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Immigration and International Law

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Abstract

At a time when many states are increasing restrictions on immigration, others are using formal agreements on international economic migration to open their borders. The use of international agreements on migration is surprising as most states can open their borders to migrants unilaterally. Yet, I argue that when states cannot generate large enough flows of migrants or the right type of migrants to fill open positions in the labor market, they turn to the sending state to help them. States that need migrants can negotiate a bilateral labor agreement with a sending state, which then acts as a recruiter, helping to channel labor to the receiving state. This paper details the conditions under which immigrant receiving countries use these treaties and tests the implications of the argument on a new dataset on migration treaties. This paper increases our understanding of an emerging phenomenon in international law.

In recent years, politicians on the right have decried states' inability to control immigration, arguing that immigration is "completely out of control;"[1] that countries are under attack from immigrants as "Africa wants to kick down our door;"[2] and that the borders need to be secured by the military.[3] Immigration, in this view, is a shock that countries must deal with. Much of the International Political Economy scholarship on immigration too has focused on how the public perceives this shock.[4] Yet, this belies the fact that states — and the politicians who run them — not only control migrant flows but also shape them.[5] This paper focuses on how governments have sought to both *increase* and *shape* economic migration through the use of international law, much like states have done in trade and in foreign direct investment. While we do not often think of migration as a policy domain that has been heavily legalized, international treaties on migration have been increasingly used by states to manage migration flows.

One of the most surprising areas of cooperation on migration is in the area of bilateral labor agreements (BLAs) that provide for the movement of workers from one state to another. While cooperation on refugee resettlement — a global public good[6] — or on preventing and repatriating undocumented immigrants — an area in which wealthy countries pay "hush

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[1]Boris Johnson, https://www.theguardian.com/politics/2016/jun/27/eu-referendum-reality-check-leave-campaign-promises.

[2]Victor Orban, http://www.dw.com/en/hungarys-pm-viktor-orban-warns-of-immigration-threat-at-na a-42999604.

[3]Donald Trump https://www.cnn.com/2018/04/03/politics/trump-border-wall-military/index.html.

[4]For a review see Hainmueller and Hopkins (2014).

[5]For a similar analysis of trade, see Farrell and Newman (2016).

[6]E.g. Thielemann and Armstrong (2013).

money" to developing states for their cooperation[7] — seem like natural areas for cooperation, labor migration may not.[8] As Krugman (1997) notes about trade, states should *usually* be able to open unilaterally and obtain the labor they want, especially in today's world in which the demand to migrate is high (Gallup 2017) while the supply of legal opportunities to migrate is declining (Peters 2017). Yet, countries have signed 779 BLAs since World War II, suggesting that these agreements serve an important function for states.

I argue that BLAs help fill the gap when a state's unilateral policy does not bring either the number or kind of workers that it needs. When unilateral policy fails, it opens up space for cooperation. Now, sending states have something — a pool of labor — that receiving states want. Receiving states, then, are willing to give up some control over migration to the sending state and ensure that sending state citizens have greater protections than they may have had without a treaty.

BLAs help solve two problems that receiving states may face when they open their borders to labor unilaterally. First, there are the opportunity costs of a position going unfilled, known as *vacancy costs*. Vacancy costs increase when a state needs a lot of labor quickly. They can also increase due to the lack of migrant networks from sending states to the receiving state. Because migrants choose their destination based on both economic opportunity and established networks,[9] states that may be attractive locations given their wealth may still lack the networks that make migration happen. For example, even though Australia and Canada have had similar GDPs per capita, Canada has attracted more migrants because of its proximity to Europe and the Americas. The vacancy problem may be due to the attractiveness of the industry rather than the state. The Bracero program between the US and Mexico, for instance, helped to ensure workers went into agriculture instead of higher

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[7]E.g. Money (2013).

[8]See Betts (2011) for an overview of cooperation on migration.

[9]For a review, see Fitzgerald, Leblang and Teets (2014) and Massey et al. (1993).

paying industry. Finally, the pool of workers may be small. The small pool problem is most acute for workers with special skills. States can create unilateral programs to attract these workers, but workers do not always respond to these programs.[10] BLAs help solve this problem by channeling migrants to the receiving state and generating new migrant networks, which perpetuate themselves even after the treaty has ended.

Second, BLAs help when states need migrants with certain skills. Determining who has the relevant skills, known as *screening costs*, may be difficult because countries often use different educational and technical qualifications for the same job. This is especially true for formally educated workers, but also applies to positions where technical, on-the-job training is needed. BLAs help ameliorate this problem by shifting some of the screening and recruiting costs to the sending state.

As I show below with newly collected data on 779 BLAs, under most agreements the sending country creates a program in conjunction with the receiving country in which it recruits applicants for migration and screens them for the receiving country. The receiving country approves the applicants and gives them a visa to migrate. In this way, the sending state serves as a middleman, or matchmaker, making it easier for employers to find workers and workers to find employers. Sending states are willing to take on these responsibilities to increase the benefits of emigration, including remittances and training, and to obtain some protections for their citizens abroad.

By delegating to the sending state, the receiving state risks that the sending state will shirk its duties and send the wrong kind of labor — less skilled or less motivated — than the receiving state wants. To overcome this problem, the receiving state must carefully choose who it contracts with, partnering with states that have the capability to run the program effectively and the preference to send the "right" migrants. As such, receiving states contract with more developed states that have the administrative capacity to run a migrant labor

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[10]For example, Germany created a "Green Card" program in 2000 similar to the H-1B program in the US to help firms attract technology workers but has received few applicants.

program, a stock of relatively skilled workers, and, yet, often do not have enough jobs for these workers at home. These states, especially if they are autocratic, have an incentive to reduce unemployment through migration (Miller and Peters 2018; Peters and Miller 2018).

Studying BLAs helps shed light on why there has been less legalization of economic migration than in other areas of globalization. Compared to the thick legalization of trade through the GATT/WTO and the multitudes of bilateral investment treaties (BITs),[11] the numbers of BLAs look quite small and the cooperation thin.[12] This paper suggests that unlike trade in which unilateral openness is hard to maintain politically (Bailey, Goldstein and Weingast 1997) or investment in which unilateral openness often does not lead to the flows of capital a state wants (Elkins, Guzman and Simmons 2006), the ability of most states to open their borders unilaterally and obtain the flow of migrants they want means that cooperation has been limited.

Yet, BLAs are becoming an increasingly used tool in international relations. In the last 20 years, their geographic scope and numbers have increased. They may increase even further under the Global Compact for Migration, which seeks to create pathways for safe, orderly, and regular migration, and prioritizes cooperation on migration between states. Further, bilateral labor agreements have lead to some of the most important flows of migrants in history: Mexicans to the US under the Bracero program, Turks to Germany, Moroccans to the Netherlands, and, more recently, Latin Americans to Spain. Understanding why they are formed may help us understand the future direction of flows. This paper also contributes to the literature on matchmakers or intermediaries in international economics that has often been applied to trade.[13] The application of these types of models to migration may further

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[11]For example, there were over 2000 bilateral investment treaties signed in the 1990s alone (UNCTAD 2009).

[12]See also Hollifield (2000).

[13]E.g. Antras and Costinot (2011).

increase our understanding of these flows, as brokers and smugglers increasingly mediate migration. Finally, understanding how cooperation can occur in an area in which we would not expect it may shed light on how to get cooperation in other areas in which cooperation is seen as difficult.

Variation in Bilateral Cooperation on Migration

While there were some earlier instances of bilateral cooperation, the vast majority of the treaties have been signed since 1945. The first recorded BLA was between South Africa (the Transvaal) and Portuguese officials in Mozambique for mine workers in 1893 (Bommarito, Katz and Poast 2011). Since then BLAs have been signed, for example, between the US and Mexico (the Bracero Program), Turkey and Germany, and, more recently, by Japan and the Philippines. To compile the data, I consulted a several sources, including the World Treaty Index (Bommarito, Katz and Poast 2011), the International Organization for Migration's *International Migration Law Database*, and the UN Treaty Series.[14] All treaties that were specifically about the movement of migrant labor from one country to another were included. Treaties on refugees, repatriation of migrants, undocumented migrants, and the rights of migrants already in a state are not included. Also, I do not include the multilateral reciprocal migration treaties, like those in the EU, ECOWAS, or MERCOSUR. Appendix B in the in the supplementary files provides additional details about the compilation and coding of the dataset.

Figure 1 shows the growth in these treaties over the past 60 years. Between 1945 and 2015, 779 treaties have been signed governing the flow of labor migration. Of these treaties, 650 were new agreements and 129 were amendments or extensions of programs. This is likely

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[14]Sources include Al Tamini & Company (2010); Bommarito, Katz and Poast (2011); Booth (1992); Basok (2007); Chilton and Posner (2017); Geddes (2003); International Organization for Migration (2011); Marshall (2000); OECD (2004); Rohn (1983); The United Nations (2011). See Appendix B in the supplementary files for more details.

Figure 1: Number of treaties per year
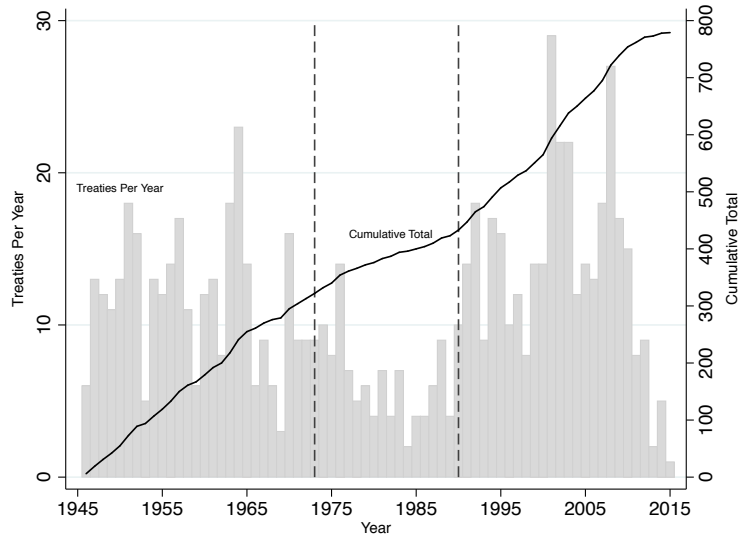
an undercount of the number of treaties, especially in more recent years, as many nations do not report these treaties to the UN (or other international organizations) or report them several years after they sign them.

We can split the treaties into three waves: from 1946-1973, 1973-1990, and 1990 to today. For receiving states BLAs tend to be products of good economic times when labor is needed and vacancy costs are high. In the first era, most of the treaties were signed by European receiving states, many of which had very low unemployment, with other European countries or with North African countries (see Figure 2). These were the classic "guestworker" programs of the 1950s and 1960s. There were also several treaties signed by Australia and countries in Latin America as receiving states and European countries as sending states that provided assisted passage for migrants, usually people with experience in industry or agriculture, who would settle permanently. This era ended with the abrogation of many guestworker and settler programs during the economic downturn of the First Oil Crisis. In the 1970s and 1980s, some wealthy, Middle Eastern oil states (the winners from the oil crises) began to sign treaties. In the late 1980s when economic growth returned, western European countries again signed BLAs. Many of these BLAs were for so-called "project workers," who would

be hired by a firm in their home country to work on a project in the receiving country in a manner similar to "seconded" workers in the EU today. Both the number of treaties signed and the diversity of receiving countries have also increased in recent years, with more treaties signed by Persian Gulf and East Asian states, especially Japan and South Korea.

The geographic spread of BLAs provides some insight into why states sign these treaties. For example, the UK has signed 13 new treaties while France signed 96 and (West) Germany signed 60 over the same time period. We might think that UK, France, and Germany would attract a relatively similar number of migrants given that they are similarly wealthy. The low number of treaties signed by the UK is not due only to the UK's role as a colonial power, given that France signed many BLAs, nor due to its use of common law, as both Australia and Canada have signed many agreements, either. Instead, the UK is a more attractive location for migrants due to its use of English; many migrants already speak some English or have a desire to learn English.

There has been greater geographic spread in the states that have signed as sending states (Figure 3). In the first period, 1946-1973, most of the sending countries were from Southern Europe or North Africa. Additionally, some Northern European states signed as sending states on treaties with Australia and countries in Latin America at the same time they signed treaties as receiving states. In the middle period, 1974-1989, and the later period, 1990-2015, the diversity of senders increased with more Latin American countries signing treaties as senders with European partners (primarily Spain and Portugal) and more South and Southeast Asian states signing treaties with Persian Gulf or East Asian partners.

Sending states tend to sign when economic growth is slow and unemployment/ under-employment is high. For example, many of the European states that were ravaged by World War II, including Italy, the Netherlands and Germany, signed treaties immediately after the war, when unemployment was high. When their economies began to grow again and unemployment fell below structural levels, the Netherlands and Germany became receiving states. In the case of Spain, Italy, and Portugal, these states too became receiving states once they

Figure 2: Receiving Countries that Signed Treaties & Number Signed in Each Period

(a) 1946-1973

(b) 1974-1989

(c) 1989-2015
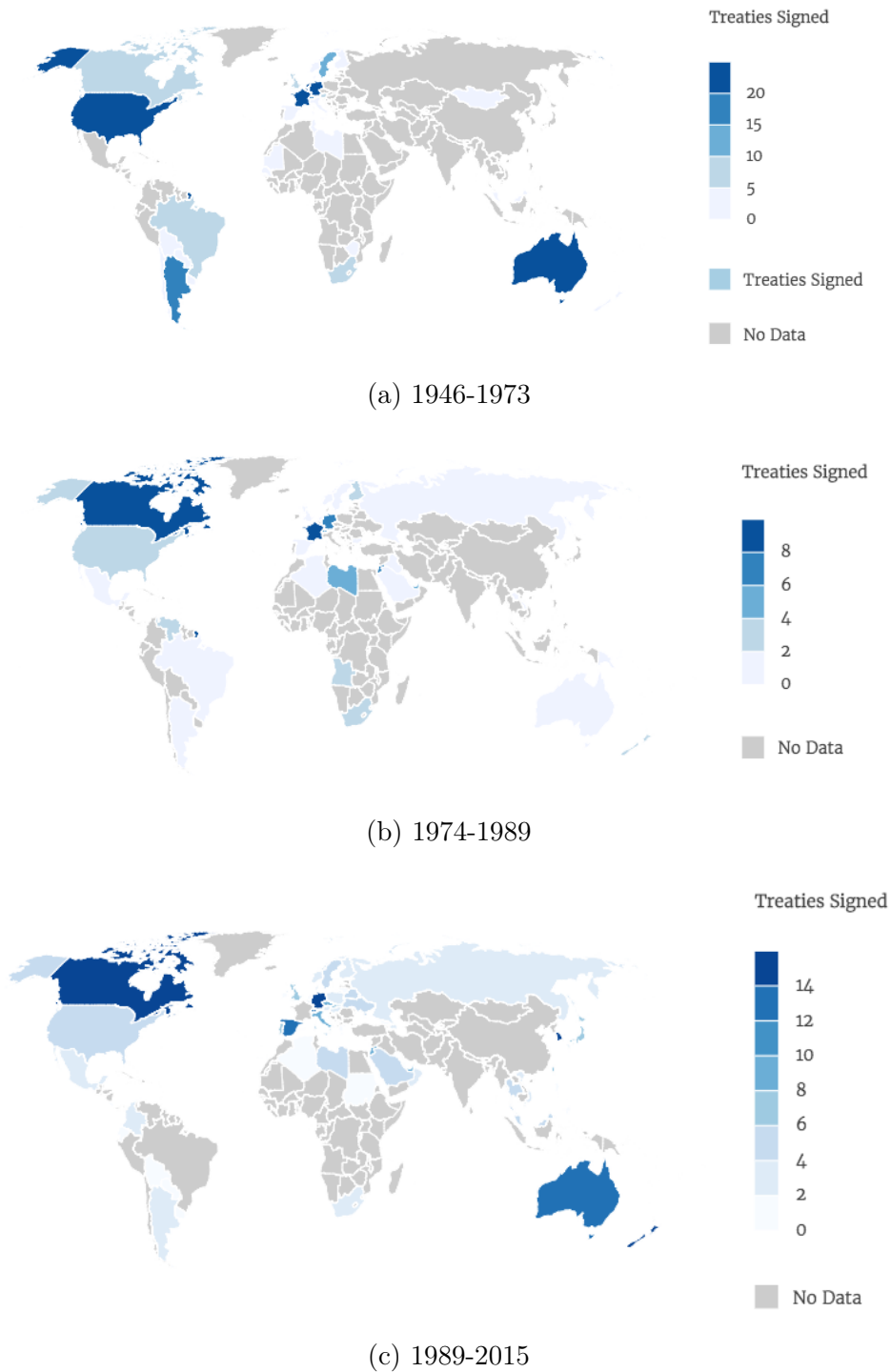
had developed. Today, new middle income countries have taken the place of these older sending countries: prior to their entry into the EU, many Eastern European countries signed

Figure 3: Sending Countries that Signed Treaties & Number Signed in Each Period
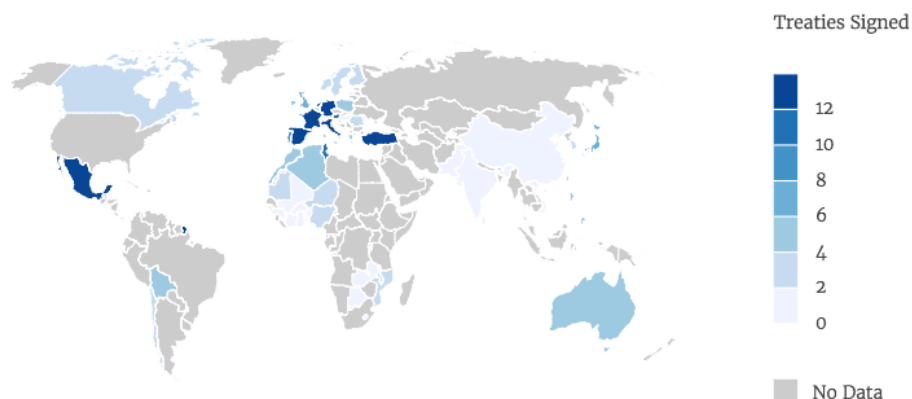
(a) 1946-1973
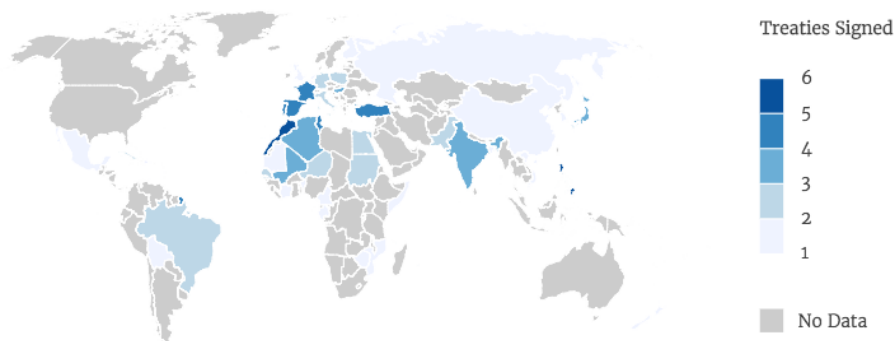
(b) 1974-1989
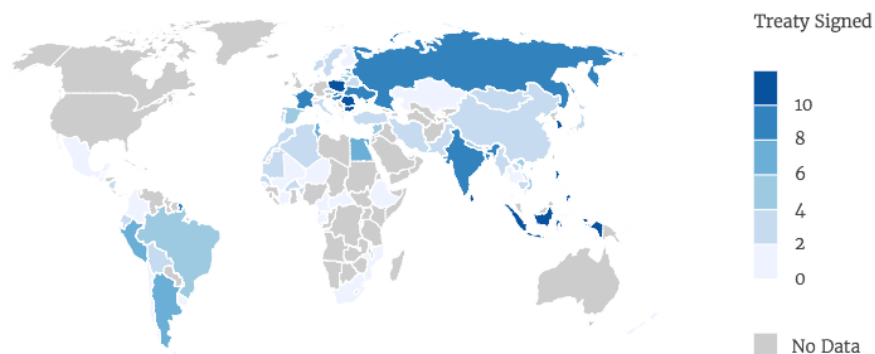
(c) 1989-2015

treaties with Western European countries; many Latin American countries have signed with Spain; and many middle income Asian countries with the wealthier nations of Asia. Often sending countries sign treaties with multiple partners.

Due to the different industries covered by BLAs, they vary in their effects on the flow

of migration. BLAs that cover most industries often start or greatly increase the flow of migrants where there was none before. For example, prior to the treaty between the Netherlands and Morocco in 1964, there are no recorded migrants from Morocco entering the Netherlands, but the year after the treaty was signed (1965) the flow increased to almost 9,000.[15] Yet, in other cases treaties may have little effect on the total flow of migrants, as they are designed to cover only one or a few industries. For example, a 2007 BLA between Bahrain and the Philippines covers only Filipino health workers, which accounted for less than 3% of the migrants from the Philippines to Bahrain in 2008 (Blank 2011).

A final aspect of BLAs is that they lack enforcement mechanisms but they often have mechanisms to help implementation. I coded the text of the treaties that were registered with the UN Treaty Series (218 treaties) to gain a better understanding of them.[16] No BLA has had provisions for adjudicating disputes between the receiving state and the sending state on the number of migrants or their quality, but many of them created commissions to help with implementation (51%). The most important violation on the part of the receiving state is likely to be a decrease in the number of migrants it accepts, but there is no mechanism by which the sending state can punish the receiving state, since the sending state is only consulted on this issue in 19% of the treaties; few treaties stipulated the number of migrants to be sent (15%); and in those that did, the number was only valid for a few years before it would be renegotiated. Most often, the number of migrants was to be negotiated each year.

The literature has focused on three main explanations for these treaties. Most prominently, scholars argue that wealthy countries with poor human rights records sign BLAs with sending countries, which are concerned with the labor rights of their citizens abroad (Blank 2011; Chanda 2009; Chi 2007; Plotnikova 2012). Chilton and Posner (2017), making a variant of this argument, hypothesize that wealthy countries should be more likely to sign

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[15]Data from Fitzgerald, Leblang and Teets (2014).

[16]Appendix B in the supplementary files list more details on the coding of these treaties.

these agreements when they need labor and when the receiving and sending countries have different political regimes to secure the rights of their citizens abroad. While this argument may have some explanatory power, it cannot explain why a country like Germany, which has a good human rights record, has signed onto many BLAs. Moreover, these treaties have very few teeth, making it unlikely that workers rights will be respected. Further, when rights haven't been respected, sending countries have done little but complain (Ruhs 2013). A second argument given for these treaties is that they ensure that migrants cannot access the social welfare system and are more likely to return home, as they remain citizens of the home country (Sykes 2013); although, we know that this does not always happen, as was the case of guestworker programs in Europe of the 1950s and 1960s. Additionally, many authoritarian receiving states limit the rights of migrants without a treaty (Peters 2017; Ruhs 2013), providing less support for this argument. Finally, other scholars have focused on BLAs' repatriation provisions as a reason that receiving states sign treaties; in this way, the receiving state governments seek to ensure that migrants go home (Brown 2008; Plotnikova 2012). Nonetheless, only about a third of the BLAs include provisions on repatriation. We are, thus, left with the question of why receiving countries would sign these treaties.

Explaining the Use of BLAs: The Matching Problem

First and foremost, receiving states that sign BLAs must be willing to open their labor market to at least some foreign workers. Assuming this is the case, when does the state choose to open through a treaty? I argue that receiving states only sign BLAs if they cannot obtain the foreign workers they want by opening unilaterally. In this case, there are gains to trade, so to speak, as the receiving state will trade some authority over migration to the sending state in return for much needed workers. Below, I first explicate the basic matching problem; then I describe the conditions under which a receiving state is likely to sign; discuss why a sending state would sign a BLA; and finally discuss why states rely on a treaty rather

than allowing private recruiters to solve the matching problem.

The Basic Matching Problem

We know from economics that principals turn to middlemen when middlemen have a better probability of making a match or can make the match sooner (Rubinstein and Wolinsky 1987; Yavac 1994). In the classic framework, the employer hires the middleman, who uses their specialized knowledge to find workers. The literature on middlemen highlights two factors that lead to their use: vacancy costs and screening costs.

Vacancy costs are the opportunity costs of leaving a position unfilled, such as the costs of crops rotting in the field for lack of labor. These costs increase when the pool of available workers decreases, increasing the time it takes to find a match (Rubinstein and Wolinsky 1987). This problem can be solved by using a middleman, who has specialized knowledge or connections to workers that allows them to quickly fill the position. For example, firms often turn to temp agencies when they need many workers quickly. The temp agency has access to a pool of available labor that it has already screened to ensure the workers have the qualifications, however basic, that the employer needs. Employers turn to temp agencies, and pay their fees, because doing so saves them the cost of advertising the position and interviewing potential candidates.

In addition to vacancy costs, firms can face screening costs, the costs of determining if the candidate has the correct skills for the position. Screening costs increase as the skills needed increase because fewer candidates possess those skills and determining whether the candidate possesses those skills becomes more difficult. For example, firms often turn to headhunters to fill senior management positions because these positions require skills that can be hard to judge and headhunters have specialized knowledge to find candidates with those skills, saving the firm from acquiring that knowledge.

The matchmaker acts as a gatekeeper, steering workers to employers as he or she wishes. Employers, therefore, have to be careful who they contract with. Similarly, receiving coun-

tries must also be careful to contract with countries that will send workers who will not cause political problems by, for example, using the social welfare system or committing crimes. As such, receiving states, like firms, have to choose middleman who have similar preferences.

When do Receiving States Sign BLAs?

I argue that receiving states sign BLAs primarily when they have high vacancy costs and/or high screening costs. In these cases, it is worth giving up some authority over migration and providing assurances to the sending states on the rights of their migrants in return for much-needed labor.

In the case of migration, high vacancy costs can occur when states cannot get the labor they need. Labor force participation may affect vacancy costs; states that already have high levels of labor force participation combined with low unemployment have very few reserves of labor to draw upon when the economy heats up. In these cases, states may be willing to give up some authority over migration to quickly increase their labor force and prevent inflation. For example, the Netherlands signed many of its BLAs during the 1960s when unemployment was extremely low (under 2%; Van Zanden 2005.)

Vacancy costs may also occur when states lack migrant networks connecting them to sending states. While migrants decisions over location are often driven by economic opportunity, migrant networks can increase those opportunities by providing information about employment opportunities, funding for migration, supporting for the migrant while s/he looks for work, and the like (Massey et al. 1993). Migrant entrepreneurs often act as labor recruiters, creating networks. For example, merchants from Kerala, India, who had trading ties in the Persian Gulf, helped establish the networks from Kerala to the Gulf once oil prices spiked in the 1970s (Martin 1996; Nair 1991). These networks became self-reinforcing, as migrants connected their employers with friends and family back home (Nair 1991).

BLAs can fill the gap when there are no entrepreneurs to facilitate migration. Most importantly, the sending state can advertise the position, using its knowledge of where

potential migrants — such as unemployed and underemployed workers — can be found. In this way, BLAs can help receiving states quickly increase migration from the sending state and provide the receiving state a benefit that it could not achieve otherwise.

One implication of this network formation is that once a BLA has been in place for a few years, the receiving state is less likely to sign additional BLAs, at least in the near to mid future. Networks take a few years to develop and, thus, it may be the case that a states signs additional BLAs with other partners in the first few years after signing a BLA, especially if labor markets are very tight. BLAs with additional countries may also be needed if a BLA fails to produce as many workers as needed. To return to the Dutch example, the Netherlands signed a BLA with Spain in 1961, but Spain already had a BLA in force with France (1956), signed a treaty with Switzerland that same year, and another with Austria in 1962. The Dutch-Spanish BLA, then, might not have provided as many workers as anticipated, leading the Netherlands to sign additional treaties with Portugal (1963), Morocco (1964), and Turkey (1964). Farther in the future, once migrant networks have matured, flows may decline because the sending country has "aged out" of being a sending country due to economic growth and/or changing age profiles (Massey, Durand and Pren 2016). At this point, new BLAs may be needed. Switzerland fits this pattern: in the 1960s it signed BLAs with Italy and Spain and then signed BLAs with Eastern European countries in the 1990s when Italy and Spain were becoming countries of immigration instead of emigration. Finally, a state might sign multiple new BLAs with a single country (in addition amendments to existing BLAs) if previous BLAs focused on a specific industry. These temporal dynamics may help explain some of the "lumpiness" in the signing of BLAs in which receiving states sign several in a few years and then do not sign BLAs again for decades or at all.

The US-Mexico Agricultural Labor Treaty signed in 1942, also known as the *Bracero Program*, provides an example of when vacancy costs lead to a BLA. In many ways, it is puzzling that the US signed a labor migration agreement: the income differential between

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the US and Mexico at the time was vast, so one would think that the US should have been able to open unilaterally and obtain the migrant labor it needed. The proximate cause of the BLA was the entry of the US into World War II and concomitant increase in the demand for labor. Yet, labor shortages alone had not been enough to lead to a treaty in the past. During World War I, Southwestern farmers lobbied successfully for temporarily waiver of existing immigration laws that prevented the recruitment of Mexico agricultural labor, including the head tax and the contract labor law (Reisler 1976, 29). The program was a unilateral policy shift, not a bilateral treaty, but worked to provide labor for agriculture.

The Great Depression's disruption of migrant networks made unilateral action insufficient. During the Great Depression, domestic migrants from the Dust Bowl states moved to agricultural areas in California and elsewhere in the Southwest. This domestic labor replaced Mexican migrant workers, often by force (*Labor Troubles* 1933). In addition, in many areas Mexican migrant workers were deported (*The Mexican Labor Issue* 1954; Reisler 1976). Together, these factors broke existing migrant networks. When additional migrant labor was needed, farmers could not rely on existing networks and, instead, used the assistance of the Mexican government. Once the Bracero Program started, migrant networks quickly replicated themselves. When the Bracero Program ended in 1964, farmers did not face the predicted shortage of labor, as migrant networks led to the migration of new workers.[17]

BLAs can also help with the problem of screening. While it may be difficult for an employer in a foreign country to know whether a migrant has the requisite skills, the sending state government is in a better position to judge. Sending states presumably know what their credentialing system is like and can translate qualifications for the employer. For example, a BLA between the Canadian province of Manitoba and the Philippines stipulates that the states will collaborate to "ensure that the needs of employers for workers with

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[17]Massey, Durand and Pren (2016) show that after the Bracero Program ended, the former Braceros continued migrating as undocumented immigrants and created networks that led to large flows of Mexicans until the 2000s.

the appropriate skills are met through training and credential recognition activities" (Blank 2011, 193). Similarly, a Japanese-Filipino BLA for nurses and health workers — skilled and semi-skilled positions that require some training but do not pay enough to entice local workers — provides much guidance on the screening of skills that will be completed by the Filipino government (Blank 2011). By providing screening, the sending country can help match qualified migrants to employers.

The need for skilled migrants and screening is reflected in many treaties. In a majority of the treaties we coded (61%), the sending country is responsible for screening migrants, for health (44%), education (15%), experience (17%), and/or skills (16%). In 12%, the treaty explicitly mentions that the migrants must be skilled in some industry, often in agriculture, construction, manufacturing, mining, or healthcare. As with vacancy costs, increasing screening costs provide an opportunity for cooperation, as the receiving state trades some authority for access to skilled workers.

While BLAs increase the pool of labor, the receiving state must carefully contract with sending states that are unlikely to shirk by sending "low-quality" workers. As with any agent, there are two ways to ensure that the agent complies: writing a (more) complete contract or choosing an agent with similar preferences (Bendor, Glazer and Hammond 2001). Writing a complete contract for, in many cases, thousands of workers is difficult. Instead, it is easier for the receiving state to contract with a sending state that has similar preferences.

What kind of state should the receiving state contract with? The receiving state, even if it does not need workers in high-skill jobs, would like high productivity workers and productivity is often signaled through education.[18] Further, low-skill workers pose a disproportionally large political problem, as seen in survey data (Hainmueller and Hiscox 2010). The sending state, of course, would like to keep its high-skill/ high-productivity workers and, therefore, has an incentive to shirk by sending "low-quality" workers. Finding a reliable treaty partner becomes even more important when receiving states are looking for migrants with greater

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[18]See the canonical Spence (1973) signaling model.

skills, as the incentives to shirk increase. The receiving state, however, could protect itself from shirking by choosing a treaty partner that has less incentive to shirk and has the administrative capacity to implement the program effectively. Given these incentives, the receiving state should choose a relatively developed sending state that has a large population of (semi-) skilled labor, even if it does not need to fill positions needing skills.

Why do Sending States Sign BLAs?

In the case of the employer-middleman relationship, the employer typically pays the middleman for their services. In the case of BLAs, I have found no cases in which the receiving state pays the sending state, through bilateral aid or other payments, for their services. Instead, the receiving state "pays" in the loss of some control over the migration process by delegating the selection process. The sending state, then, pays for the recruitment and screening of workers (as well as transportation costs in 20% of the treaties).

There are several reasons that a sending state may take on these functions. First, as in the case of emigration in general, the sending state hopes to receive remittances. In 26% of treaties, remittances were explicitly mentioned. Most of these mentions were in treaties signed in the 1940s through 1960s: 33% of treaties signed from 1945 through 1972 explicitly mention remittances, whereas only 11% mention them after 1972. During this time period, many states had capital controls that limited the sending of remittances, especially through official channels. Sending states, which were often on a fixed exchange rate, wanted the remittances sent through official channels to help their balance of payments position and BLAs helped achieve this goal. Further, sending states also used BLAs as a way to open sending state organizations in the receiving country (Schmitter Heisler 1985). These organizations, explicitly mentioned in 10% of treaties, are used to maintain ties with workers overseas, in hopes that these ties will encourage higher levels of remittances and investment

or return migration.[19]

Second, sending states want to reduce unemployment. While some states may be concerned with brain drain, there are many states that are concerned with high levels of unemployment or underemployment. Reducing unemployment, especially that of more skilled citizens, increases social and political stability (Bhagwati and Hamada 1974; Miller and Peters 2018; Peters and Miller 2018). Sending states may also want to send higher educated and more productive workers abroad because those workers will make more money and send home greater remittances and gain technical skills that they transfer to the home country, leading to knowledge transfer.

BLAs also give migrant workers some protections against exploitation, similar to how bilateral investment treaties protect investors from expropriation by host countries. The treaties often provide a sample contract that include language on working conditions (12% of all treaties); say migrants cannot be paid less than a certain rate, usually not less than natives (46%); include language about working conditions, again usually that migrants must be treated the same as natives (37%); and/or allow migrants to join a union (5%). Protection against exploitation might also lead to increase remittances; a concern migrants often have is that they will be paid less than promised (or not at all) or that they will be injured on the job, which would lower the amount of money they could send home. BLAs help lower the risks that migrants face.

There are also less benign reasons that a sending state would want to sign a BLA. BLAs create rents for the sending state government. Sending state governments can use these visas as patronage to increase support for their regime, as the PRI in Mexico did under the Bracero program (Fitzgerald 2006); target the visas at opposition strong holds or areas with high unemployment to decrease opposition, as the Morocco did in the 1960s (Brand 2006);

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[19]Authoritarian governments also used these organizations to spy on migrants abroad to ensure they were not organizing opposition (Brand 2010; De Haas 2007).

or demand bribes for the visas, as again was the case under the PRI (Fitzgerald 2006).

Given these benefits, most sending states that are willing to allow emigration in general are willing to sign BLAs. For example, the Philippines has proposed 35 BLAs to various receiving states since 1979 of which only fourteen have been executed; in five of the 21 failed cases, the receiving country simply declined to negotiate (Go 2004). Nonetheless, not all sending states will be offered a treaty. Only those with relatively high levels of education are likely to be treaty partners, as less developed states may not be able to control corruption within the program. Yet, we do not expect receiving states to contract with the most developed states because few people emigrate from these states.

The 1960 Netherlands-Italy treaty for workers is a fairly typical example of the treaties we coded; it shows how receiving states used treaties to obtain workers and the sending state used them to ensure protections for their citizens, partly in hopes of obtaining remittances.[20] Article 1 of the treaty says that the Netherlands would contact Italian officials "every six months of the number of workers, classified by skills, who it considers can find employment in the Netherlands." The Italian Government would then send the Dutch government "information on the available workers who are capable of meeting the demand" (Article 2). The Italian government was supposed to "publicize" the offers of employment, as well as preform medical and vocational pre-screening (Article 5). The Dutch government made the final selection of the workers (Articles 3 and 4). Workers would be given an offer including "precise information as to the nature, type and duration of the employment, the remuneration, the conditions of work, the housing and feeding facilities and any other necessary and useful particulars" (Article 4). The contract had to be written in both Dutch and Italian and approved by both governments (Article 8). The treaty also further discussed working conditions and that they had to be similar to natives (Article 11). It specified that "both countries shall give sympathetic consideration to any steps taken by Italian and Netherlands social and religious organisations to facilitate the adaptation of Italian workers," (Article

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[20]Available from the UN Treaty Series, No. 6546.

15) — allowing Italy to keep ties with its workers — and that "Italian workers may transfer the whole of their remuneration, in accordance with the Netherlands currency regulations in force" (Article 16) — allowing Italian workers to remit.

Why use a Formal Agreement?

One final puzzling aspect of these treaties is that receiving state governments contracted with sending state governments rather allowing private actors to recruit workers. One reason for a formal agreement is that the receiving state government may want to preform "quality control." When firms choose migrants, they focus on the aspects of the migrant that make them most successful at the firm rather than those who are most likely to be successful in the country (Jasso and Rosenzweig 1995). In contrast, when governments choose candidates, they are more likely to be selected for characteristics that are important for integration in the country as a whole. As even temporary migrants interact with natives, choosing migrants who are more likely to integrate may be politically important.

The receiving state government could always screen after a private firm had found a migrant worker. However, this increases the amount of time it takes to hire the worker, which may make the program less useful to employers. The H-2A program for temporary farm labor in the US, for example, follows this model. Employers find a prospective migrant worker and then the migrant worker applies for a visa. Employers, then, may go through the process and expense of finding foreign workers and still find that the prospective employee's request for a visa was denied. There have also been cases of significant hold up at the border such as when, in the summer of 2015, a computer glitch prevented the State Department from processing visas for these workers for weeks. Further, because issues like compensation and working conditions are negotiated ahead of time, there may be fewer disputes or workers walking off the job after they get to the receiving country (Blank 2011).

Having the receiving state government undertake the recruitment circumvents this problem. Workers who are eligible to be hired already have the government's approval. Further,

the expense of recruiting is undertaken by the sending state, which reduces the cost for employers. While neither the receiving state nor the sending state has particular competence in the recruitment field, the fact that the governments bare the costs and risk that a potential employee will not be approved is worth the cost in efficiency.

Given that the sending state government has some incentive to shirk — either purposely sending less qualified workers or inadvertently sending them in returns for political support or bribes — why does the receiving state contract with the sending state government and not a private recruitment firm in the sending state? First, in many developing nations, there may not be a recruitment agency to work with and/or government employment agencies may already exist. Second, in many cases, the sending country pays some of the recruitment costs. Thus, while the sending state may not have a particular competence in recruitment, going through the state is likely less expensive. In addition sending state governments may already possess much of the information that is needed for screening, including employment history, and criminal and health records. Third, many sending states control emigration to a greater or lesser degree (Miller and Peters 2018), ensuring that the sending state's approval is needed at some point during the process. As with the receiving state, it may be easier for firms if they get this approval up front rather than waiting for it after selecting workers. Finally, and perhaps most importantly, sending state governments have an incentive to keep the program going over many years. Because of this incentive, they are less likely to shirk than a private firm by sending unqualified workers and they are likely to help prevent the overstay of migrants, ensuring they return home. For example, under Canada's seasonal agricultural workers program with Jamaica, more than 200,000 visas have been issued since the program began in 1966 due to a low overstay rate of less than 1.5% (Basok 2007; Nelson 2015).

Empirical Methods

To test my argument, I examine why some dyads have signed migration treaties. Because migration tends to be a one-directional flow, the universe of cases is all directed dyads.[21] I do not discard any dyads that are "politically irrelevant" because it is unclear which dyads are "politically irrelevant" to migrants.[22]

In table 1 below, I use a rare events logit model — to correct for the small number of events — with robust standard errors clustered by dyad to examine the support for my argument as well as the alternatives. Model 1 is the base model and model 2 includes variables to examine the alternative explanations and additional control variables (see below). Dyad-years in which a new, originating treaty is signed take a value of 1 and all other dyad-years take a value of zero. I include only originating treaties, and not all treaties, because most amending treaties and supplementing treaties focus on issues with the current migration program rather than establishing a new program and thus may be signed for different reasons. As a robustness check, I include these treaties and find similar results.[23] Following the conflict literature, these models capture "treaty onset" by dropping observations for the years when the treaty is in effect (Beck, Katz and Tucker 1998).[24] Also dropped are dyad-years when both states were members of the EU and freedom of movement had been established, as there was no need for a BLA.[25] A "years since treaty" variable and its square and cube are included

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[21]Created using the NewGene software (Bennett, Poast and Stam 2017).

[22]Many dyads, however, are excluded due to lack of data on the independent variables.

[23]See Appendix A Table A7 in the supplementary files.

[24]To determine when treaties were abrogated, I relied on data on treaty abrogation from UNTC and secondary sources, including Calavita (1992), Castles (1986), and Ongley and Pearson (1995). For all other dyads on which I have no information, I assume that their treaties are still in force.

[25]The results are similar with a Markov transition model (see Appendix A Table A2 in

to correct for dependence between observations in dyads (Carter and Signorino 2010).[26] For dyad-years prior to treaty signing and dyads that never sign a treaty, this variable takes the value of the number of years since 1946, when the dataset starts. Once a treaty has been signed, the count starts again at 1 the following year.

My argument that these treaties are used to solve vacancy and screening problems leads to several observable implications. The problem of vacancy costs should be greater when the *reserve pool of labor* in the receiving state is lower. I define the reserve pool of labor as everyone who is not currently working but could be employed if wages are high enough. This includes the unemployed and discouraged but also women engaged in childrearing, students, and retired persons. When this pool shrinks, there are few natives who can join the labor force and a state may turn to a BLA to quickly increase the labor force. To measure the reserve pool of labor, I use data from the Conference Board's (2017) Total Economy Database, dividing the number of employed persons by the total population.[27] When this variable increases, the reserve pool decreases, making a treaty more likely. I lag this measure by one year in case the BLA affects natives' labor force participation.

Another characteristic that is likely to lead to greater vacancy costs is the remoteness of the receiving state. Migrants prefer to travel to shorter distances and, thus, states like Australia are at a disadvantage in attracting migrants in comparison to similar states. Due to their relative unattractiveness, these states should be more likely to sign a BLA. In the

the supplementary files) and without dropping the years under a treaty (see Appendix A Table A3 in the supplementary files).

[26]I have also included splines instead (Beck, Katz and Tucker 1998) and the results are similar.

[27]In addition to better capturing the concept, this measure also has better data coverage than the World Development Indicators (WDI) unemployment statistics. Its data comes from the ILO labor statistics, as the WDI does, but supplements missing data with several national, regional, and scholarly datasets to provide a more complete set of statistics.

analysis below, I include a measure of which takes the value 1 if a country's mean distance from all other countries is greater than the 75th percentile of the mean distance distribution and zero otherwise.[28]

The cost of screening tends to rise when the economy needs more skilled labor, making receiving states more likely to sign a BLA. To determine whether states need more skilled labor, I use labor productivity in the receiving state lagged one year, again to account for any effect of the treaty on labor productivity, as the need for skilled labor increases with labor productivity (Helpman, Itskhoki and Redding 2009). I use a measure of productivity, output per hour worked (logged) from The Conference Board (2017), as it has the greatest data coverage.[29] I also include the size of the receiving country's economy (logged GDP from The Conference Board 2017) as we think that larger economies need more workers.[30]

I include measures to examine whether receiving states sign treaties with sending states that are unlikely to shirk. Dyads in which the sending states has more high skilled workers will be less likely to shirk because they have large pools of semi- and high-skill workers. I use years of schooling for the population 25 and up in the sending state as the measure of skill from Barro and Lee's (2010) Educational Attainment Dataset. The Barro-Lee dataset measures education for every 5 years starting in 1950; to account for the years in between, I use the interpolated data from Graham and Tucker (2016).

Sending states are also less likely to shirk when they have low growth in employment. These states are likely to have more citizens who are unemployed or underemployed that they are willing to send abroad to increase economic activity at home through remittances and decrease social and political strife. I use this measure, instead of the unemployment

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[28]The effects of remoteness are non-linear and are substantively similar if we include mean distance and mean distance squared or use a different cut point for the indicator. See Appendix A Table A4 in the supplementary files.

[29]Results are substantively similar with output per worker.

[30]I do not include GDP per capita as it is highly collinear with productivity.

rate or labor force participation, as employment growth is likely to affect the expectations of the populace in sending states. After years of increasing employment, a slow-down in employment may be more problematic to the ruling regime than chronic low employment, as expectations have changed. Sending states with low employment growth, then, are more likely to want to sign a treaty and abide by its rules, making them better treaty partners. To measure employment growth, I use the Conference Board's (2017) measure of employment growth in the sending state. I also include the sending state's GDP as we might think that larger, more developed sending states have greater capacity and are less likely to shirk.

There are alternative explanations for why states might sign treaties, which I control for in Model 2. The most plausible alternative is issue linkage: given that migration is a politically sensitive issue, receiving states might be willing to sign a migration treaty if they get something in return (Hansen 2011). While none of the treaties explicitly contain issue linkage, it is possible that states link migration to another issue in two different treaties. To control for issue linkage, I use include an indicator taking a value 1 if the dyad signed a different economic or aid agreement in the year of signing a BLA and 0 otherwise.[31]

Another possibility is that receiving states sign BLAs to credibly commit to keep immigration open. This explanation is less plausible given that the BLAs lacked enforcement measures, but they nonetheless may serve as focal points for commitment. I include several variables to control for this. Following Simmons (2011), autocracies should be more likely to sign treaties, as they cannot commit to policies as well as democracies.[32] In the same vein, scholars argue that receiving states with poor human rights records are more likely to sign BLAs and autocracies typically have poorer human rights records than democracies (Blank 2011; Chanda 2009; Chi 2007; Chilton and Posner 2017; Plotnikova 2012). We also think that states with fewer constraints on the executive lack the domestic institutions that

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[31]Data on economic and aid agreements are from Poast, Bommarito and Katz (2010).

[32]To measure regime type, I follow Mansfield and Pevehouse (2008) and trichotomize the Polity score (Marshall, Gurr and Jaggers 2011).

help them commit; I measure this using the executive constraints variable from Polity IV (Marshall, Gurr and Jaggers 2011). States with many veto players should be less likely to sign a treaty because it is harder to change the status quo; I use Henisz's (2002) measure of political constraints as a measure of veto players. Also following Mansfield, Milner and Pevehouse (2008), I interact veto players with democracy because veto players should have a greater effect in democracies. Finally, democratizing states sign human rights and economic treaties — BLAs contain elements of both — as a way to lock in democratic reforms and to signal they are unlikely to engage in rent seeking behavior, so perhaps that explains why states sign BLAs (Mansfield and Pevehouse 2008; Moravcsik 2000).[33] Finally, I include the minimum distance between the two states of the dyad because the costs of moving migrants increase with distance, which increases the costs for firms, and makes a treaty between the two states less likely[34] and include whether two states were in the same colonial system as either the metropol and colony or two colonies, as we might think treaties are more likely between these states.

Results

Table 1 reports the results of the rare events logit, which are supportive of the argument that receiving states sign treaties to mitigate vacancy and screening costs. Receiving states are more likely to sign treaties when they have smaller reserve pools of labor; the coefficient on the percent employed is positive and statistically significant at conventional levels. If the percent employed increases from the 25th percentile, in which 37% of the total population works, to the 75th percentile, in which 47% of the total population works, the likelihood that

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[33]States are coded as democratizing if the state was an autocracy within the last five years but is now a democracy or anocracy or if it was an anocracy within the last 5 years and is now a democracy.

[34]Data from Weidmann, Kuse and Gleditsch (2010).

the state will sign a treaty almost doubles.[35] Further, countries that are remote, measured as those that are above the 75th percentile in mean distance from all other countries, are more likely to sign a treaty; the coefficient on remote is positive and statistically significant. The effect of remoteness is also large: a remote country is almost three times as likely to sign a BLA than a country that is not remote.

The results also support the idea that receiving states sign these treaties when they need more skilled workers. As labor productivity increases in the receiving state, it is more likely to sign a treaty; the coefficient on this variable is positive and statistically significant at conventional levels. When output per hour increases from $12.40 an hour in 2016 dollars (25th percentile) to $36.81 per hour (75th percentile), the likelihood of signing a treaty almost triples. This holds even as we control for the size of the economy, which often co-varies with productivity.

Further, receiving states are more likely to sign a treaty with a sending state that has a more educated population; the coefficient on years of education in the sending state is positive and significant at conventional levels. When education in the sending state increases from about 1 year on average (25th percentile) to about 8 years on average (75th percentile), the likelihood of signing a treaty almost doubles. Similarly, receiving states are likely to sign treaties with sending states that have had low employment growth. When employment growth increases from about 0.6% (25th percentile) to 3.2% (75th percentile), the likelihood of signing a treaty decreases by about 25%. These sending states have a larger pool of unemployed or underemployed workers, thus are more likely to want a treaty and less likely to shirk.

I find some support for the alternative hypotheses in model 2. As suggested by Chilton

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[35]Marginal effects are computed from a logistic regression to ease computation. The results from the logit are almost exactly the same as the rare events logit; see below. Since signing a treaty is still rare, the absolute change in the likelihood is still small, only increasing by 0.00013. Nonetheless, this translates to about 10% of the baseline rate of 0.0012.

Table 1: Rare events logistic regressions testing the hypotheses

DV: Originating Treaties	(1)		(2)	
Reserve Pool of Labor (RS; 1yr lag)	5.74***	(0.80)	5.46***	(0.86)
Remote (RS)	0.44**	(0.17)	1.05***	(0.20)
Productivity (RS; logged; 1yr lag)	1.01***	(0.12)	0.93***	(0.14)
Years of Schooling (SS; interpolated)	0.08***	(0.02)	0.08***	(0.02)
Employment Growth (SS)	-0.13***	(0.02)	-0.11***	(0.02)
GDP (RS; logged)	0.33***	(0.03)	0.30***	(0.04)
GDP (SS; logged)	0.28***	(0.04)	0.23***	(0.04)
Econ/Aid treaty			0.89***	(0.20)
Anocracy (RS)			-0.32	(0.66)
Democracy (RS)			0.67	(0.69)
Democratizing (RS)			0.34	(0.27)
Veto players (RS)			2.70***	(0.70)
Veto players*Democracy (RS)			-2.76**	(0.93)
Exec Constraints (RS)			-0.01	(0.01)
Same colonial system			0.73***	(0.18)
Minimum Distance			-0.16***	(0.03)
Years Since Treaty	-0.41***	(0.04)	-0.37***	(0.04)
Years Since Treaty Squared	0.01***	(0.00)	0.01***	(0.00)
Years Since Treaty Cubed	-0.00***	(0.00)	-0.00***	(0.00)
Constant	-14.76***	(0.69)	-13.91***	(0.93)
Observations	324,581		317,988	

Standard errors clustered by dyads in parentheses. $^+$ $p < 0.10$, * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. DV takes the value 1 if the dyad signs an original treaty that creates a new labor migration program and a 0 otherwise. All years under a treaty are dropped. Variables labeled with RS refer to the potential receiving state and SS refers to the sending state. See the text for more details.

and Posner (2017), receiving states with larger economies are more likely to sign these treaties. Receiving states are also likely to sign with sending states that have larger economies; the coefficient on sending states' GDP is positive and significant.[36] However, wealth of receiving countries in comparison to the sending country, as measured by the ratio of GDP per capita, seems to have little effect, suggesting that these treaties are not driven by wealth

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[36]I have also run a model with sending state GDP squared to examine whether there are non-linear effects. The square term was insignificant but negative as we might expect.

differentials.[37] A BLA is also more likely when states sign another economic or aid treaty in the same year. As noted, none of the BLAs that we have examined specifically include links to other treaties; thus, this result might not be due to issue linkage per se but due to the fact that these states already have an existing relationship with each other.

It is unlikely that states use BLAs to credibly commit to openness, however. If states needed to credibly commit, autocracies should be more likely to sign a treaty than democracies; however, there is no effect of regime type. Moreover, democratizers are no more or less likely than non-democratizers to sign a treaty.[38] Similarly, increasing the number of veto players has a positive effect on the likelihood of signing a treaty in autocracies and a small negative effect in democracies. Nor is it the case that states with more executive constraints — i.e. those that have the domestic institutions that reduce the necessity of signaling and ensure that commitments are credible — are less likely to sign treaties; the coefficient on executive constraints is small and not significant.

Finally, receiving states are more likely to sign a treaty with a sending state that is closer; the coefficient on the minimum distance between the dyad is negative and statistically significant. Given that travel costs increase with distance and that, in many cases, employers bear the costs of transportation, it is not surprising that receiving states sign treaties with sending states that are relatively close to them. Additionally, treaties are more likely between states in the same colonial system. This is likely due to the familiarity between these states and their often-shared (official) language and, to some extent, shared culture.

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[37]See Appendix A Table A1 in the supplementary files. I do not include the GDP per capita of each country separately as GDP per capital in the receiving country is highly colinear with productivity.

[38]The results are similar if we examine autocratizers.

Extensions and Additional Implications

I also completed several extensions and robustness checks in addition to those listed above. First, I examine whether the results change if we include cubic splines instead of the year since a treaty was signed and its square and cube and find that the results are substantially unchanged.[39] Next, I test whether the level of immigration openness matters using the measure developed by Peters (2015), lagged one year to account for the fact that BLAs are included in the measure of openness.[40] I find that the main effects are attenuated due to the smaller sample but are usually statistically significant at conventional levels. Further, I find, perhaps unsurprisingly, that states with more open immigration policies in the pervious year are more likely to sign a BLA. Next, I include data on (lagged) migrant flow and stock from the sending state using data from Fitzgerald, Leblang and Teets (2014).[41] The main effects are, again, attenuated due to the much smaller sample but are in the same direction and are often statistically significant. I find no effect of the lagged flow but receiving states are less likely to sign a treaty with a sending state from which it has a larger stock of immigrants. This is consistent with the argument; as migrants often flow along pre-established networks, the receiving state is unlikely to need a treaty to attract more immigrants from a sending state that already has sent many migrants. Fourth, I examine whether the results change when we use a logit model instead of a rare events logit and find that the results only vary in the second decimal place.[42] Finally, I also examine both originating and amending treaties together and the results are similar.[43]

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[39]Appendix A Table A1 in the supplementary files.

[40]Appendix A Table A5 in the supplementary files.

[41]Appendix A Table A5 in the supplementary files.

[42]Appendix A Table A6 in the supplementary files.

[43]Appendix A Table A5 in the supplementary files.

I also examine some additional empirical implication of my argument. One implication is that once a receiving state signs a BLA that covers all or most industries a single receiving state, it should be unlikely to sign a new BLA with that sending state once networks have formed. I find evidence consistent with this: 10% of dyads sign another treaty in the 5 years following a treaty; this drops to just over 6% in the next 6 to 10 years; and 7% in the next 11 to 20 years. A second implication is signing a BLA with one sending state may make BLAs with other, similar sending states less likely in the near future. I operationalize similar sending states to be states from the same regions, as neighboring states often (but not always) have similar levels of development and are similarly far from the receiving state. I find that in the five years after a treaty has been signed (inclusive of the year the treaty was signed), 40% of states sign no additional treaties and 75% sign six or fewer additional treaties with states from the same region.

Third, BLAs that cover all or most industries should increase labor flows from the sending country.[44] Further, ending BLAs should not necessarily end the flow of migrants from the sending country, as the BLA has now created migrant networks. To test these implications, I use Abadie, Diamond, and Hainmueller's (2010) synthetic comparative case study method to compare the flow of migrants between a receiving state and a sending state to a synthetic comparison sending state. Data on migration comes from Fitzgerald, Leblang and Teets (2014) and is only available for OECD countries for 1960-2005.[45] I create the synthetic comparison sending country based on GDP and GDP per capita. I use GDP per capita for comparison because we know that migrants move where wages are higher and GDP to control for the overall size of the sending state economy (Fitzgerald, Leblang and Teets 2014).[46] To

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[44]BLAs that cover only one specific industry may not greatly increase flows, as the industry may be relatively small.

[45]There is not data for all states of the OECD for all years.

[46]The other major predictor of migrant flows, distance, was not included as in many cases it would be impossible to create a synthetic case with the same distance.

give an example, I compare flows to the Netherlands from Tunisia before and after a treaty was signed in 1971 and from a synthetic Tunisia which has a similar GDP and GDP per capita in the years prior to the treaty. All other countries that signed a treaty with the receiving country during the same time period (before or after the treaty was signed) were dropped as they too were "treated" with a treaty.

We have flow data to examine the effects of 39 agreements. In 13 of the 39 cases, the signing of the treaty led to an increase in flows of 200% or more on average in the five years after the treaty was signed in comparison to the five years before it was signed. This often translated into an increase in the flow from zero to the hundreds or thousands.[47] In 10 cases, it led to a sizable increase of between a 20% to 180% increase. In the other 16 there was a small increase or decrease in the flow (from 95% decrease to a 7% increase).[48]

We have information about the abrogation of a treaty and flow data for 27 cases. Again, the synthetic comparative case methodology was used. In 14 of the 27 cases, there was a large decrease in the flows of about 50% to 90% on average from the five years before the treaty ended to five years after the treaty ended; in 7 there was a moderate decrease of about 15% to 40% and in 6 there was no discernible decrease or an increase.[49] In no case did the level of migration decrease to zero; all treaties created at least small migrant networks.[50]

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[47]The year a treaty was signed was excluded as I do not have data on when the treaty came into force. For cases in which there were no flows prior to the treaty signing, I used a denominator of 1.

[48]Figures depicting the analysis can be found in Appendix A Figures A31A3 in the supplementary files.

[49]Figures can be found in Appendix A Figures A4-A7 in the supplementary files.

[50]In four of those cases, Sweden-Yugoslavia, Australia-the Netherlands, Australia-Germany and Australia-Italy, the flow of migrants had greatly decreased years before the treaty was ended. In these cases, the abrogation of the treaty may have been a reflection of the new status quo.

Netherlands and Morocco's BLMT in 1964 shows how a treaty can create a migrant network where none existed before. Before the treaty was signed, the Netherlands registered no migrants from Morocco. After the treaty was signed, that number increased to over 8000 and stayed above 2000 in almost every year for the next twenty years. To compare, a synthetic Morocco would have continued to send almost no migrants. When the treaty ended in 1974, flows continued to be high likely because the Netherlands granted family reunification to those guestworkers who stayed, which allowed the migrant network to recruit new migrants in the place of the BLA.

Conclusion

While migration has not been legalized to the extent that trade or capital flows have, there is increasing interest in legalization by states. States have signed agreements on refugees, on repatriation of undocumented immigrants, on preventing undocumented migration by providing aid to transit countries, and the like. One of the most surprising areas of cooperation has been bilateral labor agreements. Given the seeming rise in xenophobia and anti-immigrant sentiment, we might expect that states are closing their borders to migrant workers. Yet, these treaties have grown in numbers and are signed by an increasingly diverse set of countries.

What explains the variation in the use of international law to open borders to economic migrants? I argue that formal treaties are used when receiving states cannot unilaterally obtain the migrant labor they need due to a need for a lot of labor, a lack of existing migrant networks, or the need for relatively skilled migrant labor. Using a new dataset of bilateral labor agreements, I find that receiving states are more likely to sign a treaty when they need labor due to already high levels of labor force participation or when they have trouble getting immigrant labor because they are remote. Further states that need more skilled labor, as measured by high levels of productivity, use treaties more often to help them find the skilled

workers they need. Through these treaties, receiving states obtain the sending state's help in screening migrants and channeling the flow of migrants to the receiving state. Sending states are willing to sign on to these treaties in hopes of protecting their citizens abroad, decreasing unemployment at home, and increasing the flow of remittances.

The use of BLAs presents new questions for migration and IPE scholars and new data to analyze them. I've argued that BLAs help states gain a source of labor when they cannot unilaterally obtain it, but it may be the case that the domestic politics differ as well. Politically, do citizens prefer when their government contracts for specific migrants or do general immigration policies gain more support? Does the source country or specific industry included in a BLA affect public opinion? Would BLAs be a way for politicians interested in openness to get around the problems that unilateral programs face politically? Second, BLAs increasingly include provisions to circumvent human trafficking and to encourage migrants to return home. Scholars should examine whether BLAs are more effective tools to manage migration and deter illegal migration than unilateral laws. Third, in many cases, the BLAs of the past have created large migrant networks between states. We know that migrant networks increase trade, investment, and aid but how have they affected international relations between these states. For example, does the large community of Turks in Germany make Turkey's entry into the EU easier or harder? Finally, scholars should examine why these agreements are typically bilateral rather than multilateral and what that means for future cooperation. For example, bilateral investment treaties (BITs) have been the norm but increasingly states are including investment chapters in preferential trade agreements (PTAs) and even seeking to create new institutions, like the EU's attempt to create a permanent Investment Court System. As BLAs proliferate, will they too be wrapped into PTAs or will migration continue to be outside of other economic relations between states?

While BLAs may never become as ubiquitous as preferential trading agreements or bilateral investment treaties, the increased need for (semi-) skilled labor in the developed world suggests that we may see more of these in the future. For example, as developed states

have increasingly elderly population, necessitating nursing care, we may see more treaties along the lines of the BLA between Japan and the Philippines for nurses and careworkers. These BLAs provide for the training of careworkers at the expense of the receiving country, increasing the pool of educated workers in the sending country without increasing the cost for the sending country. In fact something very similar to the BLAs examined here called "Global Skills Partnerships" (Clemens 2015) is in the "Zero Draft" of the Global Compact on Migration. Yet, BLAs signed today, largely with middle income countries with skilled and semi-skilled workforces, may create migrant networks that mean future BLAs will be unnecessary. This could prevent migrants from the least developed countries from gaining legal opportunities to migrate to the Global North, decreasing the development potential of migration.[51]

The use of BLAs also shows how difficult it is to obtain formal cooperation on economic migration. Unlike in trade, migration often flows in one direction and, unlike investment, does so often without needed additional protections. Formal cooperation only occurs in situations in which receiving states need labor, especially (semi-) skilled labor; they cannot obtain labor unilaterally; and they can find relatively developed treaty partners from which to obtain this labor. Most of the time, states that need labor have high enough wages to attract migrant labor. Further, the majority of potential sending states are less developed states likely to send politically problematic, low-skill migrants. Due to the highly sensitive nature of low-skill immigration in receiving countries, it is unlikely that they will be willing to abdicate control to these less developed states. Thus, while the negotiations over the Global Compact on Migration may lead to a greater number of BLAs in the future, the calls for much deeper cooperation on migration will likely continue to go unheard.[52]

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[51]See also Betts (2011) on the problem of spillovers in migration.

[52]E.g. Castles (2006); Hollifield (2004); Pritchett and Smith (2016) but see Hansen (2011) and Hollifield (2000) for similar skepticism.

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