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	Journal Name				Manuscript No.			<b>Proofreader:</b> Tang Foyu		<b>No. of Pages:</b> 17	<b>Copy-editor:</b> Christine Tsai

1 ***Numbers vs. Rights: Trade-Offs and***  
2  
3 ***Guest Worker Programs***<sup>1</sup>  
4

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10  
11 This paper examines the relationship between the number and rights of  
12 low-skilled migrant workers in high-income countries. It identifies a  
13 trade-off: Countries with large numbers of low-skilled migrant workers  
14 offer them relatively few rights, while smaller numbers of migrants are  
15 typically associated with more rights. We discuss the number-vs.-rights  
16 trade-off in theory and practice as an example of competing goods, raising  
17 the question of whether numbers of migrants or rights of migrants should  
18 get higher priority. There is no easy or universal answer, but avoiding an  
19 explicit discussion of the issue – as has been done in recent guest worker  
20 debates – can obscure an important policy choice.

21 ***INTRODUCTION***

22 Although declared “dead” more than two decades ago (Castles, 1986), guest  
23 worker programs that admit migrant workers on a temporary basis to fill jobs  
24 in high-income countries are once again in vogue. The World Bank, The  
25 Global Commission on International Migration, the World Trade Organization’s  
26 General Agreement on Trade in Services (GATS) Mode 4 negotiations, the  
27 International Organisation for Migration, and voices in both high-income and  
28 lower-income countries are calling for more temporary labor migration  
29 through new guest worker programs (*see* Winters *et al.*, 2003; GCIM, 2005;  
30 IOM, 2005; World Bank, 2005). The result should be “win-win-win”  
31 outcomes, as migrant workers win by earning higher wages abroad, migrant-  
32 receiving countries win with additional workers who expand employment and  
33

34  
35 <sup>1</sup>We are grateful to Bridget Anderson, Xiang Biao, Joseph Carens, Stephen Castles, David  
36 Coleman, Alan Gamlen, Nick van Hear, Marit Hovdal Moan, and Nicola Piper for helpful  
37 comments. Philip Martin also thanks the Economic and Social Research Council (ESRC) and  
38 the Social Science Research Council (SSRC) for a Visiting Fellowship at the Centre on  
39 Migration, Policy and Society (COMPAS), University of Oxford. For a previous and longer  
version of this paper, *see* Ruhs and Martin (2006).

1 economic output, and migrant-sending countries win via greater remittances  
2 and the return of workers who gained skills abroad.

3 Economic theory and experience confirm that moving workers from  
4 low-income to higher-income countries benefits migrants and raises global  
5 income while creating small net economic benefits in receiving countries,  
6 largely because the migrants hold down wages and prices (*see*, for example,  
7 Borjas, 1995; Freeman, 2006). For the US in the mid-1990s, a National  
8 Research Council report estimated that the net economic benefits of immigration  
9 ranged from \$1 billion to \$10 billion, meaning that US economic output was  
10 this much higher because of immigration (Smith and Edmonston, 1997).  
11 Proponents of immigration stressed the positive economic benefits of immigrants;  
12 opponents pointed out that a then \$8 trillion economy expanding by 3 percent  
13 grows by \$240 billion a year, or \$10 billion in two weeks.

14 The new twist in proposals for more guest workers is the argument that  
15 low-income countries would benefit by sending more workers abroad. The  
16 World Bank estimated that moving an additional 14 million workers from  
17 low-income to higher-income countries would generate a global income gain  
18 of over \$350 billion, exceeding the \$300-billion gain from completing the  
19 Doha round of trade negotiations (World Bank, 2005). The press release  
20 accompanying the World Bank's Global Economic Prospects report for 2006  
21 argued that more "managed migration programs, including temporary work  
22 visas for low-skilled migrants in industrial countries . . . would contribute  
23 to significant reductions in poverty in migrant sending countries, among the  
24 migrants themselves, their families and, as remittances increase, in the broader  
25 community." In its report to the Secretary-General of the United Nations, the  
26 Global Commission on International Migration recommended "carefully  
27 designed temporary migration programs as a means of addressing the  
28 economic needs of both countries of origin and destination" (GCIM,  
29 2005:16).

30 If these recommendations are followed, we can expect a new wave of  
31 guest worker programs, increasing the number of migrant workers legally working  
32 outside their countries of origin. The new guest worker programs would,  
33 however, also involve restrictions of at least some of the rights of migrant workers.  
34 For example, by definition, guest workers have a time-limited right to residence  
35 and employment in the host country. Time spent in employment as a guest  
36 worker usually does not count or help a migrant earn permanent residence  
37 rights. Most guest worker programs restrict migrants to employment in certain  
38 sectors, do not allow migrants to freely change employers, and require them to  
39 leave the country if they lose their jobs. Under many proposals for new guest

1 worker programs, migrants are also likely to have very restricted access to  
2 unemployment and welfare benefits and no right to family reunion.

3 All guest worker programs restrict the rights of migrant workers.  
4 However, the United Nations (UN) and the International Labour Organization  
5 (ILO) have enacted a number of international Conventions that outline a  
6 comprehensive set of rights for migrants, including the right to equal protections  
7 under labor laws, antidiscrimination laws, and family laws (for an overview, *see*  
8 Weissbrodt, 2003). For example, the International Convention on the  
9 Protection of All Migrant Workers and Members of their Families (ICMR),  
10 adopted by the General Assembly of the UN in 1990, sets out a very broad set  
11 of rights for migrants, including those living and/or working abroad illegally.  
12 The ICMR has become a cornerstone of the “rights-based approach” to migration  
13 advocated by many international and national organizations concerned with  
14 the protection of migrants (*see*, for example, ILO, 2005).<sup>2</sup> According to Grant,  
15 the essential elements of a rights-based approach include

16  
17 the observance of international human rights norms, including equality and non-  
18 discrimination, standard setting and accountability, the recognition of migrants as  
19 subjects and holders of rights, the participation of communities and the integration  
20 of a gender, child’s rights and ethnic perspective. (2005:26)

21 With some international organizations calling for increasing the number  
22 of labor migrants, while others call for more migrant rights, this paper explores  
23 the relationship between migrant numbers and rights.<sup>3</sup> An understanding of  
24 this relationship is important for debates on guest workers as well as for more  
25 general discussions of labor immigration. Our basic argument is that there is a  
26 trade-off, *i.e.*, an inverse relationship between the number and rights of  
27 migrants employed in low skilled jobs in high-income countries. The primary  
28 reason for this trade-off is that employer demand for labor is negatively sloped  
29 with respect to labor costs, and that more rights for migrants typically means  
30 higher costs. The result is that more migrants tend to be associated with fewer  
31 rights for migrants, and vice versa.

32  
33 <sup>2</sup>There are also a number of other human rights conventions that protect all persons, including  
34 migrants. The 1966 International Covenant on Civil and Political Rights, for example, bans  
35 slavery and forced labor in Article 8. Article 12 grants persons lawfully in a state the “right to  
36 liberty of movement and freedom to choose his residence,” a right routinely denied to guest  
37 workers because their lawful stay in the country depends on continued employment with a  
38 specific employer.

39 <sup>3</sup>Since the focus of this paper is on labor migration, we use the terms “migrants” and “migrant  
workers” interchangeably.

1 The paper has four parts. It begins with a discussion of the relationship  
2 between migrant numbers and migrant rights in theory. We distinguish  
3 between labor markets for skilled and low or unskilled migrant workers and  
4 argue that in high income countries the demand for low skilled migrant labor  
5 is downward sloping with respect to rights that have costs. The second part  
6 presents selected empirical evidence of the numbers-vs.-rights trade-off in the  
7 employment of migrants in low-skilled jobs.<sup>4</sup> We then briefly explore how the  
8 trade-off affects migrants and their countries of origin. The conclusion discusses  
9 the implications of our analysis for current debates about new guest worker  
10 programs. We argue that any informed normative position on guest worker  
11 programs and migrant rights needs to take account of the existence and potential  
12 impacts of the numbers-vs.-rights trade-off, including its consequences for  
13 migrants and their countries of origin.

14 We do not discuss the equally important question of whether and how  
15 guest worker programs are *feasible* in the sense that they can avoid the  
16 unintended consequences of the past. There is a substantial literature that  
17 discusses the “failures” and “policy lessons” of past temporary migration  
18 programs, especially of the Bracero program in the United States during 1942–  
19 1964 and the Gastarbeiter program in Germany during 1955–1973 (*see*, for  
20 example, Martin and Teitelbaum, 2001; Plewa and Miller, 2005; Abella, 2006;  
21 GAO, 2006; Martin *et al.*, 2006; Castles, 2007). Other studies propose policy  
22 principles and/or specific policy measures for avoiding past policy mistakes (*see*,  
23 for example, Martin, 2003; Schiff, 2004; Amin and Mattoo, 2005; Ruhs,  
24 2006a). Although considerations of feasibility are obviously of paramount  
25 importance, the trade-off between numbers and rights that underlies all guest  
26 worker programs – and, as we argue in this paper, the employment in low  
27 skilled migrants more generally – deserves equal attention.

## 28 29 *NUMBERS AND RIGHTS IN THEORY*

30  
31 It is useful to conceptualize the numbers and rights of migrants employed in  
32 high income countries as the outcome of the policies/actions of three key actors:  
33 states, employers, and migrants. At its core, the design of a labor immigration  
34 policy – including guest worker programs – requires states to make policy

35  
36  
37 <sup>4</sup>This formulation recognizes that many migrants working in low-skilled jobs in high income  
38 countries are in fact skilled or even highly skilled in terms of their qualifications. This should be  
39 kept in mind whenever we talk about the demand for “low-skilled migrants,” a formulation  
adopted in this paper for linguistic convenience.

1 decisions on parameters that include the *number* of migrants to be admitted;  
2 the *selection* of migrants (*e.g.*, by skill or nationality); and the *rights* that  
3 migrants are granted after admission. States' control over immigration is  
4 inevitably incomplete, and migration policies may be inconsistent and generate  
5 unintended consequences (*see*, for example, Joppke, 1998; Castles and Miller,  
6 2003; Cornelius *et al.*, 2004). However, high income countries can and do  
7 make decisions on the mechanisms that determine the numbers, selection, and  
8 rights of migrants in order to achieve certain policy objectives. These objectives  
9 can include goals such as: maximizing economic growth and minimizing  
10 adverse distributional consequences; minimizing fiscal costs; maintaining  
11 social cohesion and national security; and/or complying with international  
12 human rights treaties and maintaining a certain minimum level of rights for all  
13 workers and residents (*see*, for example, the discussion in Spencer, 2003).

14 In their policy decisions on how to regulate the number and selection of  
15 migrants, states may assign employers varying degrees of control. At one  
16 extreme, states can – and many do – strictly regulate the maximum number of  
17 migrants legally admitted for employment purposes (*e.g.*, through annual  
18 quotas) and specify strict criteria for selection (*e.g.*, high-skilled migrants to be  
19 employed in the IT sector only). At the other extreme, states may have a “laissez  
20 faire” admissions policy that allows employers to determine how many and  
21 what type of migrants to employ. In this case, the total number of migrants  
22 admitted is simply the aggregate of the recruitment decisions of individual  
23 employers. The role assigned by the state to employers in regulating the  
24 number and selection of migrants will depend, to a large degree, on the extent  
25 to which the interests of individual employers match those of the state. For  
26 example, where labor immigration is perceived to have significant social costs  
27 that are carried by the state and society at large rather than by employers, the  
28 state will be unlikely to let employers decide freely on the number and selection  
29 of migrant workers.

30 Regardless of how admission and selection are regulated, nation states  
31 always determine the rights – including the economic and social rights – that  
32 migrants are to be granted after admission. In the labor market, it is useful to  
33 think of migrants' (employment) rights as minimum standards that employers  
34 must satisfy (unless they choose to employ migrants “illegally,” *i.e.*, outside the  
35 legal framework set by the state).

36 Importantly, the state can only provide the “framework conditions”  
37 within which the legal immigration and employment of migrants may occur.  
38 In the end, migrants will not be employed in high income countries unless  
39 employers demand migrant labor and workers are willing to migrate and take

1 up employment abroad at the conditions offered. This suggests that any  
2 discussion of the relationship between the number and rights of migrant  
3 workers must put employers and migrants at the heart of the analysis while  
4 taking account of the state's role in setting the framework conditions for labor  
5 immigration.

6 Given this simple conceptualization of labor immigration policy and the  
7 employment of migrants, what relationship can we expect between the number  
8 and rights of migrants employed in high income countries? From an economic  
9 point of view, we can expect an important asymmetry in the relationship  
10 between the numbers and rights of skilled and low-skilled migrants.

11 The international market for skilled and highly skilled migrant workers  
12 is characterized by "excess" demand for labor, *i.e.*, a significant number of high-  
13 income countries are competing for a relatively small pool of highly qualified  
14 workers willing to migrate. As a result, qualified migrants are able to choose  
15 among competing destinations, and their choice of destination is likely to  
16 depend on both expected earnings and expected rights in destination areas.  
17 Consequently, countries and employers seeking to attract skilled workers are  
18 likely to offer them not only high wages but also substantial rights, generating  
19 a positive relationship between the number and rights of highly skilled  
20 migrants.

21 In contrast, the demand for low-skilled migrant workers is likely to be  
22 downward sloping with regard to migrants' rights. There is an almost  
23 unlimited supply of migrants willing to accept low-skilled jobs in high-income  
24 countries at wages and underemployment conditions significantly lower than  
25 those mandated by local laws and international norms. Migrants, whose "frame  
26 of reference" (Piore, 1979) is the labor market in their countries of origin, may  
27 not demand equal treatment in the labor markets of higher-income countries,  
28 especially if they plan a limited and relatively short spell of employment  
29 abroad.

30 From the employer's point of view, more employment rights for workers  
31 generally mean increased labor costs, generating a numbers-rights trade-off.  
32 This trade-off is familiar, as when employers oppose minimum wage increases  
33 because they assert that higher labor costs will mean fewer jobs. The analogy  
34 to migrants' rights is clear: if migrants have the "full rights" laid out in ILO and  
35 UN conventions, including the right to equal wages and all work-related  
36 benefits, their cost will be higher and fewer will be employed. On the other  
37 hand, more limited migrant rights may mean lower costs for employers and  
38 more migrants employed. In this sense, increasing the rights of migrants affects  
39 their employment in the same way that a higher minimum wage can reduce the

1 number of jobs (for all workers, not just migrants). Of course, it needs to be  
2 added that not all rights create significant costs for employers, just as raising  
3 minimum wages does not always lead to reduced employment (*see* Card and  
4 Krueger, 1994; Neumark and Wascher, 2007). Nevertheless, it is clear that  
5 *significant* increases in labor costs will, *ceteris paribus*, encourage profit-maximizing  
6 employers to reduce the number of jobs on offer.

7 The numbers-rights trade-off described above rests entirely on the  
8 rational behavior of employers and workers, and can be expected to hold in any  
9 competitive labor market, regardless of the framework conditions set by the  
10 state. If the state stipulates a relatively high set of employment rights for low-  
11 skilled migrants, employer demand – and thus the number of migrants legally  
12 employed in low-skilled jobs – can be expected to be lower than what it would  
13 be if migrants had fewer rights.

14 There may also be a second factor, stemming from the interests and  
15 policies of the state rather than the actions of employers and workers, that helps  
16 to generate a negative relationship between the number of low-skilled migrants  
17 and their rights: the fiscal effects of immigration. The public finance impacts  
18 of migrants, the balance between the taxes they pay and the cost of tax-  
19 supported services they receive, depends largely on their age, wages, and eligibility  
20 for and take-up of government benefits and public services (*see*, for example,  
21 Smith and Edmonston, 1997). Migrants with lower than average incomes, *i.e.*,  
22 those in low-skilled and low-wage jobs, tend to pay less in taxes and, because  
23 of their lower incomes, may be eligible for more government-funded services,  
24 especially if their families are with them. In order to minimize the fiscal costs  
25 of low-skilled migrants, high-income countries may be expected to limit  
26 migrant numbers or their access to welfare benefits.

27 To be sure, the state's interest in setting migrants' rights may be complex  
28 and will most likely be determined by a range of economic and noneconomic  
29 considerations that go beyond fiscal impacts. For example, states that make  
30 egalitarianism and/or compliance with international human rights norms key  
31 components of their national identity may be reluctant to restrict migrant  
32 rights. Restricting migrants' rights may also generate significant social costs,  
33 especially if the restrictions are long term and lead to the emergence of a large  
34 group of "second-class residents." These are potentially important considerations  
35 that may have an impact on how states establish and enforce migrant rights.  
36 Nevertheless, policies that lead to sustained fiscal losses are often politically  
37 unpopular and may be unsustainable in the long term, so it is reasonable to  
38 expect fiscal considerations to play an important and perhaps dominant role in  
39 the "politics" of migrant rights.

## 1 *NUMBERS VS. RIGHTS IN PRACTICE*

2  
3 This section provides selective case-study evidence of the relationship between  
4 the number and rights of migrant workers in practice. It is important to note  
5 that when comparing countries of different sizes in terms of population and  
6 labor force, the analysis of “migrant numbers” needs to take account of the  
7 relative share of migrant workers in the labor force, rather than just absolute  
8 numbers. We do not present a comprehensive empirical test of the numbers-  
9 vs.-rights hypothesis. Our aim instead is to illustrate and indicate the relevance  
10 of the trade-off suggested by theory to motivate further research and empirical  
11 testing of the issue.

12 Because there is a global quest for talent (Kuptsch and Pang, 2006),  
13 high-income countries recognize the need to grant skilled migrants substantial  
14 rights in order to attract significant numbers. For example, Canada and  
15 Australia, two countries that have long been successful at attracting skilled  
16 migrants, grant qualified migrants permanent residence and the associated  
17 comprehensive set of rights immediately upon arrival (*see*, for example, Rich-  
18 ardson and Lester, 2004). The UK’s Highly Skilled Migrant Programme aims  
19 to attract qualified migrants by offering them the opportunity to migrate to the  
20 UK without a job offer and with the right to apply for permanent residence  
21 after five years of residence in the UK (Home Office UK, 2006a). Ireland is  
22 introducing a long-term residence status to attract migrants with scarce skills  
23 in short supply in the Irish economy (Department of Justice, Equality and Law  
24 Reform, 2006). In contrast, Germany’s “Green Card” program for attracting  
25 IT workers from abroad offered a five-year work permit rather than permanent  
26 residency status, and attracted fewer than the 20,000 visas offered (for a  
27 discussion, *see* Kolb, 2005).<sup>5</sup>

28 In contrast, high-income country policies for regulating low-skilled labor  
29 immigration are typically characterized by a negative relationship between  
30 migrant numbers and rights. Singapore and many of the Persian Gulf States in  
31 the Middle East are examples of countries operating “high number – low  
32 rights” policies toward unskilled migrants. Both admit large numbers of  
33 migrants to fill low-wage jobs – migrants constitute over 95 percent of Kuwait’s  
34 private sector workforce (Kuwait Institute of Banking Studies, 2006) and  
35 about 25 percent of Singapore’s low-skilled workforce (Statistics Singapore,  
36

37 <sup>5</sup>Following the failure of the Green Card system to attract significant numbers of highly skilled  
38 migrants, Germany passed a new immigration law in 2004 that provides for unlimited residence  
39 permits for highly qualified migrants and their families.

1 2006). However, in both Kuwait and Singapore, the protections of local labor  
2 laws do not apply to certain types of migrants, such as domestic workers. In  
3 Singapore, migrants employed in low-wage jobs are officially prohibited from  
4 co-habiting with or marrying a Singaporean resident, an effort to limit the costs  
5 of migrants by limiting settlement (*see* Piper and Iredale, 2003).

6 Bell and Piper (2005) contrasted the numbers-vs.-rights trade-off in  
7 Singapore and Hong Kong for domestic helpers with Canada's Live-in Caregiver  
8 program, which admits a small number of migrants to be in-home helpers but  
9 allows them to earn permanent residence after two years of employment. Bell  
10 and Piper note that "the choice, in reality, is between few legal openings for  
11 migrant workers with the promise of equal citizenship and many openings for  
12 migrant workers without the promise of citizenship" (Bell and Piper,  
13 2005:209).

14 Although less extreme, trade offs between numbers and rights of  
15 low-skilled migrants can also be observed in the labor markets and labor  
16 immigration policies of liberal democracies in Europe and North America. For  
17 example, in May 2004, the UK, Ireland and Sweden granted workers from the  
18 eight Central European states ("A8 countries") that joined the EU in 2004 the  
19 right to enter and work. Sweden offered A8 workers full access to the social  
20 welfare system. In contrast, the right to work in the "flexible" labor markets of  
21 the UK and Ireland was accompanied by restrictions on migrants' access to  
22 unemployment and welfare benefits (*see* National Economic and Social  
23 Council of Ireland, 2006a; Ruhs, 2006b). By 2006, a million East European  
24 workers had migrated to work in the UK and Ireland after EU enlargement  
25 (Home Office UK, 2006b; National Economic and Social Council of Ireland,  
26 2006b), but only 5,000 found jobs in Sweden in 2005 (*see* Doyle *et al.*, 2006;  
27 Tamas and Munz, 2006).

28 One of the reasons for the paucity of A8 migrants in Sweden is the tight  
29 regulation of Swedish labor markets, which gives migrant workers full  
30 employment rights and makes them as expensive as local workers. Most wages  
31 and benefits in Sweden are set via collective bargaining and, with most workers  
32 in unions, wages and benefits adhere to industry-wide standards. At the time  
33 of EU enlargement in 2004, Sweden introduced a number of measures aimed  
34 at preventing immigration from undermining existing labor market regula-  
35 tions and collective bargaining structures (Tamas and Munz, 2006). With  
36 effective labor-law compliance, there was little incentive for employers to hire  
37 A8 migrants to save money. The UK's and Ireland's relatively "low-rights" policies  
38 combined with flexible labor markets to attract large numbers of A8 migrants,  
39 while Sweden's "high-rights" policies were associated with far fewer A8 migrants.

1 Trade offs between the number and rights of migrants can also be  
2 observed in the United States, which in 1996 elected to keep legal immigration  
3 high by restricting access to means-tested welfare benefits and adopting a  
4 one-strike and you are out policy toward immigrants who committed felony  
5 crimes. The Commission on Immigration Reform, reacting to the perceived  
6 cost of providing tax-supported services to immigrants that led to approval of  
7 Proposition 187 in November 1994 in California,<sup>6</sup> urged Congress to reduce  
8 immigrant admissions but maintain immigrant access to social safety net  
9 programs (US Commission on Immigration Reform, 1995). Congress rejected  
10 this recommendation, and instead kept immigrant numbers high and reduced  
11 migrant access to benefits (*see* the discussion in Tichenor, 2002).

12 Irregular migration represents an extreme end of the numbers-vs.-rights  
13 spectrum, the place where high numbers are often associated with very few  
14 rights. In the US, for example, there are about seven irregular workers for each  
15 legal guest worker, and most are employed in low-skilled jobs (Passel, 2005).  
16 In the UK, estimates of irregular migrants range from 310,000 to 570,000,  
17 with a median estimate of 430,000, equivalent to about 0.7 percent of the UK  
18 population (Woodbridge, 2005). Most irregular migrants in the UK are  
19 thought to be working in low-wage jobs in agriculture and food processing,  
20 construction, the care sector, cleaning, and in hospitality. In both the US and  
21 UK, the debate over how to deal with irregular migration includes the argument  
22 that better enforcement of employment laws would reduce the demand for  
23 irregular migrant labor by raising its cost (*see*, for example, Abraham and  
24 Hamilton, 2006; Denham, 2006), suggesting a numbers-rights trade-off.

25  
26 *BALANCING NUMBERS AND RIGHTS: THE PERSPECTIVES OF*  
27 *MIGRANTS AND THEIR COUNTRIES OF ORIGIN*  
28

29 The trade-off between numbers and rights is generated by markets and politics  
30 in migrant-receiving countries, but it also has important implications for  
31 migrants and their countries of origin. Large numbers of migrant workers are  
32 employed in countries that severely restrict migrants' rights, suggesting that  
33 many workers are willing to accept fewer rights in exchange for higher wages.  
34 Of course, the mere presence of migrants in countries with "high numbers –  
35 low rights" policies does not mean that such policies are in the migrants' best  
36

37 <sup>6</sup>The purpose of Proposition 187 was to deny illegal aliens and their children welfare benefits,  
38 nonemergency healthcare, and public education. Proposition 187 was approved by voters in  
39 California but later declared unconstitutional by a federal court (*see* Tichenor, 2002).

1 interests and therefore desirable. Nevertheless, the fact that migrants often pay  
2 significant recruitment fees to work in such countries highlights the need for a  
3 more explicit discussion of the choices that many workers in developing  
4 countries face. Rights-based approaches to migration rarely discuss the agency  
5 of migrant workers, *i.e.*, their capacity to make rational and independent  
6 decisions when faced with limited options. Instead they often tend to treat  
7 migrants as victims of recruiters and smugglers rather than rational economic  
8 agents maximizing within constraints.

9 The numbers-vs.-rights trade-off also affects sending country governments  
10 that have the dual and sometimes competing interests of, on the one hand,  
11 promoting the rights of their nationals abroad, and, on the other, maximizing  
12 the economic benefits from emigration. Some migrant-sending countries  
13 would like receiving countries to restrict the right of migrants to settle in order  
14 to maximize remittances and returns. For example, the Mexican Agricultural  
15 Seasonal Workers Program is an MOU under which seasonal workers have  
16 gone to Canada since 1974 (*see* Martin *et al.*, 2006). For most of the past three  
17 decades, only married men with children could participate, leaving their  
18 families behind and returning with evaluations in sealed envelopes that had to  
19 be delivered to Mexican authorities to avoid being dropped from eligibility lists  
20 for next season. Other migrant-sending countries are reluctant to ratify the  
21 ICMR for fear of losing jobs for their nationals abroad (Piper and Iredale, 2003).

22 The numbers-vs.-rights dilemma for sending countries was also highlighted  
23 during the WTO's GATS negotiations, which aim to liberalize the movement  
24 of "service providers." Mode 4 of the GATS involves the "movement of natural  
25 persons." Many low-income countries would like to see more Mode 4  
26 movements, with India leading a group of countries demanding, *inter alia*,  
27 changes in high-income country policies that would open more doors for their  
28 nationals seeking to provide services. The goal is a "GATS visa" that would  
29 allow access to any WTO member country for one to three years (Chanda,  
30 2001); refusal to allow entry and employment would be a reason to file a  
31 complaint with the WTO.

32 The numbers-vs.-rights trade-off becomes clear when dealing with wage  
33 parity for GATS service providers. ILO Conventions 97 and 143 call for  
34 migrant and local workers to receive the same wages for the same work.  
35 However, Chaudhuri *et al.* (2004:366) assert that equal wages would limit  
36 numbers: "Wage-parity . . . is intended to provide a nondiscriminatory  
37 environment, [but] tends to erode the cost advantage of hiring foreigners and  
38 works like a *de facto* quota." Chanda (2001:635) goes further, asserting that  
39 wage parity "negates the very basis of cross-country labor flows which stems

1 from endowment-based cost differentials between countries.” In other words,  
2 if GATS opened new channels for migrants, would they be paid wages equal  
3 to those of local workers, which may limit their numbers, or could migrants  
4 work for lower wages, which would presumably increase their numbers?

5  
6 *CONCLUSION: IMPLICATIONS FOR GUEST WORKER DEBATES*

7  
8 Governments that face public opposition to labor immigration often see guest  
9 worker programs – which, by design, increase migrant numbers but restrict  
10 migrant rights – as the best compromise between the extremes of no borders  
11 and no migrants. The arguments for legal guest worker programs as “middle  
12 path policies” that increase the number of migrants legally employed in high-  
13 income countries seem compelling. Employers argue they need guest workers  
14 because they cannot find local workers to fill vacant jobs at prevailing wages  
15 and working conditions, and many migrants want to fill these jobs because  
16 they will receive higher wages than at home. Sending countries can benefit  
17 from more guest workers via remittances and the return of migrants with new  
18 skills. With worries about integrating second- and third-generation foreigners,  
19 and about the fiscal and social costs of immigration more generally, receiving-  
20 country governments find it appealing to use guest worker programs to  
21 “borrow” workers from lower-wage countries, and to restrict the rights of  
22 migrants in order to minimize their costs.

23 Most recent discussions of new guest worker programs have been con-  
24 cerned with their feasibility, *i.e.*, whether and how to avoid past policy mistakes  
25 that have, among other things, led to the permanent settlement of what were  
26 supposed to be temporary workers. An equally fundamental but little discussed  
27 question that guest worker programs raise concerns the relationship between  
28 the numbers and rights of migrant workers in the global labor market.

29 This paper argues that the relationship between the number and rights  
30 of migrant workers employed in low-skilled jobs in high-income countries is  
31 characterized by a trade-off: countries with large numbers or shares of low-  
32 skilled migrant workers offer them relatively few rights, while smaller numbers  
33 of migrants are typically associated with more rights. The primary reason for  
34 this trade off is that rights can create costs for employers, and rising labor costs  
35 are typically associated with a reduced demand for labor. A second reason stems  
36 from the political imperative in most high-income countries to minimize the  
37 fiscal costs of low-skilled immigration, either by keeping migrant numbers low  
38 or by restricting migrants’ access to the social welfare system. Although we have  
39 not provided a comprehensive empirical test, we have given empirical examples

1 that, in our view, provide convincing evidence of the relevance of the numbers-  
2 vs.-rights trade-off in practice.

3 In practice, migrants and migrant-sending countries often tolerate  
4 restrictions of migrant rights in order to gain legal access to low-skilled labor  
5 markets in higher-income countries. Of course, it does not automatically follow  
6 that restricting migrant rights under a guest worker program is a desirable  
7 policy from a normative point of view. Whatever the logic of the market and  
8 the interests of receiving countries, migrants, and their countries of origins,  
9 there may be strong normative arguments against restricting migrant rights.  
10 For example, Carens (2007:4) argues that, even if there is a trade-off between  
11 migrant numbers and rights, restricting the rights of migrants is always morally  
12 problematic “because they violate the state’s own understanding of morally  
13 acceptable conditions of employment.” In contrast, Bell and Piper (2005:214)  
14 suggest that unequal rights under a guest worker program could be morally  
15 justified if three conditions are met: (a) if they benefit migrant workers, as  
16 decided by migrant workers themselves; (b) if they create opportunities for people  
17 to improve their lives; and (c) if there are no feasible alternatives to (a) and (b).

18 We are not trying to determine where high-income countries should locate  
19 themselves on the numbers-rights spectrum. Instead, we argue in this paper  
20 that any normative and policy discussion of guest worker programs and migrant  
21 rights needs to carefully consider (as Carens (2007) and Bell and Piper (2005)  
22 have done) the trade-off between migrant numbers and rights, and its consequences  
23 for all sides, including the impacts on migrants and their countries of origin.

24 Most advocates and critics of more guest workers or a strict rights-based  
25 approach to labor migration have not dealt with the fundamental dilemma that  
26 inequality motivates the movement of people, but most norms call for equal  
27 treatment after arrival. Countries in which this equality norm is ignored have  
28 the most migrants (“high numbers–low rights policies”), as in the Middle East,  
29 while countries which adhere to the equality norm have fewer migrants (“high  
30 rights–low numbers” policies), as in Scandinavia. There is no easy or universal  
31 answer as to whether numbers or rights should get higher priority, but avoiding  
32 an explicit discussion of the numbers-vs.-rights trade-off altogether simply  
33 confuses the issue and can conceal an important policy choice.

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