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Protecting migrants and their rights in the global labour market: A Reply to Michelle Leighton

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I am grateful to Michelle Leighton (the current Head of the ILO’s Migration Branch) for reading and reviewing my book *The Price of Rights: Regulating International Labor Migration* (Ruhs 2013), and to the *International Labour Review* for giving me an opportunity to respond to the review.

I wrote *The Price of Rights* (henceforth, *PoR*) with the hope of engaging academic researchers as well as a policy audience with an interest in international labour migration and the rights of migrant workers. My aim was to generate analysis and debate about the interrelationships between migrant rights, labour migration and development. More specifically, I wanted to explore – theoretically, empirically and normatively – the tension that can arise between promoting ‘more migration’ and ‘more rights’ for migrant workers — a critically important but greatly under-researched issue in analyses and policy debates of global labour migration. As I explained in the conclusion of *PoR*, the book is meant as a contribution to analysis and debate. It ‘cannot and should not settle the positive and normative questions raised’ (Ruhs 2013, 199).

The first part of this article summarises the key findings and arguments of *PoR*. Readers who have read my book can skip this part completely. In the second part, I discuss and respond to some of the key critiques and issues raised by Michelle Leighton in her review of my book (Leighton 2015). The third and final part briefly discusses the global political economy of migrant rights. I highlight the very different responses to my book by the World Bank, IOM, ILO, and national migrant rights organisations. The article concludes with a call for more explicit global policy debates about what I believe are inescapable trade-offs and moral dilemmas in the regulation of international labour migration.

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The Price of Rights: Key findings and arguments

This brief overview focuses on six key elements and findings of the theoretical and empirical analysis in *PoR*.

1) Migrant rights as instruments of labour immigration policy

A key argument and starting point of *PoR* is that we need to expand current debates and analyses of migrant rights by complementing conversations about the human rights of migrants with a systematic, dispassionate analysis of the interests and roles of nation-states in granting and restricting the rights of migrant workers. This is because the rights of migrant workers not only have intrinsic value, as underscored by human rights approaches, but also play an important instrumental role in shaping the effects of international labour migration for receiving countries, migrants and their countries of origin. For example, whether or not migrants enjoy the right to free choice of employment and other employment-related rights in the receiving country's labour market is likely to affect their productivity and earnings, remittances and competition with local workers. The fiscal effects of immigration critically depend on whether and how migrants' social rights (including access to public services and welfare benefits) are restricted.

Because rights shape the effects of labour immigration, migrant rights are in practice a core component of nation-states' labour immigration policies. At its core, the design of labour immigration policy requires simultaneous policy decisions on how to regulate the number of migrants to be admitted (eg through quotas or points-based systems); how to select migrants (eg by skill and/or nationality); and what rights to grant migrants after admission (eg temporary or permanent residence, access to welfare benefits, and limited or unlimited rights to employment). When receiving countries decide on these three issues, the impacts on the 'national interest' (however defined) of the existing residents in the host countries are likely to be of great significance. Policy decisions on the number, selection and rights of migrant workers can also be influenced by their consequences for the interests of migrants and their countries of origin, whose actions and policies can play an important role in supporting, sustaining or undermining particular labour immigration policy decisions in migrant-receiving countries.

2) 'Openness vs. rights' and other features of labour immigration programmes in high-income countries

To study how high- and middle-income countries regulate labour immigration and the rights of migrant workers in practice, I created and analysed two separate indexes that measure: (i) the openness of 104 labour immigration programmes in 46 high- and middle-income countries to admitting migrant workers; and (ii) the legal rights (civil and political, economic, social, residency and family reunion rights) granted to migrant workers admitted under these programmes. All my indicators measure policies and rights *de jure* (i.e. as granted by national laws, policies and regulations) rather than "in practice".

Based on this new database, *PoR* describes key features of labour immigration programmes (including restrictions of migrant rights) in high-income countries. They include the following four policy characteristics:

- *Temporary migration programmes predominate.* The great majority of labour immigration programmes in high- and middle-income countries (just under 90 per cent in my study) are temporary migration programmes (TMPs), that is, programmes that grant temporary residence status on arrival (although some of them allow a transfer to permanent residence status after some time).
- *Greater openness to skilled labour immigration.* Programmes that target higher-skilled migrant workers place fewer restrictions on admission than programmes targeting lower-skilled migrants. Exceptions include the US, Sweden and the Gulf States.
- *More rights for migrants admitted under skilled labour immigration programmes.* Labour immigration programmes that target higher-skilled migrants impose fewer restrictions on some migrant rights than programmes targeting lower-skilled migrants. This holds for many but not all rights. Political rights and economic/employment rights are less sensitive to targeted skills than social rights, residence rights and family rights.
- *Trade-offs between openness and some rights.* In upper-high-income countries there is also evidence that labour immigration programmes can be characterised by trade-offs between openness and some migrant rights, that is, programmes that are more open to admitting migrant workers are also more restrictive with regard to specific rights. It is crucial to emphasise that the trade-off between openness and rights affects only a few specific rights rather than all rights, and that they most commonly include selected social and economic

rights as well as rights relating to residency and family reunion. My empirical analysis suggests that trade-offs between openness and migrant rights can be found in policies that target a range of skills, but are generally not present in labour immigration programmes specifically designed for admitting the most highly skilled workers, for whom there is intense international competition.

3) Consistency with 'rational' policy-making based on the 'national interest'

These key features of labour immigration policies in high-income countries are, I argue, consistent with a 'rational' national policy-making process based on the costs and benefits of immigration for receiving countries (see my book for a full discussion of my conceptualisation and theoretical approach to the process and design of labour immigration policy). First, high-income countries can be expected to be more open to high- than low-skilled immigration. This is partly because, compared to low-skilled migrants, higher-skilled migrants can be expected to generate greater complementarities with the skills and capital of existing residents in high-income countries, greater long-term growth effects and greater net fiscal benefits. Secondly, we can expect labour immigration programmes that target higher-skilled migrant workers to grant migrants more rights than those targeting lower-skilled workers. This expectation is partly motivated by the fact that the provision of some rights (eg social rights) creates costs and benefits that can be expected to vary with the skill level and earnings of the rights holder. For instance, granting low-skilled migrants full access to the welfare state can be expected to create greater net costs (or smaller net benefits) for the host country than affording these same rights to high-skilled migrants in high-paid jobs. The third expectation is that 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, that is, greater openness to admitting migrant workers will be associated with relatively fewer rights for migrants and vice versa. The basis for this expectation is closely related to the first two: if certain rights for some migrants create net costs for the receiving country (eg full access to the welfare state for low-skilled migrant workers), policy openness to admitting such migrants can be expected to depend critically on the extent to which some of these costly rights can be restricted.

Of course, mere consistency between a theoretical model and empirical findings does not necessarily mean that the model explains reality in practice. Given what we know about the messiness and numerous potential determinants of national policy-making processes in practice, can it really be reasonable to explain policies with reference to a 'rational' national policy maker in the

ways assumed by my model? Do nation-states really restrict the rights of migrants in an instrumental way, that is, based on an assessment of costs and benefits for the host country? In *PoR* I use a series of mini case studies of policy making in a range of different high-income countries to show that policy decisions about the scale, selection and rights of migrant workers are frequently, and arguably *mostly*, taken based on an assessment about the consequences for the national interest. In other words, while it might be true that not every aspect of the policy-making process is rational and consistent, there is a relatively high degree of ‘agency’ of the state in many countries when it comes to the design of national labour immigration policies. As I discuss in detail in *PoR*, exceptional cases can be explained without undermining the model. But of course there are always some differences across countries with implications for the applicability of the model that I have proposed.

4) Migrants and their countries of origin: Trading rights for access

Migrant workers and their countries of origin are acutely aware of and engage with the trade-off between openness and rights in practice. Every day, migrant workers are making choices about whether to stay at home, or move and work abroad under restricted rights. Large numbers are currently choosing the latter, that is, they are tolerating restrictions of some of their rights in exchange for the opportunity to migrate and work abroad. To be sure, this choice is sometimes misinformed and in many ways constrained by larger structural factors, including global economic inequalities and nation-states that restrict access to their territories through immigration control measures. Nevertheless, there is at least some minimal degree of choice in most people’s decisions to move abroad for employment purposes. This points to the significance of considering the agency, ‘voice’ and overall interests of migrants when explaining existing migration flows and policies, and when thinking normatively about whether particular trade-offs should be tolerated. Given that the human development of people is multidimensional and includes more considerations than just access to legal rights, it is not surprising to see migrant workers making ‘sacrifices’ in some dimensions of development (eg limited access to some legal rights) in exchange for advancing others (eg opportunities to access employment at higher wages and raise the household incomes of their families).

Many low-income countries sending migrant workers abroad make a similar choice. To the extent that they can influence the labour immigration policies of high-income countries, most low-income countries are pursuing emigration policies that are, often explicitly, based on the dual objectives of sending more workers abroad and better protecting them while there. Most low-income countries

are acutely aware of the trade-off between access to labour markets in high-income countries and some migrant rights. For example, the policies of Asian countries sending migrants to the Gulf States, and Latin American countries sending low-skilled workers to the United States and Canada, clearly show that few of these countries are willing to insist on full and equal rights for fear of reduced access for their citizens to the labour markets of these higher-income countries. Again, this is not surprising given that labour emigration can generate large income gains for migrants and their families as well as benefiting the wider development of migrants' home countries. The World Bank and other development organisations are actively promoting more international labour migration as one of the most effective ways of raising the incomes of workers in low-income countries.

5) The ethical case for expanded TMPs that restrict migrant rights

As my intention is to contribute to national and international policy debates, I argue for a pragmatic approach that is both realistic, by taking account of existing realities in labour immigration policy making, and idealistic, by giving more weight to the interests of migrants and countries of origin than most high-income countries currently do when designing labour immigration policies. Based on this approach, I contend that there is a strong normative case for tolerating the selective, evidence-based, temporary restriction of a few specific rights under new and expanded TMPs that help liberalise international labour migration, especially of lower-skilled workers whose international movement is currently most restricted and who would therefore reap large human development gains from employment abroad. Any rights restrictions should, in my view, be limited to the right to free choice of employment, equal access to means-tested public benefits, the right to family reunion, and the right to permanent residence and citizenship. Rights restrictions need to be evidence based in the sense that there must be a clear case that they create specific costs that the receiving country wishes to avoid or minimise to enable greater openness to admitting migrant workers. In other words, restricting these rights would lead high-income countries to be more open to labour immigration than would be the case if the rights could not be restricted. I also hold that any rights restrictions should be time limited (eg limited to about four years). After this period, migrants should be granted access to permanent residence (and thus eventually citizenship) or required to leave. Finally, these rights restrictions are only acceptable, in my view, if they are accompanied by a number of supporting policies including the transparency of policies along with the effective protection of opportunities for migrant workers to exit TMPs whenever they wish and choose to do so.

6) Global governance: The case for a 'core-rights' approach

The Price of Rights highlights the danger of a blind spot in human rights-based approaches to migration. Such arguments are often focused on protecting and promoting the rights of *existing* migrants without considering the consequences for nation-states' policies for admitting new migrant workers, that is, without considering the interests of the large number of *potential future migrants* who are still in their countries of origin and seeking to access labour markets of higher-income countries. The trade-off between openness and some specific migrant rights in high-income countries' labour immigration policies means that insisting on equality of rights for migrant workers can come at the price of more restrictive admission policies and, therefore, discourage the further liberalisation of international labour migration. Put differently, human rights-based approaches to migration that demand all the rights stipulated in the existing international labour standards run the danger of doing good in one area (ie promoting the rights of existing migrants) while doing harm in another (ie decreasing opportunities for workers to migrate and legally work in higher-income countries). Most UN agencies and other organisations advocating a human rights-based approach based on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) have been reluctant to acknowledge, let alone engage with, this dilemma.

PoR concludes that there is a strong case for advocating a rights-based approach to international labour migration that is premised on the protection of a universal set of 'core rights' and accounts for the interests of nation-states by explicitly tolerating temporary restrictions of a few specific rights that can be shown to create net costs for receiving countries. Restricting these rights should encourage the further liberalisation of international labour migration. Exactly which rights would be on this list of 'core rights' is up for debate, but it is a debate that should, in my view, be at the centre of discussions on the global governance of international migration. A 'core' list would include fewer rights than the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Member of their Families (adopted by the General Assembly of the United Nations in 1990 and so far ratified by fewer than 50 countries), but more countries would be likely to accept it. Thus, given the mass numbers involved, overall protection for migrant workers would be increased. It might be a counter-intuitive conclusion, but it is one grounded in reality: when it comes to protecting migrant rights, it turns out less is more.

The logic of core rights for migrants would not be too dissimilar from that underlying the adoption of the ILO's core labour standards in 1998 which were introduced in the context of dwindling numbers of ratifications of ILO conventions and a general criticism that the ILO's labour standards were not effective enough at protecting workers' rights in a rapidly globalizing economy. An important caveat: As it has been the case with the ILO's core labour standards, the list of core rights for migrants that I am proposing should complement rather than replace the existing international migrant rights conventions, which should continue to play an important role as an ideal toward which we should strive. Ideals and aspirational principles play an important role in global efforts to improve the lives of migrants.

A response to Michelle Leighton's review of 'The Price of Rights'

I focus my response on four arguments and critiques made by Leighton (2015), relating to: the role of irregular migration and structural labour shortages in migration debates and policies; the drivers of the trade-off between openness and some rights; the possibility of "high-road" politics and policies that avoid the trade-off; and the ethics of restricting migrant rights.

1) Irregular migration and structural labour shortages

Leighton points out that the analysis in *PoR* does not cover policies affecting migrants who fall out of regular status and the impact of irregular migration on the labour market. Illegality in migration and employment of migrants is obviously an important issue in some countries but it is important to remember that the vast majority of international labour migration occurs through legal channels that are regulated by nation-states. Given that my analysis already included over 104 labour immigration programmes in over 46 countries, I excluded policies towards illegal migration partly on pragmatic grounds. I agree that it would be desirable to analyse illegal migration and the rights of illegally resident migrants. There are obvious methodological challenges but one could try to measure, first, the policies put in place to prevent and reduce illegal immigration and, second, the legal rights granted to migrant workers without legal residence status. In the context of my book, the interesting question would be whether there is evidence of a systematic trade-off (i.e. a negative relationship) between national policies to prevent/reduce illegal immigration on the one hand, and the legal rights granted to migrants who are illegally resident on the other. I would expect the inclusion of policies toward irregular migrants in the analysis to further strengthen my overall argument.

Leighton also highlights the importance of considering the impacts of labour immigration programmes on structural labour shortages and labour market distortions. I fully agree which is why

I discussed these issues in chapter 7 of the book drawing on my previous book on the relationship between labour migration, shortages and public policy (Ruhs and Anderson 2010). As I argue in *PoR*, “there is clearly the danger that recruitment of migrants to fill perceived labour and skills needs in the short run exacerbates shortages, and thus entrenches certain low-cost and migrant-intensive production systems in the long run ..” (Ruhs 2013, p.181). Avoiding the development of employer preference for (more exploitable) migrant workers and preventing the emergence of a structural dependence on migrant labour are key reasons why I argue for equality of labour rights (with the exception of the right to completely free choice of employment) between migrants and citizens.

2) The drivers of the trade-off between openness and some rights

Leighton highlights my argument that “more limited migrant rights mean lower costs for employers and more migrants employed” (Ruhs 2013, p.50) and she then proceeds to argue that “this assumption lays the ground for his overarching conclusion that migration policy should more systematically implement a trade-off between openness and rights.” (Leighton 2015, p.279). This constitutes a gross misreading and misunderstanding of my argument. As I explain very clearly in chapter 3 of *PoR*, the trade-off between openness and some rights that we observe in the labour immigration policies of high-income countries is the result of the policy decisions of *national policy-makers* who regulate the numbers, selection and rights of migrant workers based on certain national policy objectives and constraints. Policy trade-offs between openness and some rights occur because certain migrant rights are perceived to be costly, at least in the short run, by the host country (e.g. in terms of the net fiscal impact of immigration for existing residents), and not simply because they are costly for individual employers. So the trade-off stems from political economy considerations at the national policy level rather than just the (more narrow) interests and recruitment decision of employers (who have no formal authority to regulate migrants’ access to legal rights in the host country).

The conceptual starting point of the analysis in *PoR* is that all rights – for migrants and non-migrants – create multifaceted costs and benefits that vary across different types of rights, between the short and long run, and – critically – between workers with different skills and earnings. For example, the net fiscal impacts of migrants (and citizens) – i.e. the taxes they pay minus the value of the services and welfare benefits they receive – critically depend on their skill levels and earnings. 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 (see also Cox and Posner 2009).

For most rights, high-income countries can be expected to perceive equality of rights with citizens as best for the national interest. The equality of labour rights, for example, can play an important role in ensuring that migrant workers are not preferred to domestic workers because they can be employed at a lower cost due to reduced rights. Some other rights, however, can create net costs for the receiving country, at least in the short run. Where rights create net costs for the receiving country, openness to labour immigration can be expected to critically depend on the extent to which costly rights can be restricted and hence the policy trade-off between openness and costly rights.

So by highlighting the existence of this trade-off in national policies around the world I am pointing out the results of public policy decisions in high-income countries (e.g. about migrants' access to the welfare state, family reunion and citizenship) rather than simply the arguments and preferences of employers. This is an important point because Leighton's misunderstanding of what drives the trade-off causes her to give the misleading impression that the analysis in *PoR* is simply about employment rights and "what employers want" rather than about migrant rights more broadly and the policy decisions of nation states. In my empirical analysis, I show that the rights most commonly affected by the trade-off between openness and rights in high-income countries' labour immigration policies are selected social rights (i.e. access to the welfare state), the right to family reunion, access to permanent residence and citizenship, and the right to free choice of employment.

A related misunderstanding in Leighton's review concerns the politics of labour immigration policy. Leighton cites Francisco Alba's review of my book to make the point that decisions on the admissions of migrant workers "are mostly a function of economic demands or of political decisions rather than a function of calculations of more or less rights of migrants" (Alba 2015, p.275). I fully agree and this is in fact the starting point of my argument. I never claim that admissions of migrants are based solely on costs and benefits of rights (which would obviously not constitute a "rational" policy process). As I explain in chapter 3 of the *PoR*, under my conceptualisation of labour immigration policy, nation-states decide how to regulate the number, selection and rights of migrant workers admitted in order to achieve a common set of potential objectives — economic efficiency, distribution, social cohesion and national identity, and national security and public order — given a common set of potential constraints and institutional factors that limit and mediate the ways in which the pursuit of policy objectives translates into actual policies. These constraints and institutional factors stem from nation-states' incomplete capacity to control immigration; domestic liberal institutions and international rights regimes; and the prevailing national political system, production regime (including labour market policies) and welfare system. So the whole point of my approach is to argue that policy decisions on the admission and rights of migrant workers are

simultaneous decisions that are largely driven by an assessment of the economic, social and other effects of labour immigration on existing residents in the host country.

3) The “high-road” and Swedish exceptionalism

Leighton argues that the analysis in *PoR* does not give sufficient attention to “outliers” i.e. countries that have taken what Leighton calls the “high-road” of granting the same set of rights to both high and lower-skilled migrant workers and/or of combining a relatively high degree of policy openness to admitting migrants with granting near-equality of rights to the migrant workers admitted. There are not many countries that are such outliers but, as I point out and discuss in the *PoR*, Sweden’s labour immigration policies since 2008 can arguably be regarded as one such case. So, does the case of Sweden show that there need not be a tension between openness and some rights and/or that there is a sustainable model for labour immigration policy in high-income countries that does not distinguish – in terms of regulating admissions and rights – between high- and lower-skilled migrants? As I briefly explain below, I remain sceptical.

In 2008 Sweden introduced a new labour immigration programme that admits both high- and lower-skilled migrant workers and grants them the same rights. In *PoR* I argue that Sweden’s ‘exceptionalism’ can be explained by the relative recency of the policy (at the time of writing my book, i.e. 2012) and its experimental nature. I speculated that Sweden would come under pressure to start making a distinction in its policy approach to high- and low-skilled migrants and that the tensions between openness and rights would eventually come to the fore.

So, what has happened to Sweden’s labour immigration policies over the past few years? While the core features of the labour immigration policies introduced in Sweden in 2008 are still in place, some policy changes have been made. Engblom (2014) discusses a number of new regulations that the Swedish Migration Board has implemented in recent years, partly in response to concerns about the effects of rapidly increasing low-skilled immigration in certain low-waged occupations such as cherry picking. These policy changes, most of which were aimed at ensuring the effective enforcement of minimum standards and conditions in occupations with a small or no union presence, led to a considerable decline in work permits issued for these jobs.

There has also been increasing debate about the link between Sweden’s policies for admitting migrant workers and shortages in the Swedish labour market, especially in lower-skilled occupations. Some analysts and commentators (e.g. Emilsson 2014) have argued that a considerable share of lower-skilled migrants are employed in occupations that are not suffering from labour shortages (a

very slippery concept, as discussed in Ruhs and Anderson 2010). It remains to be seen whether and how these findings and arguments lead to policy change over the coming years.

In any case, even if Sweden's current "exceptionalism" turns out to be sustainable, the existence of an outlier does not refute the general patterns and associations found in my empirical analysis of the labour immigration policies in over 45 countries. Furthermore, as I explain in *PoR*, Sweden's policy openness to labour immigration is in practice heavily moderated by its high level of labour market regulation which reduces employer demand for migrant labour and thus keeps the scale of labour immigration much more limited than is the case, for example, in flexible labour markets (also see Ruhs and Anderson 2010). In other words, Sweden's openness to labour immigration comes with a very specific set of institutions, especially a heavily regulated labour market and a social-democratic welfare state. These institutions vary significantly across countries which makes the Swedish model difficult to 'export'.

4) The ethics of trade-offs and restricting migrants' rights

One of the key aims of the *PoR* is to generate more explicit normative debate about a major policy dilemma in the regulation of international labour migration. From a global justice point of view, more migration and more rights for migrants are both "good things". Yet the trade-off between openness and some rights in high-income countries' labour immigration policies means that for some specific rights and some specific groups of migrants, it is not possible to have more of both, so a choice needs to be made. The empirical analysis in *PoR* thus raises major ethical questions: Are temporary migration programmes that restrict migrant rights inherently unethical? Given the trade-off between openness and rights, what rights restrictions – if any – are acceptable to enable more workers in low-income countries to access the labour markets of higher-income countries? I spent a whole chapter (chapter 7) of my book discussing these ethical questions and dilemmas. As I make clear in the introduction to my analysis of the ethics of temporary migration programmes and restricting migrant rights, "... there is no one right answer in this normative debate; indeed, there are few obvious or clear answers to any of the questions analysed in this chapter. The analysis below thus inevitably reflects my own personal and ongoing struggle with what are exceedingly difficult dilemmas" (Ruhs 2013, p. 156).

In her critique of my analysis of the ethics of the issue, Leighton warns against adopting what she calls my "normative trade-off framework". She argues that "... before they consider this, it might be wiser for the public to better understand how their current migration management system may foster discriminatory treatment, hamper an equitable labour market, or belie social dumping"

(Leighton 2015, p.282). I fully agree that it is of critical importance to consider how the policies of nation states contribute to discrimination and inequalities. This issue is in fact at the heart of the analysis of my book. But the larger point here is that if there are policy trade-offs they need to be analysed and debated, not simply wished away. The point of engaging with the ethics of immigration and migrant rights is precisely to consider and evaluate various options for responding to moral dilemmas. It is one thing to argue that the trade-off between openness and rights that I identify in the *PoR* does not exist but Leighton does not seem to be making this argument. Her 7-page review never engages or comments on the empirical analysis and evidence in my book. But if we accept that there is a tension in practice then surely we must discuss various alternative moral frameworks and theories to consider how to morally evaluate and respond to these trade-offs. I understand that the ILO has a normative position which is important to articulate and defend. But this does not, in my view, justify Leighton's apparent refusal to engage with the empirical evidence and other normative approaches. The ethics of immigration control and migrant rights are not and never will be clear-cut which is precisely why we need to have continued and open debate.

After describing some of the reasons I provide for protecting equality of rights, Leighton says – and appears to be surprised – that “... [Ruhs] enters the discussion about which rights to restrict as somewhat of an apologist” (Leighton 2015, p.281). If ‘apologist’ means ‘reluctant’ then Leighton is fully correct – as I explain in the *PoR* and above, any argument for restricting migrant rights is, in my view, very difficult given the competing moral demands and the moral dilemma. I argue my case within a “second-best” environment where first best solutions (a high degree of openness and full equality of rights for lower-skilled migrants) are simply not available. I argue for a realistic approach that aims to combine the “real” with the “ideal” – so I obviously feel uncomfortable about any compromises that I have to make as part of that approach. An admission of personal moral struggle around these issues is, in my view, a strength rather than a weakness. I am inherently suspicious of anybody who proclaims to have found the “one right moral response” to a particular policy dilemma without engaging with other arguments and normative approaches.

The Global Political Economy of Migrant Rights

International debates about the global governance of labour migration have almost completely ignored the trade-off between openness and rights. I hope that *The Price of Rights* can help encourage more debate between people and organizations that call for the liberalization of policies on low-skilled labour immigration in high-income countries because of its potential benefits for migrants and development (such as the World Bank and the United Nations Development Programme), and international organizations and migrant rights advocates that demand more equal

rights for migrant workers (such as the International Labour Organization and the Office of the High Commissioner for Human Rights).

Michelle Leighton concludes her review of *PoR* by arguing that “this is probably not the book you would need to read if you are seeking or giving advice on how to improve migration governance. In the end, it fails to deliver any useful prescription for the modern debate” (Leighton 2015, p.283). This assessment is in stark contrast to very positive reviews and endorsements of the book by officials at the World Bank (David McKenzie says that the book is “a first-rate contribution to current policy and academic debates”, also see McKenzie 2015) and the IOM (Frank Lazcko says that this “excellent” book will be “of great interest to policymakers and migration experts across the globe”) as well as by migrant rights organisations and scholars. Don Flynn, Director of the Migrant Rights Network, suggests that “this book lays down some challenging ideas on how we should think about the rights of migrants and needs to be read by everyone concerned with these issues” (also see Flynn 2014). Susan Gzesh (2014, p.21) argues that “In successive GFMD [Global Forum on Migration and Development] meetings and at the 2013 UN High Level Dialogue on International Migration and Development, civil society and migrant observers have continued to insist on a frank and honest discussion of human rights — a discussion which has been repeatedly frustrated. Hopefully Ruhs’ provocative book will help begin that discussion.” (for links to all 25 reviews of the *PoR* so far, see <http://priceofrights.com/thebook.php>).

I am listing these examples of other book reviews not because I want to “counter-balance” Michelle Leighton’s largely negative review with more positive ones (I knew my book would generate debate so I very much welcome both positive and critical reviews) but because I want to highlight the very different responses to the book by officials at different international and national organisations concerned with migration, migrant rights and development (I realise, of course, that all these reviews, including Michelle Leighton’s, were written in a personal capacity and do not necessarily represent an agreed “institutional view”). I find Michelle Leighton’s review disappointing because she fails to engage with any of the empirical evidence in *PoR* but still suggests that it is not worth having this debate.

Given its mandate and long history of protecting and promoting labour rights, including the rights of migrant workers, the ILO can, and in my view should, play a key role in research and debate on the linkages between migrant rights, labour migration and development. Past ILO research on employment, especially around the ILO’s ‘decent work’ agenda, identified and explicitly engaged with potential trade-offs between the quantity and quality of work available (e.g. Godfrey 2003). I hope that

the ILO will decide to publicly engage with the important question of how we should respond to trade-offs between openness and rights in labour immigration policies around the world.

References

Alba, F. (2015) “*The Price of Rights: Flexible Accommodation vs. All-Encompassing Norms?*”, *Migration Studies* 3(2): p.295-

Cox, A. and E. Posner (2009) “The rights of migrants”, *New York University Law Review* 84(6): 1403-63

Emilsson, H. (2014) “Who Gets In and Why? The Swedish Experience with Demand-Driven Labour Migration – Some Preliminary Results”, *Nordic Journal of Migration Research* 4(3): 134-143

Engblom, S. (2014) “Reconciling Openness and High Labour Standards? Sweden’s Attempts to Regulate Labour Migration and Trade in Services” in Cathryn Costello and Mark Freedland (eds), *Migrants at Work: Immigration and Vulnerability in Labour Law* (Oxford, Oxford University Press, 2014).

Flynn, D. (2013) “The Migrant Rights Conundrum: What Are We Campaigning For?” London: Migrant Rights Network; <<http://www.migrantsrights.org.uk/blog/2013/11/migrants-rights-conundrum-what-are-we-campaigning>>

Global Commission on International Migration (GCIM) (2005) *Migration in an Interconnected World: New Directions for Action*. Geneva

Godfrey, M. (2003) “Employment Dimensions of Decent Work: Trade-Offs and Complementarities”, Discussion Paper DP/148/2003, International Institute for Labour Studies. Geneva: ILO.

Gzesh, S. (2014) “Book Review of *The Price of Rights: Regulating International Labor Migration*”, *Journal of Migration and Human Security* 2(1): 15–22

Leighton, M (2015) ‘Review: *The Price of Rights: Regulating International Labor Migration*’, *International Labour Review* 154(2): 277-283

Ruhs, M. (2013) *The Price of Rights: Regulating International Labor Migration*, Princeton University Press, Princeton and Oxford

Ruhs, M. and B. Anderson (eds), *Who Needs Migrant Workers? Labour Shortages, Immigration and Public Policy*, Oxford University Press, Oxford