by most UN agencies’ (p 196), Ruhs may to some extend appear to rebut a straw-man’s argument. His proposal, of trading off means-tested social rights, the right to free choice of employment in the first months of employment, the right to family reunion and the right to become permanent resident or citizen, would not require any major alteration to the CMW. For instance, the author repeatedly emphasizes the costs of allowing welfare benefits to migrant workers (e.g. pp 173, 176), the CMW leaves it to the domestic lawmaker to decide which migrant workers shall enjoy the same treatment granted to nationals with respect to social security. The CMW is perhaps already the outcome of such a tradeoff that was worked out by the negotiating states. Thus, although rights allowing family reunion, permanent residency or citizenship would have been ethically defensible, it is arguably because they would have gone against the interests of sending and receiving states in maximizing the net benefits of migration that they were not included in the CMW.

The author makes nevertheless an interesting argument in favor of temporary rather than permanent migration programs. Such programs are not by nature incompatible with the CMW, even though they exacerbate risks of human rights violations (temporary migrants are more vulnerable and they have less rights under the CMW). The strategy that Ruhs suggests, of ‘making temporary migration programs work’ through cautious policy orientations as a way to promote more labor migration (p 178), may in fact be a smart synergy between the openness of migration programs and the generosity of the receiving states in providing benefits to migrants. Fortunately, this tradeoff does not involve the human rights of migrants.

These remarks, however, do not limit the relevance of the descriptive analysis proposed by *The Price of Rights*, as a new way to conceptualize the relation between the openness of a state to migration and its generosity toward migrants. Should states follow Canada’s approach of welcoming only a few caregivers to whom they recognize a right to permanent residency, or should they rather adopt Hong Kong and Singapore’s policies involving proportionally larger numbers of temporary domestic workers (p 170)? If ‘exploiting’ migrant workers as ‘live-in servants’ on a long period of time may seem unethical to some, as a way to draw benefit from desperation, is it really different from importing clothes or electronics produced in dreadful conditions in the Global South? Could development and the objective of promoting more migration justify some restrictions to human rights? These, as Ruhs clearly shows, are value-loaded questions that economists or experts cannot answer. Such questions must be the object of political debates through which societies define their values. *The Price of Rights* goes about as far as an academic work can go in framing this important debate.

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