What does migration control mean?

The link between migration and labour market regulations in Norway, Switzerland and Canada

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WARWICK PAPERS IN INDUSTRIAL RELATIONS
NUMBER 109

October 2017

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Editor's Foreword

The Warwick Papers in Industrial Relations series publishes the work of members of the Industrial Relations Research Unit (IRRU) and people associated with it. Papers may be of topical interest or require presentation outside of the normal conventions of a journal article. A formal editorial process of peer reviewing ensures that standards of quality and objectivity are maintained.

This paper publishes a report of recent research conducted at IRRU, with funding from the ESRC Impact Acceleration Account, on the post-Brexit scenarios for migration and labour market policy. It builds on many years of research on employment in Central Eastern Europe, as well as Central European immigration into the UK (see G. Meardi, *Social Failures of EU Enlargement*, 2012). It also continues a recently renewed attention by IRRU to policy issues, especially around issues of labour market exploitation (see Warwick Industrial Relations Papers nr 101, 102, 105, 107 and 108). This paper benefited from advice and support from colleagues at CRIMT Montreal, FAFO Oslo and the University of Geneva, while only its author is responsible for its content.

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ABSTRACT

This paper compares the labour market policy responses to immigration in Norway, Switzerland and Canada, countries that are often referred to as different 'models' for the future relations of the UK with the EU. Across the three countries, it identifies several labour market policies that act as 'qualitative' controls of labour migration, in a way that is socially and economically more efficient that 'quantitative' controls in the form of work permits or quotas. The paper concludes with policy recommendations for the British case.

Introduction: linking labour market and migration

The UK government is committed to 'control' of EU immigration after Brexit. Yet the meaning of 'control' is all to be defined. As with the movement of merchandise, the movement of workers can be 'controlled' in very different ways. A broad distinction is between quantitative (e.g. quotas, tariffs) and qualitative (e.g. standards requirements) controls. This paper presents an analysis of the pros and cons of these different measures by looking at the recent experiences of Canada, Norway and Switzerland, which are often taken as alternative 'models' of relations with the EU, and which operate different combinations of quantitative and qualitative controls.

Conditions of employment are central to debates on EU migration, which is predominantly work-related. Job shortages are the most-cited reason respondents give when asked why they think the number of immigrants coming to Britain should be reduced (Duffy and Frere-Smith 2014). The EU referendum of 2016 had a class dimension with particularly high rejection of European free movement among low-skilled and low-income workers, and thus has been portrayed as revolt of the 'white working class' (Becker et al. 2017; Evans and Tilly 2017; Gest 2016; Rothwell 2016; Williams 2017). According to British Election Study data, 71% of workers in routine manual occupations and 75% of people without qualifications voted Leave. Low-medium income groups, much more markedly than for the rest of the population, report 'work and finding employment' as one of their three main concerns, and 'migration' as the issue they had least control over (Dunatchyk et al. 2016). More generally, opposition to immigration is related to exposure to labour market pressures stemming from globalization (Dancygier and Walter 2015), and it is exacerbated by austerity policy (Becker et al. 2017) while it is moderated by universal social policies (Martín and Meardi 2014).

Since 2004, British workers have experienced at the same time a large increase of work immigration, and a loss of control on their working life, including employment and wage security, working time, functional mobility, pensions (Rolfe and Hudson-Sharp 2016; Taylor 2017). In the same period, low-wage groups have been negatively affected by rising inequality in gross earnings (Burkhauser et al. 2016). The trends in immigration and in employment conditions are largely perceived as being inter-related, especially because new EU migrants have been subject to insecure and antisocial forms of employment (e.g. agency work, zero-hour contracts) first and to a larger extent, inducing a perceived race to the bottom in employment conditions (Meardi 2012; McCollum and Findley 2015; Raess and Burgoon 2015). Even if the evidence on direct quantitative effects of immigration on jobs and wages is inconclusive (MAC 2014; Ruhs 2016; Vargas-Silva et al.

2016), immigration policies are unlikely to reassure the population if they do not address that double perception of loss of control – i.e. on both work and on immigration.

While 'quantitative' controls may seem the simplest way to address work migration, 'qualitative' ones through labour market regulations are an important policy option too. There are four main reasons for this.

1. As tourist and business travel between the UK and EU is expected by all sides to remain visa-free and the UK Government aims to keep the border with Ireland open (HM Government 2017), even the strictest work immigration controls will not reduce the pool of people available for informal work, which, while of a smaller size in the UK than in most EU countries, is the least 'controlled' form of work that raises most social concerns.
2. UK employers are vocal in demanding a degree of continued access to the EU labour pool after Brexit – and indeed, have been encouraged to access such labour as restrictions on non-EEA migrants have increased (Green and Hogarth, 2017) – and strict numerical controls are unlikely to provide the adaptability to fluctuating demand that is expected by the UK labour market system and business models, for instance in construction (CITB 2017).
3. In the negotiations between UK and EU, there is a trade-off between limits to freedom of movement and access to the single market, especially in services (Sumption 2017). The EU can more readily open access to the single market in the case of corrections to free movement of workers in the form of labour market regulations, rather than those of hard immigration rules, as evident from the negotiations with Switzerland and from multiple declarations of EU-27 leaders.
4. Numerical restrictions may be a way of addressing yesterday's problems: inflows of immigrants from the EU new member states have declined by 50% in 2016/17 (ONS 2017) and are expected to fall further for demographic (very low birth rates in Central and Eastern Europe since the 1990s) and economic reasons (since 2004, unemployment in Poland has fallen from 20% to 5%, and their average wage has increased from 1/5 to ½ of British wages (Eurostat/OECD data)).

Even if public opinion tends to favour immigration controls, there is a distinct lack of clarity on the quantity of immigration that is acceptable. It is therefore arguable that controlling the way free movement occurs is at least as important as controlling its quantity, something immigration controls address: some UK surveys even indicate that if free movement is reformulated in a

'controlled' expression ('mutual right to retire, work and study') a large majority of the UK population accepts free movement (YouGov 2017).

Immigration and labour market regulations have already been intertwined in British policies. The Modern Slavery Act of 2015 and the Immigration Act of 2016, advanced by then Home Secretary Theresa May, paved the way to the institution of a Labour Market Enforcement Director and the extension of the remit of the Gangmaster Licencing Authority, that developed into Gangmaster and Labour Abuse Authority in 2017 (Beels 2017). Labour market regulation can affect the immigration issue in two ways. First, it can reduce local populations' concerns with 'social dumping' and with negative effects on wages, employment and working conditions. Secondly, it can reduce employers' demand for foreign labour, and therefore the number of immigrants, by narrowing, or removing, the wage differential between the local population and migrant workers, and/or adding extra direct or indirect costs such as controls and permits. In addition, the form of policy elaboration can shift the debate, where the involvement of social partners and/or technocratic agencies may 'depoliticise' the migration issue. While improving labour standards in theory might act as an additional 'pull' factor for migrants, in reality movement of workers in the EU is largely demand-driven and unaffected by labour standards consideration (as proved by larger flows towards UK, Ireland and Southern Europe than towards Sweden or Denmark).

Migration policies are embedded in different institutions and are not be easily transferable (Krings 2016), but Canada, Norway and Switzerland provide instructive examples for the UK, not as 'models' to follow, but as illustration of the much wider range of policies available to control migration than it is often assumed, and of the complex side effects that these can have. Norway, Switzerland and Canada are particularly interesting cases as they all have larger numbers of foreign-born workers, and much larger recent inflows in relation to their population, than the UK (Figure 1). An international comparison facilitates the enlargement, contextualisation and grounding of debates that are often limited to ambiguous terms such as 'freedom', 'control', 'closing' and 'opening'. It is telling that the main policy papers published so far by the UK social partners – those of CBI (2016) and TUC (2017) – abstain from any reference to non-UK experiences. The analysis of this paper is based on documentary analysis, secondary literature and interviews with social partners, NGOs and policy makers in the three countries, carried out in May-June 2017. [1]

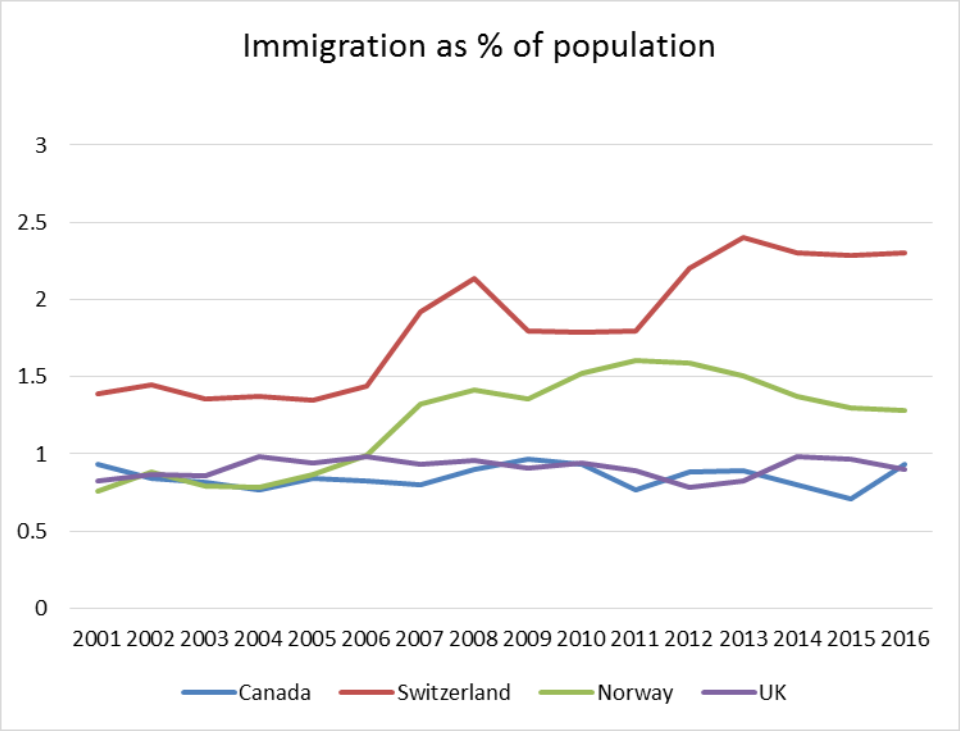

Figure 1 - Immigration inflows, 2001-16; immigration for Norway, Switzerland and UK; permanent residence arrivals + net non-permanent arrivals in Canada; sources: Statistics Canada, Federal Statistical Office, Statistics Norway, Office for National Statistics

Norway

The impact of EU immigration after 2004

Norway is a member of the European Economic Area and as such, is covered by the principle of free movement of workers (Art. 28 of the EEA Treaty[2]). The EEA Treaty foresees the possibility of a so-called unilateral 'emergency brake' (Art. 112[3]), but Norway has never considered using it, even during the highest influx of EU workers in the mid-2000s, because of the concomitant economic oil boom as well as the risk of countermeasures from the EU. Norway, while abiding to free movement with the EU, has very restrictive policies towards non-EU immigration, but accepts relatively high numbers of refugees.

The Norwegian specificity on free movement is the gradual adaptation of its labour market regulations to the risk of 'social dumping' through migrant labour (Friberg 2016). This started in 1993, when Norway was preparing for accession to the EEA – as well as to the EU, although this was subsequently stopped by the No vote (by 52 to 48%) in the referendum of 1994. At that time, social concerns with regard to immigration from Southern Europe led to the approval of a law on the general extension of collective agreements (General Application Act, Act 58/1993). That law introduced the possibility of extending provisions of sectoral collective agreements to all

employees in the sector, and constituted a significant innovation to the previous Norwegian model of bilateral, rather than state, regulation of the labour market. Decisions to legally extend collective agreements are taken by a special commission, the Tariff Board, made by social partners' representatives and two independent members. According to the General Application Act, extension can only be decided after a formal request from one of the sides of the collective agreement, and after an investigation proves the existence of social dumping:

> 'The Tariff Board may make such a decision if it is documented that foreign employees perform or may perform work on terms that, based on a total assessment, are less favourable than those that apply pursuant to nationwide collective agreements for the trade or industry concerned or what is otherwise normal for the place and occupation concerned' (General Application Act, Section 5).

The Act however remained essentially 'dormant' until the EU enlargement of 2004: until then, nobody requested an extension and the trade unions preferred to rely on their own organising strength than on legal measures.

In 2004, Norway (alongside most old EU member states, but unlike the UK, Ireland and Sweden) introduced transitional restrictions on the mobility of workers from the new member states. The restrictions remained in force until 2009 but were much softer than those applied by countries like Germany and Austria: work permits could be conceded to citizens from the new member states, on condition of possession of a full-time employment offer applying the conditions of the relevant sector's collective agreement (Lazarowicz 2015). The country however received a large influx of immigrants, predominantly from Poland and Lithuania, with a large contingent of posted and agency workers in construction (a sector that has been enjoying an interrupted boom in the country). Gradually, labour migration rose also in other manufacturing and service sectors. From annual immigration between 20,000 and 30,000 in the years before enlargement, inflows increased to 50,000-70,000 in the years from 2005 (data: Statistics Norway), bringing the total of foreign-born to 12% in 2016 (Eurostat), above the UK figure (11%). Poland and Lithuania overtook Sweden as largest countries of origin.

Tensions in the labour market were perceived immediately. Even if, thanks to strong economic performance, unemployment remained below 5%, trade unions and some economists argue that large immigrant inflows slowed down the productivity growth the Nordic model relied on (Cappelen and Eika 2017). However, the decline in productivity growth (from 3% per year in the

1970s and 2% in the 1980s-90s to around 1% in 2004-14 according to Statistics Norway and OECD data) is in line with trends in industrialised countries. Norwegian trade unions, whose leaders are pro-EEA but whose members are often sceptical, adopted a two-pronged approach, combining a migrant-friendly approach to organising, in particular towards the Polish community and including international collaboration with sending countries' unions (Friberg et al. 2014; Eldring 2015), with strengthening of national regulations. The Nordic model of coordinated, solidaristic collective bargaining is based on bilateral regulation, rather than state regulation, but Norway has lower collective bargaining coverage (around 50% in the private sector) than its Scandinavian neighbours (around 80%). Norwegian trade unionists see their relative weakness as one of the reasons (besides fast economic growth) why Norway received more immigrants than Sweden and Denmark: employers saw an opportunity for lowering standards (interview with LO).

The answer: binding collective agreements and other controls

Trade unions quickly reacted to the strains resulting from the sudden immigration increase by asking for binding extension of collective agreements in sectors with significant presence of foreign workers, on the basis of the hitherto unused General Application Act. The first case of extension, in October 2004, was in the oil and gas industry. By 2017, the list of sectors covered by binding agreements includes also construction, shipbuilding, agriculture, cleaning, electricians, fish processing, freight transport by road and passenger transport by tour bus. Extensions are currently being proposed in further sectors, where they have met employer opposition.

The employer side in Norway has been divided on this issue, in particular between different sectors, with the umbrella organisation, the NHO, having a mediating role. While NHO does not oppose legal extension in principle, it proposes the introduction of minimum wages as an alternative that would constrain economic activity less (Norwegian trade unions, as their counterparts across all Nordic countries, are strongly opposed to such an alternative, which they see as a threat to collective bargaining). In sectors focusing on the domestic market and shielded from international competition, such as construction, employer associations supported the legal extension of agreements in order to maintain a common floor for fair competition.

In more exposed sectors, such as shipbuilding, there has been very strong resistance and a protracted, not yet definitively resolved, legal dispute with regard to the treatment of posted workers in the EFTA court and the Norwegian Supreme Court. In a sector linked to exports like transport, a divide emerged between industry employers, in favour of the extension, and user companies, which have been opposed due to considerations as to the effects on their own costs.

In some sectors, the employers' position has evolved in an adaptive way: in cleaning, they were initially sceptical but then promoted it, even before the unions. A combination of mobilisation, political pressure and, in the case of shipbuilding, legal action have been necessary to pressure sectors with recalcitrant employers to introduce the supposed 'beneficial constraints' of binding collective agreements. Unlike in other EU countries, the argument that stricter regulations could push more labour underground, through informal employment or bogus self-employment, is rarely used, confirming shared agreement on the basic institutions of the labour market.

The case of construction is particularly telling. As in most countries, construction sector employers have an interest in co-ordination not only to prevent unfair competition, but also to reduce employee turn-over in a sector with typically mobile workers – even in the liberal UK system, construction is atypical for still having multi-employer bargaining (Arnholtz et al. 2017). The sector employer organisation, BNL, stresses that the large skill shortage in the mid-2000s explains the increase in the proportion of migrant workers to one third of the sector's manual workforce. The construction collective agreement extension occurred in 2007: at that time, collective bargaining coverage in the industry was 60%, meaning that a majority of the industry had an interest in forcing compliance from the non-covered minority. BNL is also active in initiatives to address the issue of multicultural, multilingual workplaces, including on health and safety. Norwegian construction employers even demanded *increased* inspection activity on social dumping (Andersen et al. 2010), and our BNL interviewee comments are indicative of their support for regulation.

> 'There is now a general consensus that [extending collective agreements] was a good idea, especially in construction there is huge support to these regulations and even a debate on expanding it, as there still is a problem with unfair competition (…) we sometimes speak like trade unions' [BNL].

The Norwegian solution of extending collective agreements has not eliminated strains on labour conditions and in particular wage stagnation and increasing inequality as a result of larger labour supply, in particular of workers with, unlike the Scandinavian, low reservation wages. In construction, there are widespread complaints of worsening conditions, and that young Norwegians no longer train for the profession because 'they don't want to work on building sites where everybody speaks Polish' (interview with LO). The application of collectively agreed pay rates does not prevent the problem of workers being employed at a lower level than their

qualification, or not benefiting from 'wage drift' (higher company wages than the relatively few levels foreseen by sectoral agreements). Agency workers' employment conditions (in particular entitlement to pay in between assignments), zero-hour contracts, public-sector outsourcing and public procurement rules are all controversial issues, and all associated with use of migrant labour. These issues are, however, being tackled through proposals for further labour regulation, rather than limits to migration. The social partners are making efforts to improve recognition of foreign qualifications, with the creation of a specific body. Furthermore, both political parties and the social partners are putting forward reform proposals on agency work regulations, and in March 2017 a Bergen Court ruled zero-hour contracts illegal.

In construction, in particular, additional measures have been introduced, including joint liability on the whole sub-contracting chain, and (also the case in the cleaning sector) compulsory HSE (Health and Safety Environment) cards, with the purpose to identify the individual employee and that person's employer therefore providing a better overview of the organizations present on a construction site. HSE card rules have effectively limited the phenomena of bogus self-employment and undeclared work. In 2015, self-employment accounted for only 11% of total employment in Norwegian construction, below the EU average and much below the UK level of 41% (data: Eurostat).

Effects on labour market and public opinion

Evaluations of the extension of collective agreements have shown that it has allowed the introduction of an important, if not perfect, floor in core labour standards, although it is generally restricted to some core issues not covered by legislation, especially wages (Eldring et al. 2011; Bratsberg and Holden 2015). It is less effective in protecting actual wages resulting, for many workers, from 'wage drift', i.e. more generous company agreements. Average real wages have kept increasing in Norway since the early 2000s, including in sectors with high immigration (construction, hotels, manufacturing), but they would have probably done so more quickly without immigration (Cappelen and Eika 2017). The sector with the biggest effect on raising minimum standards is industrial cleaning, where relatively high pay rates were extended (Trygstad et al. 2017).

According to the Ministry of Labour and the social partners (our interviews) these measures have been broadly successful, mostly through a strong 'announcement effect'. In addition, the Ministry of Labour collaborates through bilateral agreements with the labour inspectorates of sending countries in Central Eastern Europe. These include joint inspection with

Polish inspectors, funded by the EEA, as well as common information campaigns. Inspections in Norway occur mainly through the Labour Inspectorate, and employers firmly oppose the idea of social partners' inspections as not independent. Health and safety is an exception, where unions have an active enforcement role.

Stricter employment regulations appear to have contained demands for numerical controls of free movement, something that Norway could theoretically do unilaterally on the basis of Art. 112 of the EEA Treaty, or by leaving the EEA altogether. Surveys on immigration attitudes show that the demand for 'stronger restrictions on immigration' and to 'prioritise jobs for the native' remained constant and relatively low at 6-7% of the population between 2001 and 2009 (Sørensen 2016). Annual surveys on attitudes towards immigrants and immigration, carried out until 2013, confirm this picture of overall reassurance, with around 70% of the population agreeing that non-Nordic immigration makes a positive contribution to the country, and over 80% that immigrants should have the same employment opportunities as natives (data: Statistics Norway). The populist and anti-immigration Progress Party (which has however a less right-wing programme than most of its European counterparts) did register high scores after the enlargement, leading it to join the conservative coalition government in 2013. However, it did not campaign for the reduction of free movement of workers in the EU, focusing rather on non-western immigration.

While in recent years the Left Party and the Centre Party have alluded to the possibility of quotas, this has not been pursued. The Labour Party is strongly opposed to quotas through work permits as these would make it more difficult for trade unions to access foreign workers, who, with a less secure migration status, would become more vulnerable to exploitation. The main disputes over migrant employment, then, have remained in the industrial relations sphere and in the legal one, with little politicisation. The focus on social issues in the Norwegian debate is evident in the widespread acceptance, in politics as well as in the media and in industrial relations, of the elsewhere disputed concept of '*sosial dumping*' to frame the issue of immigration (Arnholz and Eldring 2015). While employer organisations used to say 'so-called social dumping', they now regularly use the phrase without such qualification, albeit with a slightly different meaning than the trade union side. The disagreement between employers and trade unions pertains to whether social dumping refers only to the violation of minimum standards (employers' view), or rather to any standards below the actual ones of national employees (unions' view). The common interpretation of Section 5 of the General Application Act has been on social dumping (although the law does not use this term) as involving 'significant lower standards' than those of Norwegian

workers (our interviews with NHO and LO), but the two sides of industry disagree on the extent of evidence needed in each specific sector.

The Norwegian General Application Act of 1993 was introduced by a Labour government, and since then labour market policies to mitigate the impact of immigration have been pursued by both centre-left and centre-right governments with a high degree of continuity. The centre-right government elected in 2013 and confirmed in 2017 has partially shifted the focus from social dumping to a 'strategy to combat work-related crime', which is in line with the EU platform against undeclared work (2014) and presents similarities with the UK anti-modern slavery strategy. Unlike in the UK however, Norwegian policies in this field include social partners' cooperation, and maintain a preference for the permanent employment model, despite some increase in flexibility.

Overall, the focus on innovative labour market regulations and a combination of social partners' involvement and legal intervention has allowed Norway to face an unprecedented influx of migrants, both without major social disruption and the need for quantitative limits on free movement – even if the EEA Treaty allows them. The policy measures have clearly kept popular concerns over immigration at a relatively low and constant level. It is less clear if they may have also reduced employers' demand for labour: a slow-down in influx in recent years appears to be a result of a declining value of the Norwegian Krone rather than reduced labour demand.

Switzerland

The evolution of free movement between EU and Switzerland

Switzerland rejected EEA membership in a tight referendum in 1992 (50.3%-49.7%), and since 1999, has signed a series of bilateral agreements with the EU. These are broadly similar to the EEA arrangements, including for free movement of workers, but are not 'dynamic' in the sense that they do not require Switzerland to adopt subsequent EU regulations without further bilateral treaties. Free movement was therefore agreed in 2002 and implemented by 2004, replacing the previous system of contingents and work permits. After a referendum in 2009 over the approval of free movement (with temporary transition measures) to Romania and Bulgaria was won by 59%-41%, a further popular vote in February 2014, called by the populist Swiss People's Party, resulted in another surprising and narrow anti-European result. This had the same 50.3%-49.7% distribution, with the majority voting for the introduction of quotas on EU immigration, to be introduced within three years. As with the Leave vote in the UK, a vote against free movement was strongest among older voters, the less educated and those in unskilled occupations or

unemployed, and it was associated with the local rate of recent, but not historic immigration (Sciarini et al. 2014; Hermann 2014).

However the implementation of strict quotas would violate the bilateral agreements with the EU and result in an economically disastrous sort of 'Swiss Brexit' (Swiss exports to the EU amount to 42% of GDP in 2015; the corresponding figure for the UK is 13%). The Swiss government also considered contingents and point systems to be far too complicated and bureaucratic for the Swiss situation, and trade unions opposed quotas and seasonal and temporary work permits (Alleva and Pedrina 2014). As a result, a coalition of trade unions, employers and centrist and centre-left parties led to an alternative response to the 2014 referendum and in December 2016, the Swiss Parliament introduced instead a job recruitment priority for job-seekers registered in Switzerland. This requires prospective employers of non-Swiss residents to first advertise vacancies in local job centres for five days, and only to people registered as job seekers in Switzerland. This solution, which falls short of introducing quotas, has been acceptable for the EU and, according to opinion polls, also satisfies the majority of the population (*Berner Zeitung*, 26/3/2017). As Switzerland is not covered by the Citizens Rights Directive, it can freely limit residence for reasons other than work, which means that the threat of so-called 'benefit tourism' is less realistic than elsewhere.

Switzerland has the highest share of foreign residents among EU/EFTA countries after Luxembourg, 25% in 2015 (data: Swiss Federal Statistic Office). This is, in part, a result of the difficult process of naturalisation for long-term immigrants. While net migration was negative in the late 1990s, it has been positive since free movement came into force in 2004. In 2006-15, annual migrant inflows have been over 100,000, resulting in the population increasing from 7.5m to 8.1m in a decade. Unlike in the UK and Norway, the large majority of EU residents are not from Central Eastern Europe, but from neighbouring or other western European countries (in order of magnitude: Italy, Germany, Portugal, France, Spain), followed by non-EU Balkan countries (Serbia, Turkey, Macedonia, Bosnia-Hercegovina). While the number of immigrants from the new EU member states is growing faster than for other regions of origin, they are still relatively low (there are more nationals from the UK than from any new member states). The specific economic structure of Switzerland means that the distribution of foreign workers is rather bi-modal, with concentration in professions with both the lowest (hotels and restaurants, cleaning, construction) and highest (finance, pharmaceuticals, research) education levels. As a result, in Switzerland the aggregate effect of immigration and free movement on productivity is positive (Ruffner and Siegenthaler 2017). However, negative effects on wages in specific occupations are reported not

only at the bottom, but also at the top of the labour market (SECO 2016), and the debate on 'social dumping' is not only about eastern European and non-EU immigrants, but equally about German, French and Italian workers.

Immigration has long been a sensitive political issue in the country, with particular repercussions for trade unions. In 1970, a xenophobic referendum 'against foreign infiltration' was defeated only narrowly (by 54%-46%), but with large trade union constituencies voting in favour. Swiss trade unions, starting with organising efforts by the Building and Wood Workers Union, reacted to this challenge with a pro-European and pro-migrant effort (Pedrina 2016). In the 1992 and 2009 referenda Swiss trade unions had supported the EEA and free movement, but after seeing their constituencies support the No vote in 1992, they made their support to agreements with the EU conditional on accompanying social provisions. In the 2014 referendum, unlike in 1992 and 2009, trade unions did not actively campaign in defence of free movement because of their disappointment with the increasingly less social nature of the EU, following ECJ rulings on free movement, the failed revision of the posted workers directive, the implementation of the services directive, as well as policies in the Euro area. Union leaders are convinced that the introduction of better social provisions before the referenda (rather than after) would have been enough to tip the 1992 and 2014 results into the other direction.

Swiss trade unions still prefer free movement of workers to the pre-2000 system of contingents and seasonal work permits, which in their view made employees more vulnerable to exploitation and reduced the opportunities for organising them (Switzerland still has very strict quotas for non-EU immigration, managed half by the federation and half by cantons). The pre-2000 system involved strong trade union control: each work permit was subject to trade union checks for compliance with employment law and binding collective agreements. Trade unions demanded to maintain this power of control after 2000, but it was deemed discriminatory and incompatible with the free movement agreement with the EU. Thus, the unions instead demanded and obtained a range of continuously evolving series of 'flanking measures' to enforce labour standards and prevent wage and social dumping (Weiler 2012; Krings 2016; Afonso 2016). The flanking measures were first introduced alongside the 1999 Agreement on the Free Movement of Persons with the EU, and were then gradually extended, following the 2004 EU enlargement, in 2005, 2009, 2012 and 2015. They cover two main policy areas: controls and binding collective agreements and minimum standards.

Swiss answers – 1: controls

As controls on the employment terms of all immigrants – the trade union-preferred option as with previous seasonal work permits – would have violated the free movement principle, generalised labour market controls were massively expanded instead to achieve similar results, with an ever-increasing number of labour inspectors and progressively stronger sanctions. Swiss labour market controls, alongside those of Belgium and Luxembourg, are considered to be the strictest in Europe. By law, at least 2% of employers (3% in high risk sectors) and 50% of posted workers and foreign self-employed must be inspected every year. In 2016, these targets were only partially met, but they are impressive nonetheless: 36% of posted workers, 32% of foreign self-employed, and 7% of all employers were inspected, accounting for an estimated 10% of total employees. Violations were found in 12% of cases; in terms of individual controls, 3.5% of all employed people had their wages and employment conditions checked (SECO 2017). For comparison, only about 0.2% of British employees have their wages controlled by the National Minimum Wage enforcement team (data: Director of Labour Market Enforcement). Unlike the pre-2000 controls of work permits, controls are now not just exerted at the beginning of the employment relationship, but in the workplace and at any time, which maximises effectiveness.

As remarkable as the quantity of control is its form: in the sectors with binding collective agreements, inspections are the responsibility of bipartite commissions of employers and trade unions. Social partner-conducted inspections are perceived by businesses as more legitimate and reduce fears of a 'police state'. Employers would prefer fewer and more targeted controls to reduce the costs for their core memberships, in line with the gradual shift from random to risk-assessment criteria from 2010 onwards. Nonetheless, employer associations share, in general, the interest in maintaining a level playing field, and in particular in preventing unfair competition from foreign companies. An annual report on controls is published by the Federal Ministry for the Economy, and is subject to extensive consultation with the social partners as well as a resource for campaigns of public information (SECO 2017).

Swiss answers 2: binding collective agreements and 'normal' work agreements

The second area is encompassing labour standards through binding collective agreements and minimum labour standards. The flanking measures of 1999 introduced a simplified procedure to declare the binding extension of sectoral collective agreements, at national or canton level, in sectors with evidence of social dumping. The law now only requires employer associations' coverage (share of sector employees employed in firms that are members of the association) in

the canton's sector to be over 50%, rather than that of both employer associations and trade unions as before 1999. Given that trade union density in 2000 was 20%, and that of employer associations around 50%, the possibility of extensions was significantly enhanced by the removal of the double majority condition. The facilitated extension of collective agreements allowed collective bargaining coverage from 45% in the 1990s to 51% in 2011, bucking the European trend. The number of extended collective agreements increased from 31 in 2001 to 73 in 2014, including in critical sectors such as construction, cleaning and temporary agencies, and the number of employees covered by them grew from 400,000 to 1m (Federal Statistical Office). Both the numbers of extended agreements and workers covered are much higher than in Norway. Moreover, unlike in Norway, the binding extension include the agreements in their entirety, and not only core minimum standards.

In sectors without binding collective agreements but with evidence of social dumping problems, the flanking measures make it possible to introduce sectoral, cantonal or national legally binding 'normal employment contracts,' specifying minimum wages and minimum standards (Switzerland does not have a national minimum wage). These are introduced by tripartite commissions, which include the social partners and cantons' governments. These are a more innovative solution, but build upon existing tripartite traditions such as on unemployment insurance, and were first developed in the French-speaking cantons where such traditions are stronger. However, normal employment contracts tend to be less generous than collective agreements, and are subject to ongoing evidence of social dumping. Moreover, given the resistance of cantonal governments, they have not been used extensively, and not at all in German-speaking cantons. There is only one, but important 'normal contract' at national level, in the domestic help sector. The relative weakness of normal employment contracts is important because in recent years, the share of foreign workers has increased faster in sectors without generally binding collective agreements.

In addition to these main policies, the flanking measures include strict regulations and controls over posted workers as well as other requirements such as the provision of compulsory written information on core working conditions in the employment contract.

The extreme case of Canton Ticino

The federal nature of Switzerland means that there are marked differences between cantons. Most measures (such as 'normal employment contracts' and residents' priority in recruitment) have been first proposed and launched in the Francophone cantons, where trade

unions are stronger. By contrast, normal employment contracts have not been introduced in German-speaking cantons.

Additional measures are being designed in the Italian-speaking canton of Ticino, which has a very specific geographic situation. It is a region with only 350,000 inhabitants, geographically isolated from the rest of the country but bordering with the Italian region of Lombardy. This has 10m inhabitants and, despite a low unemployment rate, wages are only 60% the Swiss levels. The introduction of free movement of workers has helped the economy to achieve record-fast growth, but, combined with the revaluation of the Swiss Franc since 2015, has also put unprecedented strains on the labour market, with frontier zone workers coming to comprise 27% of the region's employment (as against 6% for the whole of Switzerland, and 12% in the canton with the second-highest presence, Geneva). In some sectors, such as the fast-growing fashion one, the large majority of employees are foreigners. In September 2016, a cantonal referendum, under the title '*Prima i nostri*' ('Ours first') over the introduction of a recruitment priority for residents and a ban on dismissals of residents in companies that recruit foreigners was won by a 58%-42% majority. Indeed in the 2014 national referendum, Ticino had already been the canton with by far the highest vote (70%) in favour of quotas. However, the implementation of the Ticino referendum is constrained by the Federal Council and is therefore likely to be minimalistic, so as not to jeopardise the bilateral agreements with the EU, as with the 2014 referendum.

Ticino trade unions, which have been significantly weakened as organisations in the last two decades, are much more critical of free movement of workers than their counterparts in the French and German-speaking regions. However, they opposed the '*Prima i nostri*' referendum and proposed an alternative, narrowly defeated referendum on increasing labour inspections (although the union proposal was defeated, it did lead to an alternative, more moderate proposal being put to the vote, which was accepted). The unions distinguish their position from that of anti-immigration parties (UDC-SVP and *Lega dei Ticinesi*) by fighting for the rights of 'residents' (irrespective of nationality) against the distorting effects that frontier workers (including Swiss nationals resident in Italy) may have on the labour market, thanks to their significantly lower living costs. The unions have tried, with some limited success, to organise frontier workers and to collaborate with Italian trade unions. Nonetheless, unlike their counterparts in the other cantons, Ticino unions are explicit in saying that the number of foreign workers is too high to be sustainable.

Ticino is the canton that has introduced by far the highest number of minimum wages through tripartite 'normal contracts', but according to the trade unions, even those minima reflect

wage dumping. In most cases, the Tripartite Commission approves them with the vote of employers and canton authorities, against the unions. Some collective agreements, as in retail, are signed by only the smaller Christian trade unions, without the largest ones associated to the USS-SGB confederation. The strains on wage setting have produced increasing wage differentials, stagnation of the lowest points of wage scales (and even, in seven out of 27 sectors, nominal reduction), as well as a massive (+300% in construction) increase of workers being placed at the bottom of pay scales (SGB/USS 2015). This labour market restructuring has direct negative consequences for the unions: fewer workers attend union-managed qualification courses, and some workers, under pressure to accept lower pay rates, even voluntarily resign from their qualifications. In addition, the unions complain of widespread wage fraud and cash-in-hand payment, and have stepped up their control functions and their collaboration with the judicial authorities. Ticino employers are also aware of the issues, but with the usual divisions between sectors: some, e.g. in construction, actively participate in intensified controls but others, in industry and especially retail, are less collaborative. Moreover, there are also divisions between the more moderate employer association ITI and the Chamber of Commerce, dominated by less consensual small enterprises.

Effects

Swiss regulations have managed to keep the wage distribution substantially constant and the rate of self-employment at a relatively low level of 14%. However, as in Norway, this has not removed all problems. All foreign employees are entitled to the wage levels of Norwegian binding collective agreements, but as long as they tend to be classified at the lowest end of the wage scales, a degree of undercutting of pay remains. Rising immigration in construction has resulted in a sharply growing share of employees classified as non-qualified, which suggests that many are being employed at a lower level than their skills and often, the actual job requirements, entitle them. Trade unions have been calling for better recognition of foreign qualification and, especially, more courses for foreign workers. The extension of collective agreements has been an incomplete tool in sectors where, as in the important metalworking sector until 2013, sector agreements did not cover wage minima. While collective bargaining coverage has reached very high rates in sectors such as construction, transport and hotels and restaurants, it remains very low in new or fast-changing service sectors: in personal services it is estimated to be at 2% and in wholesale 3% (SGB 2011). The situation remains problematic in sectors without extended collective agreements, because the alternative mechanism of tripartite setting of ‘normal employment contracts’ and

minimum wages covers fewer employment conditions and foresees less incisive pay minima. Employers also express dissatisfaction with tripartite regulations, as being more politicised and less rooted in sector realities than bilateral collective agreements. Immigration is, as in Norway, associated with a slow-down in productivity increases, except in the high-skill sectors.

The focus on employment regulations has led to innovative policy proposals. Trade unions (similarly to their German counterparts) started to campaign for the introduction of a national minimum wage. Although a referendum to introduce a national minimum wage at the comparably high rate of CHF 4,000/month (about €3,300) was rejected by a large majority in 2014, cantonal minimum wages were introduced in three cantons (Neuenburg, Jura and Ticino). Since the mid-2000s, Swiss trade unions have stepped up their European campaigning for stricter regulations, especially on posted workers, under the slogan 'same wage for same work in the same place.' This was eventually endorsed by the European Trade Union Confederations and contributed to the European Commission plans for reforming the Posted Worker Directive.

On the employer organisation side, apart from a relatively small, neoliberal wing that opposes the flanking measures as labour market distortion and undeserved support to trade unions (Schlegel 2017), there is consensus that the 'flanking measures' are a necessary cost to guarantee political and social acceptance of immigration and economic integration with the EU. With regard to the recently introduced resident priority system, while they consider it onerous for employers, they express hope that it will lead to a decline in appointment of foreigners - e.g. in the tourist industry - because 'otherwise they will introduce something worse' (our interview, SA employer confederation).

The Swiss policies on free movement are unique for the extension of labour market restrictions and controls. While they have not prevented anti-EU votes similar to the UK referendum, they remain the default response by all main actors, including employers and trade unions, to popular demands for control. In the extreme case of Ticino, a 350,000-inhabitant region opening its labour market to a 10m Italian region with much lower wages, the federal response of 'flanking measures', binding agreements and minimum wages, and residents' priority is seen as insufficient. But even in that extreme case, trade unions avoid siding with the forces asking for quotas, and insist that 'the only solution is controls – controls everywhere' (our interview).

Overall, the 'flanking measures' have contained wage dumping in critical sectors such as construction, limited the negative aspects of self-employment and posted workers and, together with the recent introduction of residents' priority (which is too recent to be evaluated), has maintained sufficient consensus across industry, politics and the population on maintaining free

movement of workers. Since their introduction, the average wage of frontier workers increased from 92% to 95% of Swiss-residents' average (source: SGB/USS). Labour market measures appear to have strongly affected public opinion historically: after the 'No to the EEA' in 1992, the introduction of the 'flanking measures' in the early 2000s led to a strong 'Yes' to extending free movement to Romania and Bulgaria; more liberal EU policies in the early 2010s led to a 'Yes' to quotas in 2014, but the introduction of residents' priority satisfied the large majority in 2017.

As in Norway, it is more difficult to reach a definite conclusion on the effects on employer demand. It is however remarkable that EU immigration to Switzerland remains predominantly from western Europe, which indicates that the scope for wage dumping through cheaper Eastern European labour is probably too narrow. Net EU immigration has recently declined, to 42,000 in 2016 from a peak of 75,000 in 2008 (data: Staatssekretariat für Migration), in conjunction with economic slowdown but also, possibly, because of a deterrent effect from the 2014 referendum.

Canada

The Canadian immigration model

In 2016, Canada signed a free trade agreement with the EU (CETA: Comprehensive Economic and Trade Agreement). CETA does not include free movement of workers, nor does the NAFTA agreement with USA and Mexico signed in 1992, except for facilitations for specialised workers. The reason of interest in a comparative study lie its migration model, which has often been invoked as a solution for Europe (Meardi et al. 2016), and in the frequent references to CETA as a model for UK-EU relations. During the EU Referendum campaign in the UK, the Leave side officially campaigned for a 'point-based immigration system'. While reference was generally made to the Australian point system, the Canadian one (originally from 1967) is older and the two schemes are broadly similar even if the Australian gives more weight to job-related points.

The point system is presented in Europe by its proponents as a way to manage immigration according to the needs of the economy, but this grossly misrepresents the actual functioning of those systems. In the case of Canada, the historical analysis of immigration inflows and unemployment trends reveals that, since the rolling out of the point system in the 1970s, migrant inflows have been less, rather than more, in line with job vacancies and unemployment trends (Meardi et al. 2016). This is partially because the point system is intended to address long-term demographic and human capital needs, rather than short-term economic ones, and partially because the share of arrivals through the point system unavoidably leads to larger inflows through

family reunions, as well as being, in Canada, accompanied by other entry channels (refugees, students, other work-related schemes). Indeed, point systems are part of a broader approach to increasing population in self-defined 'immigration countries'. Unsurprisingly, immediately after the referendum, the UK government shelved the idea of a point system for EU immigration as too bureaucratic and as unfit to reduce net immigration (a point system for non-EU immigration had already been introduced in 2008).

As the point system is oriented towards highly qualified individuals, Canada has had to open other channels to meet the country's need for labour in sectors characterised by lower wages and by either low skills (e.g. tourism, food retail) or skills with little link to education (e.g. construction, care). This has occurred through the Temporary Foreign Workers Program (TFWP), introduced initially by some provinces for specific sectors but then expanded at federal level in 2002 under a liberal government in response to employer demand, as a 'National Occupation Classification C & D Pilot Project' (Fudge and MacPhail 2009), and further liberalised by a conservative government in following years. The TFWP allows work permits for up to two years subject to Labour Market Opinions and subsequently to less stringent Labour Market Impact Assessments (LMIA) that (unlike in Norway and Switzerland) are largely employer-led with little or no say for trade unions.

Following the rapid expansion of the TFWP, the conservative government liberalised it and expanded it from industry and services to agriculture through the International Mobility Program (IMP), which provides temporary work permits (open or employer-specific) for nationals of certain countries (e.g. NAFTA, India, China) without the need for LMIA. The IMP quickly became the largest channel for temporary work immigration, accounting for 2/3 of entries by 2012. The fast increase of temporary foreign workers was initially driven by western provinces like Alberta, during the extractive industries boom of the 2000s, but then expanded into the service sector across the country. The number of temporary foreign workers present in Canada increased sharply from 100,000 in 2002 to 350,000 (1.8% of total employment) in 2012, and in the 2008-12 temporary worker programmes were the main channel for immigration in Canada (source: Citizenship and Immigration Canada). Moreover, the share of high-skilled workers among temporary foreign workers declined from 67% to 40% over the same time period (data: Statistics Canada). Permits can be extended for a maximum of four years, after which workers must leave the country. 21% of temporary workers arrived in 2005-09 applied for permanent presidency, but the success rate is high only for live-in-carers (Lu and Hou 2017). As a federal country like Switzerland, Canada has a complex distribution of responsibilities between federal and provincial

levels. Most immigration policy is national, but there are provincial nominee programmes for permanent immigration, and temporary programmes are mostly provincial. Employment regulations are also mostly provincial.

The TFWP has been widely criticised for the 'conditionality' of employer-tied work permits, which makes foreign workers, with a precarious legal status in Canada, virtually 'captive' of their employers and therefore vulnerable to exploitation (Fudge and MacPhail 2009; Faraday 2012). Unions point at the contradiction between advocating policies against slavery, and immigration regulations fostering the same:

> 'Being tied to a single employer is in danger of servitude […] the International Commission of Jurists is working to bring into Canada UK-style anti-slavery legislation […] and the treatment of migrants in Canada would fit in that definition of slavery.' (UFCW)

While it is possible for temporary and seasonal foreign workers to change employer, it can only happen within the same sector and, crucially, with the agreement of the first employer. Employers and government defend the idea of conditionality, arguing that without it, foreign workers would quickly move away from low-paying industries, such as agriculture, to cities, in search of better employment and living conditions. The government has also insisted that tied permits are necessary to monitor employers' compliance with the law. Trade unions propose sectoral permits as a mid-way solution.

In addition, Canada has a high-skill worker permit scheme and two important sectoral schemes. The Live-in Caregiver Program includes a pathway for permanent residence, but until recently was conditional on the care workers living at the same address as their employers. The Seasonal Agricultural Worker Program operates through bilateral agreements with sending countries, mostly in Latin America and the Caribbean, and allows work permits for a maximum of eight months. Agencies play a strong role in the bilateral agreements and have been suspected of preventing unionisation by not renewing placements for workers that join unions, including shifting recruitment from Mexico to Guatemala after Mexican workers started organising in Mexico. Seasonal permits also present an advantage to the state of saving employment insurance for temporary employees, as well as redundancy costs for employers, but at the cost of entrenched churn of employees that is damaging for productivity. Following recent cuts to unemployment insurance, there has been a further fall in Canadians' availability for seasonal work, which perpetuates the demand for foreign labour.

Responses to the exploitation of migrant labour

A series of media-reported cases of migrant exploitation and of substitution of Canadian workers in mining, construction, food retail but also in banking in the early 2010s led to swiftly changing regulations (Fudge and Tham 2017; Gilbert 2016; Metha 2013). In the run-up to the 2015 federal elections, the conservative government – which had extended the programmes in the first place – introduced draconian restrictions on the use of temporary foreign workers, including strict quotas (10% cap in the workforce) and much higher fees (from 100 CAD to 1,000 CAD). These changes were strongly opposed by business but also met criticism from trade unions and migrant NGOs, which saw them as strategically aimed at disrupting the mobilisation of migrants by dispersing them through a cap and further restricting, through the higher fees, their possibilities to change employer, as if they change jobs the new employer has to pay the fee again (Faraday 2016). Numbers of temporary foreign workers plummeted in the following years, especially in the regions making large use of them (e.g. by 76% in Alberta). These openly punitive restrictions did not pay out in the elections, which the conservatives lost. However, the opposition centre-left New Democratic Party, which advocated stronger inspections on employment rights and more channels for permanent residence, suffered even greater electoral losses to the advantage of the centrist Liberal Party, with a less clear approach on the issue. The subsequent liberal government called an inquest on the issue and withdrew some of the limits that had been introduced (Fudge and Tham 2017). The liberal government also introduced some worker-friendly measures, such as the removal of foreign domestic carers' obligation to live at the domicile of their employer/sponsor. At the same time, concessions were made towards more permanent routes to immigration: the 'Atlantic Immigration Pilot Program' introduced in 2016 for the Eastern maritime provinces - which face labour shortages in fishing and infrastructure - includes an avenue for permanent residence. Another emerging shift, as a compromise between political, labour and business interests, is towards sector-based, rather than employer-based, work permits.

Business has been the key lobbyist for immigration programs. The most vocal employer voice for easier access to migrant labour and less employment regulations is the Canadian Federation of Independent Businesses, organising small and medium enterprises. Trade unions have had different approaches to immigration depending on the sector and the province, as the ethnic and social compositions of their constituencies vary quite largely (Foster 2014). They have leant towards supporting open (non-employer linked) permits and more permanent routes to immigration, as more in line with the Canadian immigration model and better-suited to promoting

integration and organisation of migrants. The most important case in this trend is the one of the United Food & Commercial Workers' (UFCW) organising agriculture and food processing workers since 2008. Importantly, in the meat-processing industry, this occurred in collaboration with large employers, in an exchange combining continuous support for immigration (as needed by the employers) with better enforcement of standards across the industry. In 2014 UFCW signed a Memorandum with large employers on a shared understanding of the immigration regime.

> 'The Temporary Foreign Worker Program has never been a coherent, strategic, or reasonable alternative to what the Canadian economy requires – an immigration regime allowing individuals with a variety of skill sets to become permanent residents, and eventually citizens, of Canada.' (Memorandum of Understanding between UFCW and food industry employers, as quoted in UFCW 2016: 3)

Two years later UFCW and the largest meat processing company, Maple Leaf Foods, made co-ordinated submissions to the government's review of the TFWP to make the case for replacing the TFWP with more transparent and permanent immigration channels. Union-employer collaboration allowed high unionisation, information programs for foreign workers on arrival, and publicity on both best practices and risks of abuse.

Unlike the Norwegian and Swiss ones, the Canadian system of industrial relations does not have multi-employer bargaining, and the overall employment system is liberal, making it difficult to set common standards beyond the relative low minimum wages. Differences exist among provinces, with more inclusion of employer associations and trade unions in quasi-corporatist policy making on immigration in Québec, within the *Conseil consultative du travail et de la main-d'oeuvre.* The relative weakness of trade unions leaves the space open for a variety of other actors and in particular migrant NGOs, often with public funding. An exception is the construction trades, which have a higher level of organisation and collective regulation, and where the trade unions (which operate across Canada and USA) act as 'brokers' in foreign recruitment. As in the USA, campaigns have been launched locally for higher minimum wages, which could reduce demand for foreign labour.

More effort has been made in recent years to improve enforcement. Labour inspections in Canada follow two channels, complaint-driven and preventive, with strong variation of effectiveness by sector and province. The province with stricter regulations is Manitoba, which has a large number of immigrants and is governed by the New Democratic Party. Starting from passing

a Worker Recruitment and Protection Act in 2008, it introduced regulations including stricter pre-recruitment labour market assessments to avoid substitution of nationals, a compulsory register with the provincial Director of Employment Standards for all employers recruiting foreign workers, proactive enforcement mechanisms and the largest Permanent Nominee Program of all provinces. These measures have led to fewer compensation claims and accidents, and better employee retention than in other provinces. The Manitoba model is now appealing for other provinces. Ontario introduced an Employment Protection for Foreign Nationals Act in 2009, and conducted a 'changing workplaces review' in 2015-17, recommending stronger enforcement mechanisms, including a more proactive enforcement approach through spot checks, audits and inspections, stronger workplace bargaining rights and protection of temporary foreign workers from employers' reprisals (Mitchell and Murray 2017). Québec reorganised its labour market supervision agencies into one *Commission des normes, de l'équité, de la santé et de la sécurité du travail* (Commission for norms, equality, health and safety at work), with inspection but especially promotional functions. Nova Scotia and Saskatchewan have also introduced regulations against foreign worker exploitation in 2013 (Faradey 2014), and Alberta, which previously had the most liberal labour migration regime, has been moving in the same direction since the NDP came to power in 2015.

Effects and implications

The debate over immigration in Canada remains fundamentally different from that in Europe, as the country is universally recognised as a country of immigration. Given the differences, it is remarkable that despite a very liberal employment regime, concerns with labour standards have gained prominence. In particular, temporary and seasonal work permits, which has been the default policies in the mid-2000s, have come under increasing criticism from all political parties. The country's liberal labour market regulations have widened the scope for exploitation, substitution of Canadian labour and generally downgrading of working conditions. As a result, the temporary foreign workers programmes have been scaled down since 2014. But simply reducing numbers of permits damaged business without improving conditions of employment. Employer-tied permits have proven particularly exposed to exploitation risks, and several provinces, to promote better integration as well as returns from investment in training, are now moving towards permits that include a route to permanent residency. Despite a very decentralised system of employment relations, some positive experiences of co-ordinated provincial and bilateral policies to enforce labour standards have emerged in Manitoba and are being diffused to other

provinces. These are late correctives to the effects of temporary migration policies that for Canadian unions should not be called the Canadian model, but the 'Canadian mistake' (Flecker 2011).

Discussion

Geographic and institutional differences among countries make direct policy transpositions very delicate. In particular, the corporatist traditions of Norway and Switzerland are hard to replicate elsewhere, and the geographic/demographic situation of Canada is unique. However, the comparison provides some instructive examples for the post-Brexit debate. In all three countries, despite larger immigration inflows than in the UK, the policy focus has gradually shifted from quantitative controls on migration and conditional work permits to greater attention on migrants' employment conditions.

The experiences of Switzerland before 2000, and of Canada since the 2000s, raise important warnings about the possible negative effects of seasonal and temporary work permits. These tend to maximise foreign workers' vulnerability and segregation, and to make their organisation and social integration more difficult. By contrast, in Norway and Switzerland, and to some extent in Manitoba, better enforcement of labour standards has been instrumental in reducing popular concerns with immigration. In several cases, employers also report having benefitted from better labour standards and security for immigrants, through improved retention and fairer conditions of competition. Declining inflows to Norway and Switzerland in recent years suggest that strong regulations may have also diminished employer demand for migrant labour, but more research is needed on this to explore the possible causal link.

There are a number of policies from these countries that may be considered by the UK: health and safety ID cards, including for the self-employed; joint liability along the value chains; more, and more proactive inspections; involvement of social partners in labour standards enforcement; tripartite definition of sectoral 'normal employment contracts' setting minimum wages and conditions; registry and control of migration agencies; extensive written information on employment rights for foreign workers; more controls on posted workers, on a broader range of employment conditions; and harsher sanctions for non-compliance.

The 'liberal market economy' of the UK may make difficult the imitation of the co-ordinated solutions of Norway and Switzerland, such as legally binding sectoral collective agreements. However, it has to be pointed out that the UK is actually more of a 'mixed' economy where experiences of co-ordination and involvement of employee organisations have existed in

the recent past (e.g. the wage councils) and also in the present (e.g. multi-employer collective bargaining in construction and in the healthcare sector, and the prerogatives of health and safety employee representatives). At times of caesuras such as Brexit, a degree of institutional innovation is not just possible but likely, and social regulations might address many of the concerns of Leave voters with declining living standards and increased economic insecurity. The fact that even in the more liberal Canada, co-ordinated responses have occurred in some industries (especially food processing) makes experimentation in the UK worth considering. It is also important to note that many Norwegian and Swiss labour market regulations have been introduced by centre-right or broad coalition governments, and that in most cases they were supported, at least conditionally, by employer organisations.

None of the analysed countries can be treated as a 'model'. Yet the many instances where 'control' on migration has been achieved through open borders but strict terms of employment, and where, by contrast, entry restrictions have resulted in a loss of control on the conditions of employment, call for a more careful re-examination of what 'immigration controls' and 'free movement' mean.

Recommendations

The research shows sudden restrictions to work immigration (as in Canada in 2014) damage business without raising standards for either native or foreign labour. Sector-level work permits and quotas have major disadvantages, as they are too bureaucratic to provide the rapid recruitment needed by the industry and moreover, increase the vulnerability of employees and therefore, strains on labour conditions.

By contrast, labour market regulations can help in mitigating tensions on the perceived negative effects of immigration, and recent figures suggest that there they might reduce employer demand for cheap and vulnerable foreign labour. Such regulations, already experimented by Norway and Switzerland, could be considered by the UK government:

- legal extension of collective agreements in parts of the industry where multi-employer bargaining is strong (e.g. engineering construction), to prevent risks of social dumping
- tripartite bodies, such as wage councils, to set detailed binding minimum core conditions in sectors where collective bargaining is weak or non-existent
- joint liability across the subcontracting chain, to improve enforcement of employment regulations

- compulsory registration and professional ID cards for workers in sectors such as construction and cleaning, to reduce the scope for undeclared work and bogus self-employment
- more extensive controls of employment conditions, with involvement of industry and trade unions
- stricter regulations of posted workers, with obligation to pay the going wage rates
- local labour market checks to ensure priority of residents in recruitment in areas of high unemployment

If combined with the availability of an 'emergency brake' on free movement, as it is the case with EEA countries and Switzerland, such policies could provide the effective 'control' of migration that people demand, without damaging industry and increasing risks of exploitation.

[1] Interviews covered respondents from the following organisations:
- *Norway*: LO trade union; NHO employer association; BNL construction employer association; Ministry of Labour; FAFO research centre; Labour Party.
- *Switzerland*: Unia industrial trade union (national level and in Ticino); SAV employer confederation; USS trade union confederation (Canton Ticino); State Secretariat for Economic Affairs.
- *Canada*: CLC trade union confederation; UFCW trade union; Canada's Building Trades Union; New Democratic Party; CRIMT research centre; SIARI NGO; Fay Faraday legal practice.

[2] According to Art. 28 of the EEA Treaty, freedom of movement of workers 'entail the right, subject to limitations justified on grounds of public policy, public security or public health: (a) to accept offers of employment actually made; (b) to move freely within the territory of EC Member States and EFTA States for this purpose; (c) to stay in the territory of an EC Member State or an EFTA State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action; (d) to remain in the territory of an EC Member State or an EFTA tate after having been employed there.' It does not cover movement for other purposes than work, does not provide for any benefit access before employment, and it includes safeguards for public policy reasons. One of the EFTA members, Liechtenstein, also has a quota for work permits (1.75% of existing number of work permits per year), in consideration of the country's 'specific geographic situation' (Annex VIII).

[3] 'If serious economic, societal or environmental difficulties of a sectorial or regional nature liable to persist are arising, a Contracting Party may unilaterally take appropriate measures'. The measures are subject to the opinion from the EEA Joint Committee (Art. 113) and the affected countries can take 'proportionate rebalancing measures' (Art. 114).

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