

**The Price of Rights:
Regulating International Labor Migration**

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**THE
PRICE
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REGULATING
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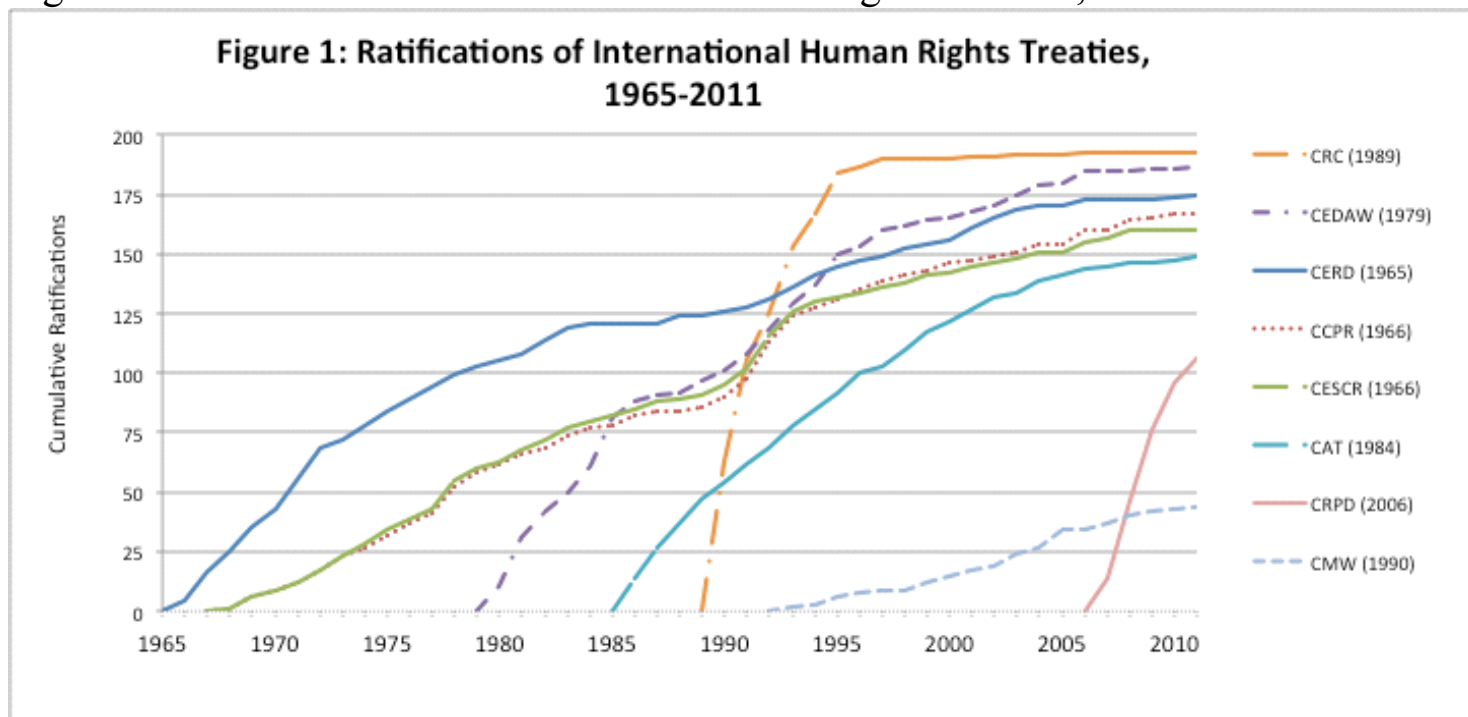
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The Human Rights of Migrants: Why do so few countries care?

Figure 2.1 Ratifications of International Human Rights Treaties, 1965-2011



CERD = International Convention on the Elimination of All Forms of Racial Discrimination;
CCPR = International Covenant on Civil and Political Rights;
CESCR = International Covenant on Economic, Social and Cultural Rights;
CEDAW = Convention on the Elimination of All Forms of Discrimination Against Women;
CAT = Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
CRC = Convention on the Rights of the Child;
CMW = International Convention on the Protection of All Migrant Workers and Members of their Families.
CRPD = Convention on the Rights of Persons with Disabilities
Source: See <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en> accessed in December 2011

Approach

- Reframing the debate about migrant rights
 - intrinsic value; human rights
 - instrumental role of rights; shaping effects of international labour migration
 - Migrant rights as labour immigration policy:
(i) openness, (ii) selection; (iii) rights
- How and why do HICs restrict migrant rights?
 - analyse effects of rights for RCs, migrants and SCs
 - migrant rights cannot be studied in isolation of admissions policy (selection and openness)
 - key distinction: what “is” and what “should be” be

Terminology

- International labour migration
- Labour immigration policy
- Migrant workers
- ‘Migrant receiving’ and ‘migrant-sending’ countries
- Rights
- Legal labour migration

Three hypotheses

H1: openness positively related to skills targeted

- Complementarities; externalities and spill-over effects; fiscal effects; social capital

H2: Some migrant rights positively related to skills

- High skilled workers relatively scarce globally; int. competition for HS migrants; race to the top
- “Unlimited supply” of LS workers; impacts? costs of some rights (e.g. income-based benefits) inversely related to skill;

H3: negative relationship between openness and some migrant rights for low/medium skilled migrants

- Political economy: fiscal and distributional effects

Measuring migrant rights and openness

- Two separate indices that measure:
 - the “openness” of labour immigration programmes in high and middle income countries to admitting migrant workers
 - the legal rights granted to migrant workers after admission
 - Distinction between programmes for low, medium and high skilled migrant workers
- Health warning
 - Methodological challenges
 - Strategy: transparency

46 countries with pop > 2 million

High-income countries (34):

- East Asia and Pacific: Australia, Hong Kong, Japan, Korea, New Zealand, Singapore, Taiwan
- Europe: Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Netherlands, Norway, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, UK
- North America: Canada, US
- Middle East: Israel, Kuwait, Oman, Saudi Arabia, United Arab Emirates.

Upper-middle-income economies (9):

- Argentina, Brazil, Columbia, Dominican Republic, Malaysia, Mexico, Poland, Turkey, Venezuela

Lower-middle income economies (3):

- China, Indonesia, Thailand,

Definition of migrants and skills

- Focus on migrant workers legally admitted for the primary purpose of employment
- Excluded: students, asylum seekers/refugees, family/dependents, self-employed, au-pairs, working holiday-makers, free movement migrants
- Distinction by skills targeted by the programme:
 - Lowskilled: less than high school
 - Skilled: high sch. or equiv. (skilled trades)
 - Highskilled1: bachelor degree or equivalent
 - Highskilled2: higher degree or equivalent
- Year of analysis: early 2008 and early 2009 (today 2009) ⁹

I 04 programmes in 2009

Table 1: Labour immigration programmes in the sample, by targeted skill level, country income classification, and region, 2009

	onlyLS	LS	MS	HS1	HS2	onlyHS2	Total # programmes	Share in total
HIC1 (30 countries)	11	30	28	40	41	10	71	68.3%
HIC2 (4 countries)	4	7	4	5	5	0	9	8.7%
U-MICs (9 countries)	2	9	11	12	14	5	21	20.2%
L-MICS (3 countries)	0	0	0	3	3	0	3	2.9%
Europe (18 countries)	6	17	17	22	23	6	39	37.5%
Eastern Europe (3 countries)	4	5	2	3	3	0	7	6.7%
North America (2 countries)	2	4	3	4	7	3	11	10.6%
Latin America and .. (6 countries)	2	6	7	9	11	4	15	14.4%
East Asia (3 countries)	1	2	1	3	4	1	6	5.8%
South East Asia (6 countries)	1	4	5	7	6	1	12	11.5%
Western Asia (6 countries)	0	6	6	6	6	0	7	6.7%
Australia and New Zealand	1	2	2	6	3	0	7	6.7%
Total (46 countries)	17	46	43	60	63	15	104	

Openness index: 12 indicators

Quota:

- existence, type and size of quota

Demand restrictions:

- job offer; labour market test; limited occupations/sectors; economic fee; conditions of employment; trade union involvement

Supply restrictions

- nationality and age; gender and marital status; skills requirements; host country language skills; self-sufficiency

Migrant rights index: 23 indicators (*legal rights*)

Civil and political rights (5):

- Vote; stand for elections; form association; equal protections before criminal courts and tribunals; documents not confiscated

Economic rights (5):

- Free choice of employment; join trade unions; equal pay; equal employment conditions and protections; redress (employment);

Social rights (5): [time element explicit; 2 sets of indicators]

- Equal access to: unemployment benefits; public retirement pension schemes; public educational institutions and services; public housing inc. social housing; public health services

Residence rights and access to citizenship (5)

- time-limit on residence; employment-residence link; convictions-residence link; direct access to citizenship; redress;

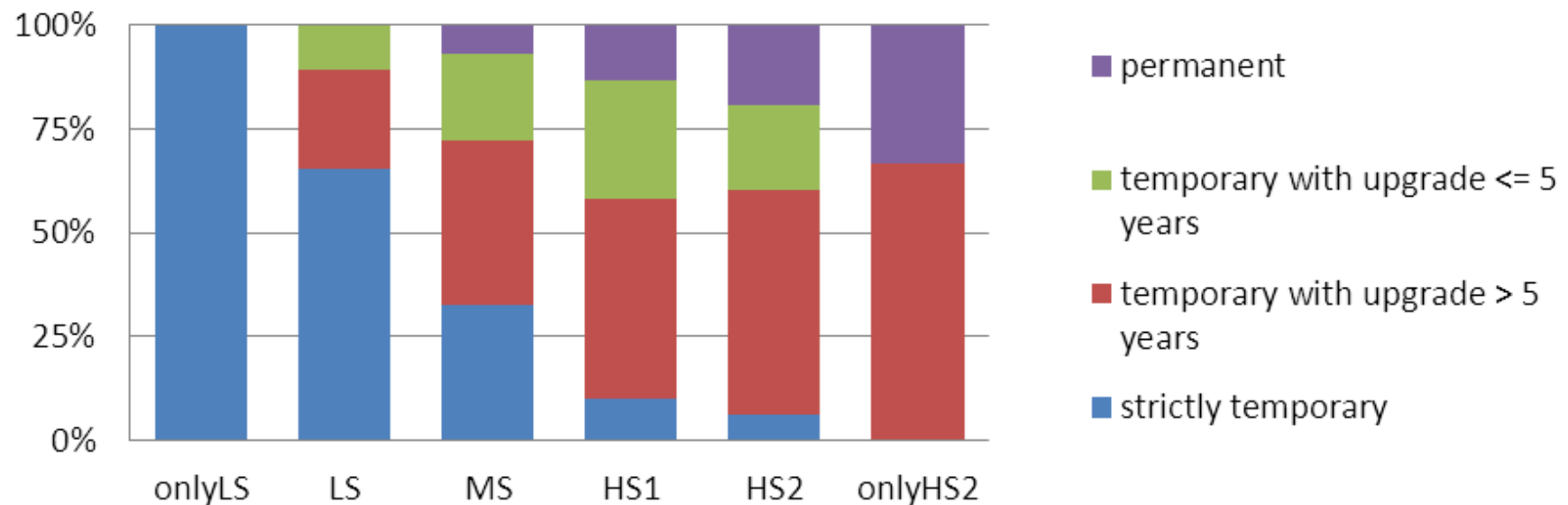
Family reunion and spouses' work rights (3)

- Family reunion; spouse's work right; judicial remedy

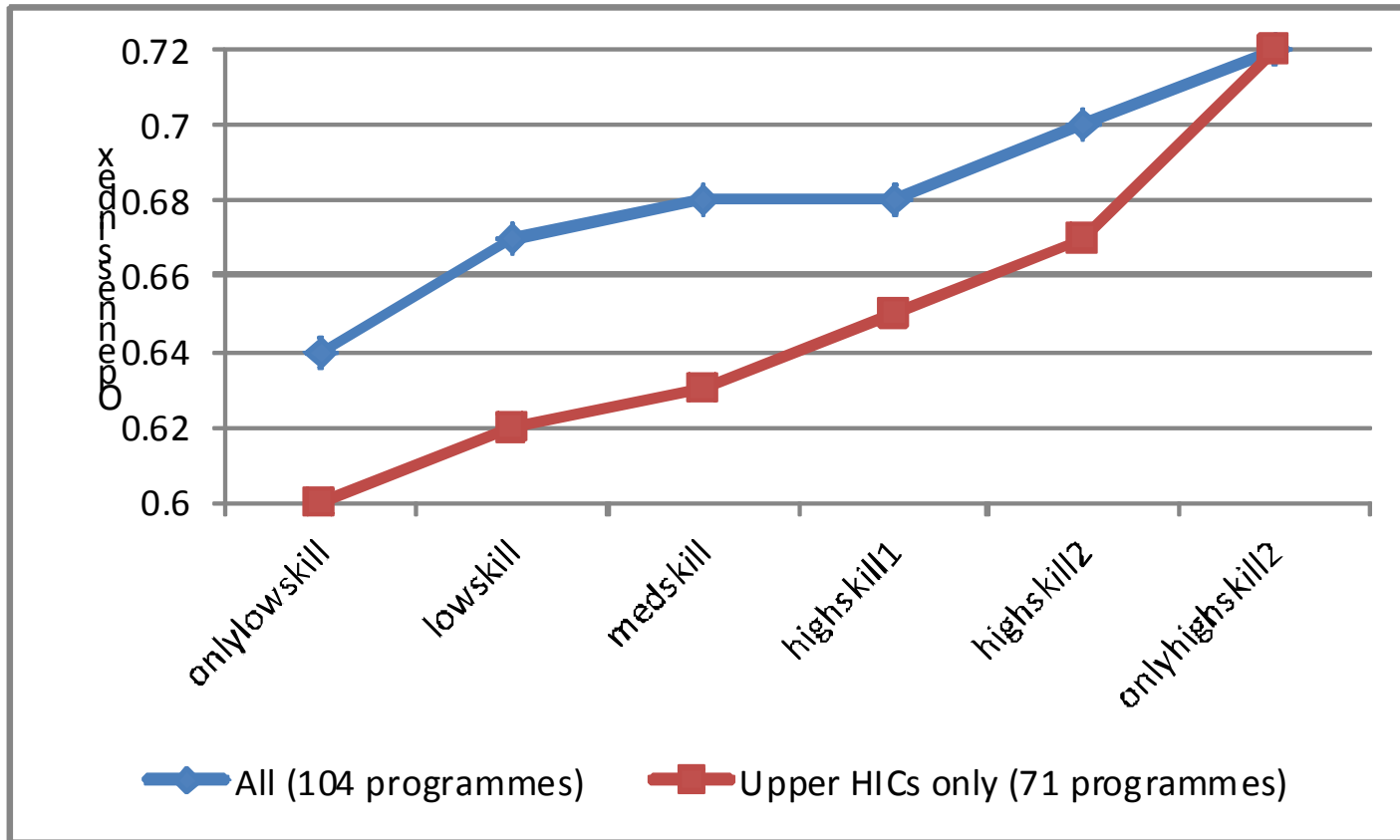
I. TMPs predominate

2. PMPs limited to high skilled

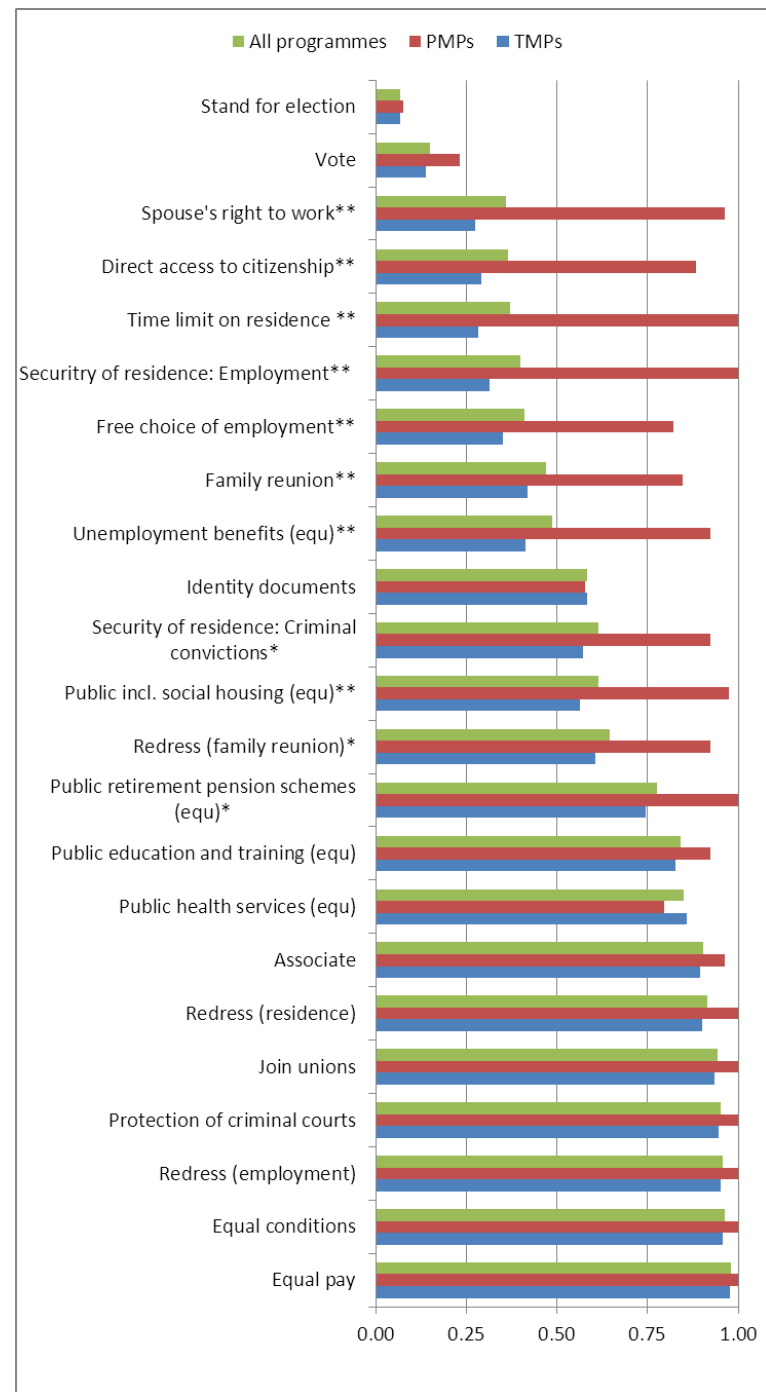
Figure 4.1: Temporary and permanent labour immigration programmes by targeted skills, 2009



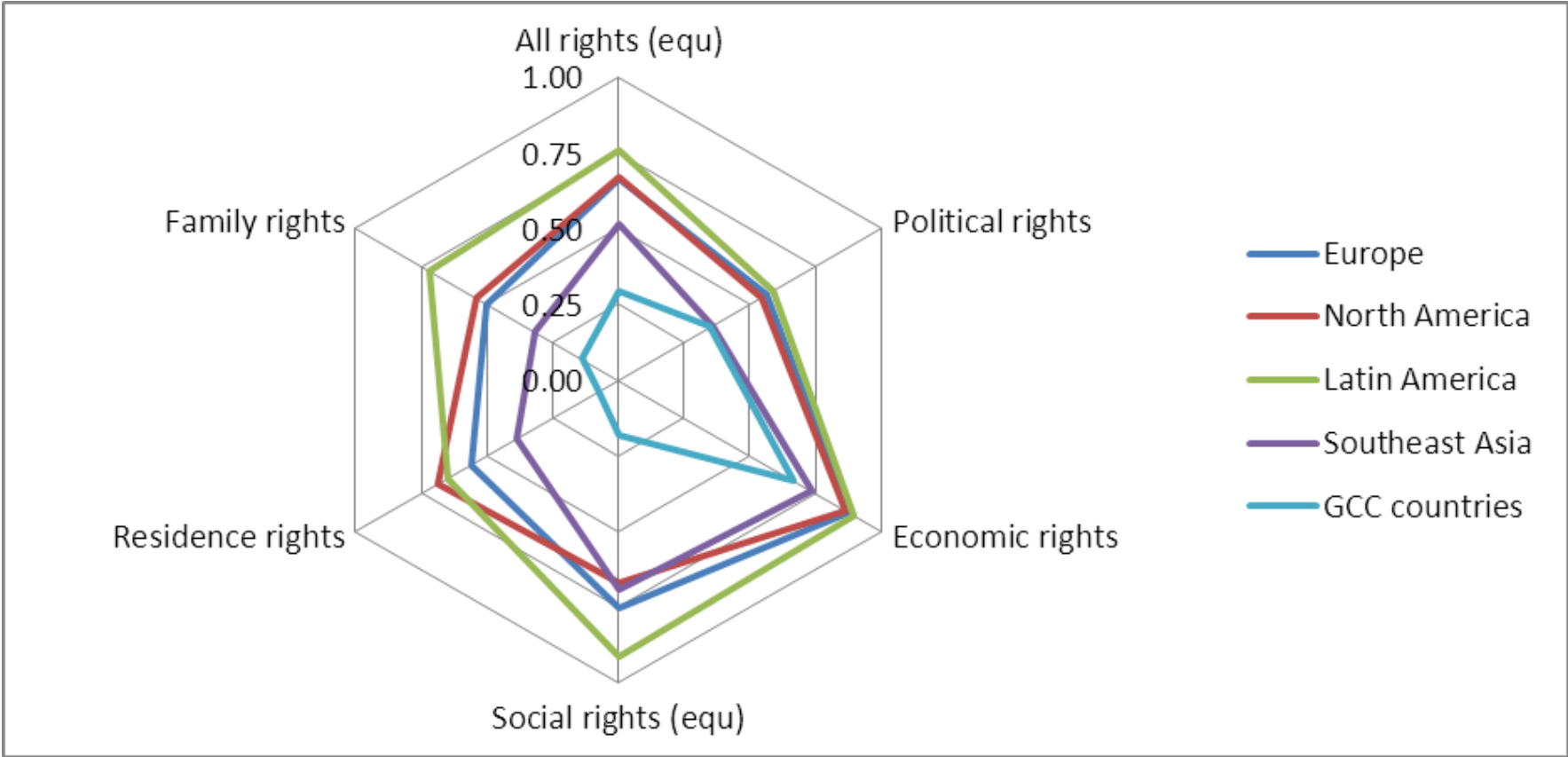
3. Openness positively related to skill level targeted (HI)



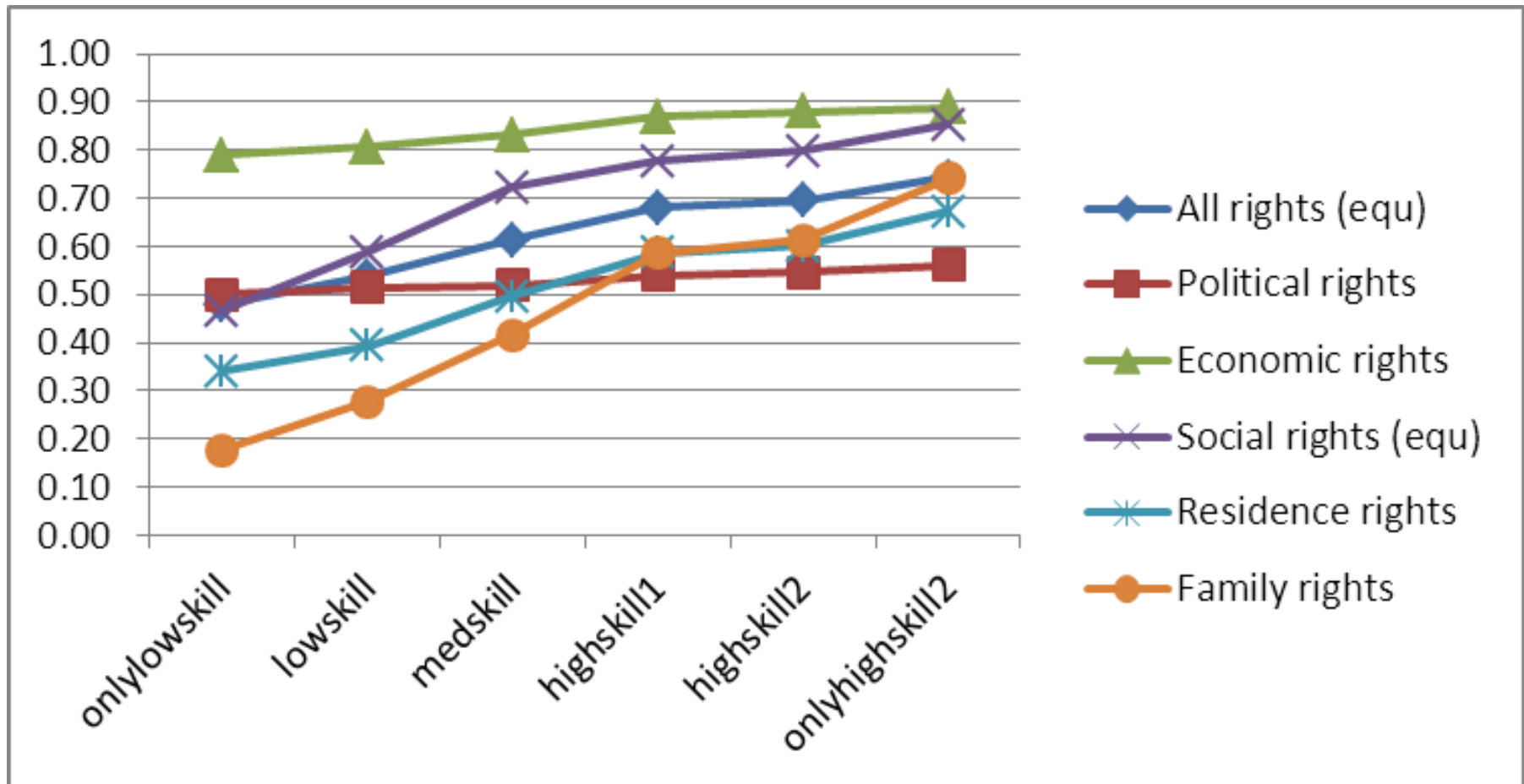
4. Variation in restrictions across different rights (all programmes , 2009)



5. Rights restrictions vary across regions (all programmes , 2009)



6. Rights restrictions inversely related to targeted skills (H2) , all programmes , 2009



7. Trade-offs between openness and some rights

Table Correlations between rights (aggregate and sub-indices) and openness, high-income countries only (hic1==1; N=71)												
	Openness											
	all skills	onlyLS	LS	MS	HS1	HS2	onlyHS2		onlyLSMS	LSMS	HS12	onlyHS12
	71	11	30	28	40	41	10		21	39	50	32
Aggregate rights (equ)				-0.3413	-0.4021	-0.349					-0.285	
				0.08	0.01	0.02					0.04	
				28	40	41					50	
Aggregate Rights (abs)				-0.3237	-0.4338	-0.375					-0.31	
				0.09	0.001	0.02					0.03	
Political rights												
Economic rights				-0.3723	-0.311							
				0.05	0.05							
Social rights (equ)				-0.32	-0.33	-0.3391					-0.2337	
				0.094	0.03	0.03					0.1	
Social rights (abs)					-0.43	-0.41					-0.298	
					0.01	0.01					0.035	
Residence rights				-0.327	-0.36	-0.3					-0.25	
				0.089	0.02	0.056					0.08	
Family rights					-0.33	-0.31					-0.26	
					0.04	0.04					0.06	

Policy rationales in high-income countries

- Trade-off between openness and some rights
 - US 1990s: “immigration yes, welfare no”
 - EU Accession in UK and Ire in 2004
 - Equal rights as tool for restricting A8 immigration in Sweden; Laval Case
 - New TMPs for low-skilled in Can and Aus
 - Trading openness against rights in GCC countries
 - Singapore (trade-off involves civil/political rights)

Perspectives of migrants and their countries of origin

- Migrants
 - Large gains from migration
 - Different dimensions of human development
 - Element of choice and trade-offs; dual frame of reference
 - Sending countries
 - Dual objectives: emigration and rights
 - Many empirical examples: Asian countries to GCC; LA countries to US and Can; access vs equal treatment in EU posted workers directive; wage parity in GATS
- Mode 4

Ethics (in one page! => chapter 7)

- Trade-offs as “second-best”, “dirty hands” policies
- Most likely clean hands alternative: exclusion
- firewall around civil and pol. rights except right to vote and right to family life;
- Allow temporary restrictions: social rights (income-based), free choice of emp, family reunion, access to permanent residence and citizenship
- Restrictions need to be evidence-based and lead to greater openness
- Information before departure and protection of exit options

What next for rights-based approach to international labour migration?

- ➔ Potential blind spots of human rights based approach: what about “more migration”? “Insisting on equality of rights can come at the price of more restrictive admission policies”
- ➔ Most UN agencies have been reluctant to engage with the tension between openness and some migrant rights
- ➔ I argue for:
 - Distinguishing between core rights and other rights that can be temporarily restricted (➔ list of core rights?)
 - Liberalise low-skilled labour migration through TMPs that selectively and temporarily restrict some rights
 - Open debate

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