

**The Flavours are the Same**  
**What Migration Policies Tell us About the Decreasing Variety in**  
**National Varieties of Capitalism**

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Immigration policy in liberal capitalist economies is increasingly defined by a governmental response that differentiates between the refugee and labour migration streams. While this differentiation has always been present, what has distinguished the current configuration is the commitment to a liberal worker migration regime combined with the directing of pressures for closure (or the fomenting of restrictionist sentiment) into the refugee stream. The distinct approach to each type of migration is the outcome of state actors attempting to balance an institutionally-mediated process of reconciling competing interests demanding a voice, with their own electoral, media and bureaucratic considerations. This complicated arena, however, is not solely a site of contesting forces, but also a site where ideas meet interests (Hall 1993; Goldstein and Keohane 1993). Actors define their interests according to the ideas they maintain and have an awareness of their ideational orientation and the agenda preferences that encompass their ideational orientation (Bleich 2003).

Ideas about the role of immigration live in a context that has been defined by pressures for minimal regulation of capital. The liberal flow of capital includes access to workers regardless of their nationality and on a rapid basis. We can in fact talk about such international economic norms as the boxes which now structure national immigration regulations. Are these boxes elastic? Do they allow state actors to draw outside the boxes to impose regulations that may contradict these liberal norms but perhaps correspond to earlier boxes labeled human rights norms (Hollifield 1992, Joppke 1998, Joppke 2001) or national economic protections, specifically protections of the labour market?

Recent defences of the persistence of national economic arrangements would lead to predictions that differences in national economic structures will be reflected in variation across immigration regimes. (Hancke, Rhodes and Thatcher 2007). And yet, immigration policies governing the entry of workers are increasingly characterized by homogeneously liberal entry policies that prioritize business demand over human capital and long-term national interest models. The liberalization of economic migration is just that: As in the European guestworker programs of the 1960s, an increase in the freedom of movement of workers (when they are in demand) and preferably not in any of the familial accoutrements that make them human beings – children, partners or extended family. Through a number of measures, countries have instituted policies that discourage workers from settling unless they fall into very specific categories (foreign students who are encouraged to remain in the country of their studies after completing their educations, for example). Such policies are supported by international institutions, for example, through immigration regulation authorities and trade agreements that specifically replace national systems of business-labour negotiation with supranational authority, such as Quebec's FERME which provides farmworkers to Quebec farms through an agreement with the Guatemalan government, or in the European case, through provisions for free movement of labour.

Such supranational institutions exercise authority through two paths. Directly, through the regulation of the relationship between the foreign worker and the employee, and more subtly, through the transmission and reinforcement of ideational norms to national-level actors (Hampshire 2009). As the case studies of Britain and Canada will discuss, however, international institutions seed rather implant ideas to national actors. Norms of free movement of workers – particularly for the high-skilled, but not only for the high-skilled - and the necessity of satisfying business demand for workers, already influence the policy choices placed on the agenda. The relationship is mutually constitutive: As states stake their legitimacy partly on ensuring an

environment conducive to capital flows and investment, actors within the state operate according to an expectation of the state as a liberal gatekeeper for the ‘right’ migrants. So pervasive are such outlooks that in some cases they have been adopted by unanticipated actors, such as labour, and adapted to meet these groups’ goals. Some unions, such as the Alberta Federation of Labour, are opposed to temporary workers. Others, however, such as the United Food and Commercial Workers have successfully pursued contracts that have traded off wage gains for citizenship rights.<sup>1</sup> Here, we are in the realm of how ideas open doors.

If state actors have adopted a ‘corporate state’ orientation where the state derives its legitimacy from ensuring that business interests are facilitated (Menz 2009), there should be little variance in worker migration programs regardless of the economic cycle, although there may be an administrative ‘tinkering’ with the details of the program. In short, in the long run, the number of migrant workers admitted under temporary and circular entry positions should increase as a) the state attends to capital’s claims that having access to flexible labour is always a matter of corporate security; b) labour’s concerns, even during recessions, are treated as secondary; and c) state actors believe that guaranteeing access to flexible labour fulfills one of their legitimating functions. If “ideological cycles” have an independent impact on migration policy, we would expect to see an “expansionist” cycle retain a degree of robustness even during an economic downturn. It is this scenario which has been evident in 2008 – 2010 where political actors have shown themselves reluctant to severely restrict economic migration.

In this formulation, ‘corporate state orientation’ implies more than the temporary accommodation of the interests of firms based on labour needs: Rather, it is the reshaping of ideational preferences so that they accord with those of capital. Do political elites believe in free movement, at least for the best qualified, or do they simply meet the demands of national economic interests? As Myers has argued, it is difficult to separate the impact of epistemic factors from socioeconomic and national interests, interests which are exercised through political channels. Furthermore, ideas may operate at the macro level of policy direction, but more, or as frequently, at the level of technical policy design (Myers 2002). However, while it may indeed be difficult to parse the impact of ideational preferences on policymaking, the question is never explicitly and comparatively considered by most work on immigration policymaking. And yet, state actors’ ideational perspectives have a long-range impact on immigration policymaking. Because actors adopt the preferences of business interests, changes in the coalitions the state may choose to engage in may also be expected, so that the alliance between business and human rights groups, both advocating a liberal migration system, may fragment in favor of a business-state alliance, with human rights groups increasingly marginalized and alienated by state policies, particularly in the area of asylum.

The paper will attempt to account for the impact of ideas in constructing similarly liberal worker migration systems by discussing a selection of European labour laws affecting worker migration and comparing the labour immigration policies of Canada and Britain. It is argued that neoliberal ideational norms operating at the supranational, state and individual actor level add an important dimension to interest-based explanations of corporate state orientations. Together, these two variables place in question the continued utility of assuming national variations. Two

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<sup>1</sup> Maple Leaf Foods and the United Food and Commercial Workers in Brandon, Manitoba concluded an agreement in which the company sponsors temporary foreign workers at its plant for permanent residency through the Provincial Nominee Program. While the program is enabled by the province’s liberal PNP regulations, it also constitutes a unique approach to foreign labour by the union.

issues are crucial for the argument made here. One is that for varieties of capitalism (VOC) theorists, national arrangements structure the incentives that define interests. The second is that even in path-dependant analyses, crisis can indeed lead to change, but that change will be, most often, bounded by history. Actors hold preferences shaped by their environment, and while that environment does not determine preferences, agents cannot stand outside their preferences or ideational orientation. The argument made by this paper is that a “corporate-state” orientation reaches beyond the state, changing both the nature of the interest-defining incentives and the range of ideas held by agents. Policy entrepreneurs can seize upon or attempt to initiate a change in the environment by employing ideas external to the state’s environment.

### **Theoretical background**

Scholars who have hypothesized that immigration policy will vary with national economic systems work within the stream of the varieties of capitalism literature. For VOC analysts, institutions are key: capital defines its interests within national and international relations. Social programs and regulations are seen as modifying both employer and union behaviour (Ebbinghouse and Manow 2001; Huber and Stephens 1998; Hall and Soskice 2001, Kitschelt 1999) in the classic formulation “Capitalists adjust the welfare state, and the welfare state adjusts capitalists.” (Pierson 2001: 6) The expectation is that an industrial sector dependent on a state strategy of supplying highly-skilled labour may be more interested in maintaining global competitive advantage by continuing to be located in a country with high levels of publicly funded education than in either relocating to a low-wage country, or having a low-paid, flexible work force (Hart 1993; Pauly and Reich’s 1997). Even external shocks, such as the increase in transnational capital, or economic crises, are also seen to be nationally modulated: Domestic responses will vary according to national arrangements (Hancke, Rhodes and Thatcher 2007). Increases in flexibility and adjustments to labour regulations are hypothesized to be path-dependent (Soskice 2007) so that, as in the example of France, high levels of taxation and the high cost of labour were seen to be compensated for through the exclusion of labour segments from the market and their provision through public services (Siebert 2005).

And yet, while in previous episodes of crisis, such as the seventies oil shock and its effects, firms have been found to be unwilling to trade-off the co-ordination benefits gained through post-war arrangements for an opportunity for corporate gain (Hall 2007), that may no longer be true of firms today, particularly when it comes to access to flexible labour. Even within the same industry, depending on the degree of external change, firms will face different costs and benefits from the settlements negotiated with labour, with dominant players dictating settlements that smaller companies have to follow. As VOC theorists have pointed out, the alliances and cross-class compromises made by CME-based firms obligate smaller companies to adhere to the same regulations. However, if a large enough number of firms fails to comply with dominant-firm settlements, change will likely ensue (Hancke et al. 2007) because the mass defection lowers the costs of breaking away from negotiated settlements.

Migration work in this vein has argued that structural differences in types of capitalism will be reflected in the types of demands that employer associations make in trying to shape immigration policy. As Watts summarized, “for employers, distinct national labour regulations influence strategies for increasing labour flexibility and determine demand for immigrant labour” (Watts 2002: 9) LMEs (such as Britain and Canada) should demand entry for workers with general and transferable skills as well as for high-skilled workers with very specific skills; while CMEs (Germany, Sweden) will be almost entirely interested in highly-skilled labour (Menz 2009).

A similar logic is at play in LME regulations policing the use of illegal labour where the state provides the role of co-coordinator and enforcer for all firms so that if not none, fewer, reap the benefits of lower labour factor costs.

The question then becomes: Under what conditions is the demand for temporary workers formulated outside the terms defined by national institutions? In other words, when is the punctured equilibrium of path dependency transformed into a paradigm shift (Hall 1990)? Change deviating from the predictions of path-dependency is less likely if company actors have internalized the norms created by the web of costs and incentives defining the national systems in which they operate (Hancke et al. 2007). The corollary statement is also true: A paradigm shift requires a change in the world-view of the actors. In the German construction industry, for example, a large proportion of subcontractors employ labour outside negotiated agreements on the use of migrant workers undermining national regulations as all companies face fewer penalties. (Lillie and Greer 2007). However, this type of deviation does not tell us if economic agents have changed their preferences, or whether interest-based deviation from national norms can, in time, lead to preference change.

Scholars have hypothesized two paths of the transmission of ideas about immigration. For Menz, for example, one of the principal proponents of the varieties of migration literature (VOM), immigration policy has been liberalized so as to allow greater numbers of temporary workers because corporations have expanded the notion of security to include economic security, with one of the elements of economic security being access to workers on an almost just-in-time basis. This conceptualization is transmitted to state agents, who then implement its recommendations at various levels, including the supranational. For the second group, EU directives on labour's free movement are conceptualized as an aggressive intrusion into states' ability to set national social conditions and are seen to be motivated by a free-market perspective that has supplanted the vision of a Social Europe.

The first path is characteristic of VOM analyses in which the nationally-embedded firm is still the primary unit of analysis. While transnational factors have always been primary explanatory variables in traditional migration work, in the VOM-influenced analyses, transnational institutions, such as the EU, have been conceptualized as feedback mechanisms for state agents. In this formulation, policy issuing from Brussels is acceptable to state stakeholders and by implication, to national interests that originally influenced state policy. For one set of authors, the convergence of national systems in Europe toward the externalization of border controls is the result of conflict within the state and a bid for autonomy from its actors through access to the supranational level (Martiniello 2006). They argue that international norms and supranational institutions are often, if not always, the emanations of national-level actors engaged in venue-shopping and two-level games (Guiraudon and Lahav 2000, Huysmans 2000, Lahav 2006, Menz 2009). In these analyses, the dependence and embeddedness of capital in national systems of economic management is intact. Different forms of capital may access transnational levels of policy influence, but they will do so from the position of national interests.

Recent analyses of the EU, however, suggest that assumption – that domestic institutions ensure the persistence of capital's national embeddedness – may no longer be accurate. Much evidence also shows that the EU is moving quicker than national or sub-national governments would prefer to ensure porous borders. Domestic institutions' role in ensuring the persistence of capital's national embeddedness (Dolvik and Visser 2009, Lillie and Greer 2007) is being challenged. In several cases of policy-making, the EU has in fact advanced an agenda that as some analysts have argued, places economic imperatives ahead of social ones, and that is

reshaping the ideas and preferences governing firms' interests. As much as Europeanization has created new venues and opportunities, it is also governed by a logic of appropriateness affecting the socialization and learning processes of actors, potentially leading to norm internationalization and the development of new ideas (Menz 2009 cf. Borzel and Risse 2003: 79). "Actors are not creating some sort of national labor or capital interest, which then mediates Brussels' politics into their insular national environment. Rather, national actors act in their own fragmented interests within a multilevel environment shot through with transnational firms, labor markets, and increasingly, worker solidarity." (Lillie and Greer 2007: 556).

### **The Laval cases**

The most striking example of how firms have acted outside national boundaries has been through the practice of EU posted workers. This has seen companies advocate for and make gains in labour flexibility that would not be predicted by VOM theories. Posted workers are not migrant workers in the sense that they make an individual decision to emigrate; they are sent to countries different from their home by their employers. However, posted workers do represent a form of migrant labour, and more importantly, the actions taken by the interests involved in the posted workers debate lead to some conclusions which can be drawn about the persistence of the importance of national-level class compromises as well as the state's room for maneuver.

Through a series of European Court of Justice cases known as the Laval quartet, firms originating in or basing their operations in countries with lower labour standards than in some of the countries where they have operations, have won decisions that have the effect of making it impossible for states and/or labour to pressure firms to adhere to any but the minimum conditions of work in the host country. Ironically, in countries such as Sweden and Denmark, where minimum wages are set through sector-level bargaining, firms employing posted workers were able to win rulings that allowed them to pay rates below the conventional minimum wage as the ECJ ruled that the companies could not be expected to follow unclear regulations.

The ECJ's rulings in the Laval quartet are extremely significant for two reasons. The court actions were initiated by Latvian and Finnish companies, but they had support from companies that would be expected to be deeply embedded in domestic capital arrangements, such as the Swedish employers' union. A nationally-flavour role identification will not stand in the way of firms' fiduciary interest. In the face of managed migration programs and their emphasis on highly-skilled workers, the segmented labour market theory of the 1960s and 1970s has not been much employed, but the Laval quartet seems to revive its main implication: Firms will happily take profits where they can find them, including from unequal conditions of work from temporary workers, an avenue of analysis that, as will be shown, is also true in the Canadian and British cases.

National embeddness is especially weakened when institutions are available to reinforce an anti-domestic orientation, in this case, the ECJ and its reading of the EC's Posted Workers Directive. This is the second reason why the ECJ rulings are so consequential: In their interpretation of what had been considered minimum conditions of work under the PWD as maximal requirements, they reveal the ascendance of a liberalizing impulse in the EC and the descent of the vision of a Citizens' Europe of regulated capitalism where national-level standards could co-exist with free movement between states. Lillie and Greer connect this shift to an increase in access to policymaking by multinational firms and business associations, without a corresponding access by labour forces. (Lillie and Greer 2007; Zahn 2008, Dolvik and Visser 2009). The alliance between international capital and the EU is occurring not just on the grounds

of interests, but again on the grounds of ideas.

The Laval quartet shows that the assumption of VOC/VOM analyses that firms, labour and the state will continue to be in some way mutually constitutive is no longer reliable. Variation is now left to the weaker actor in that alliance, labour, which attempts to respond to transnational pressures and a growing cadre of undocumented, non-union labour, by accessing national institutions such as courts, as well as with working with established companies to stem the tide of unregulated subcontractors.

As national systems have become increasingly linked – if not integrated – with transnational institutions – the identity of previously-embedded capital is no longer as married to geographical territory. Even outside cases that are intimately linked to EU actions, firms have shown they are not always bounded. In an LME like Britain, it has been TNCs that have been found by the government to be the heaviest users of work permits, and among the most vocal advocates of liberal entry policies with the computer technology sector singled out for its reliance on such measures in spite of high levels of nationally-trained workers (Home Affairs Committee 2009). Outside the EU, supranational regimes of migration are continuing to develop. In Quebec, for example, the migrant farmworker program (SWAP) can be administered through FERME, an organization that arranges the administrative requirements for the arrival of workers. FERME, however, has also launched a pilot program for the provision of workers directly with the International Organization for Migration, Guatemala, for national occupations C and D. While minimum standards of employment are maintained, the program is not run through state authorities, completely unbounding the business from its literally land-bounded location.

### **The role of political actors**

If one looks solely at labour migration, what emerges is a landscape where capital and transnational interests have a lock on a state that exercises its autonomy primarily through the administrative finessing of policies which are tailor made by interests outside its remit. Beset by firms on one side and the EU on the other, political actors are disappeared unless they have adopted the norms and preferences of capital or arrive in the guise of state bureaucrats accused of insubordination by their political masters.

Turning to a comparison of Canada and the U.K., however, we find that politicians make choices that matter. The “accumulated institutions of the political economy...influence partisan positions” (Hall 2007: 81) but electoral “competition and the clash of social interests affect the receptiveness of governments ...” (Hall 1990: 57). Both countries over the past decade adopted liberal immigration regimes, in Canada’s case, moving from a human-capital to a demand- based model where the number of temporary workers has exceeded the number of permanent workers since 2008 (Frisen 2010). In the U.K. case, the liberal regime was seen in the country’s early opening of borders to the A8 accession workers and its implementation of an uncapped managed migration system by the previous Labour government.

The most valuable target of recruitment efforts are highly-skilled workers who contribute to national economic growth while requiring minimum social welfare benefits. For employers, however, the labour shortage occurs at the low as well as at the high-skilled level. In Canada and the U.K. this demand has been met through sector-specific schemes and time-limited work permits, and in the British case, through circular migration of low-skilled workers from the A8/ A2 countries, creating what have been termed new guestworker programs (Castles 2006; IPPR 2007).

This type of migration, however, can lead to resistance from the domestic labour force,

segments of the electorate and opportunities for opposition political parties. And as lower-skilled migrants are seen to have a larger impact on the wages of low-skilled domestic workers (Dustmann et al. 2008; Rowthorn 2008); and as their presence is both highly visible through work in the service sector and residential settlement patterns, governments are presented with electoral incentives to be perceived to limit the entry of low-skilled workers. The pressures that characterize the “trading state” - a state which derives its legitimacy by ensuring the security of free markets while fending off popular appeals for closure and territorial integrity (Hollifield 2004) - have been answered in several ways.

Some observers and international institutions have argued that one way to persuade the electorate that their individual interests coincide with the national economic interest (OECD 2007) is through the encouragement of a system of “international labour mobility” characterized by high rates of circular or infinite migration, that is, migration whose end point is not given at the beginning of the journey (OECD 2007). Indeed, evidence that permanent migration is being replaced by circular movement has led to some observers suggesting that governments may find it easier to persuade voters to accept large numbers of foreign workers as these workers do not make a permanent claim to state resources (IPPR 2007). The fast pace of low-skilled migration, however, means resistance from other parties will continue in spite of such long-term strategies. In Britain, one response has been the extension of the EU toward the former Eastern European countries and their workers, insulating the state from a backlash against workers from outside the EU (Hollifield 2004), through the closure of labour schemes that would allow low-skilled non-EU entrants. In Canada, as will be seen, the importation of temporary workers has led to skirmishes between the political parties and to conflict with labour interest groups.

Most importantly, liberal regulations governing the entry of workers have been balanced by restrictions in the refugee stream. Refugee policy has been increasingly harnessed to electoral interests; and in Canada, has recently become an issue that polarized the political system with the introduction of Bill C-49. The public is perceived by state actors, political parties principal among them, as suspicious of easily permeable borders and also potentially open to electorally-competitive appeals to decreasing migration. As such, liberal democracies’ migration schemes bifurcate, aiming to meet labour demand on one end, while at the other end bringing refugee and asylum policy under the elector-friendly umbrella of securitization which objectifies the foreigner and enables “symbolic politics and policies [that] maintain the illusion of border control [and] help governments fend off the forces of closure.” (Hollifield 2004: 903).

### **Canadian labour policies**

Three programs governing labour migration will be examined in the Canadian case: The move from a human capital to a demand-based model achieved through the passage of Bill C-50 but prefaced by changes made under the previous Liberal government starting in the late 1990s; the growth of the Provincial Nominee Program; and the increase in temporary workers.

During the last decade, Canadian immigration policy has changed from a human-capital to a demand-based model. The 2002 Immigration and Refugee Act (IRPA) signalled a move away from the importance accorded to family reunification and the human capital of independent workers. Prior to this date, foreign workers could be hired for a position if there were “no Canadians to do the job.” In 2002, the criteria shifted to Labour Market Opinions would be issued by Service Canada if such “employment is likely to result in a neutral or positive effect on the labour market in Canada.” Pilot programs for Software Engineers in 1997 and temporary low-skilled workers in 2002 (Pascoe and Davis 1999; Stewart 2000; Nakache and Kinoshita



2010) introduced under the Liberal government, resulted in the number of temporary workers surpassing the number of permanent entries (Smith 2010) and an increase in entrants arriving in the low-skilled classifications C and D (Annual CIC Reports 2008 – 2010; Hennebry 2009).

The most far-reaching change to immigration policy has been Bill C-50, which allows for Minister's Instructions to guide the processing of federal worker applications according to a list of occupations in demand. Bill C-50 was presented as a response to evidence that the positive outcomes of the human-capital model were in decline (see Hiebert 2006 for a discussion of some of these figures) and also as an indication of the government's commitment to an "immigration system [that is] more flexible and responsive to labour market needs." (CIC 2008). The prioritization of applications from occupations with shortages had been prefaced in several government documents.<sup>2</sup> Bill C-50 was positioned as a competitive asset: "The world has a limited supply of highly skilled workers," said Immigration Minister Jason Kenney "and Canada is in competition with other industrialized countries for qualified workers." (CIC Annual Report 2008).

Changes to the list of occupations would also be swift, the government promised, with expected updates at least every six months or as the market indicated. The net effect was that 38 occupations were deemed in demand on the bill's passage, which was further reduced to 29 in June 2010. The 600,000 applicants in the wait list without skills in demand would continue their slow progress through the system (OAG 2009), but new applicants would be considered only if they were qualified for one of the shortage categories. Overall, the number of general stream federal workers were projected to be reduced by 73 per cent by 2012. (CIC: Annual Report 2008).

Some of the decrease was expected to be compensated through two-step immigration programs: the Provincial Nominee Program and the Canadian Experience Class. The PNPs – which enable potential immigrants to apply directly to a province and have their application sponsored and "bumped" to the front of the federal line - represent a devolution of the responsibility for immigration to the provincial level (Leo and August 2009; Leo and Enns 2009; interviews with PNP departments). For Ontario, which was the recipient of 53 per cent of federal workers a decade ago (declining to 42.4 in 2009; Metropolis 2010), the PNP demands resources that had been assumed by the federal government; for Manitoba, it enables a desirable increase in population through the expediting of migration channels (Carter, Morrish and Amoyaw 2008).

The final and most publicly contentious plank of the shift to the demand-based model has been the increase in temporary workers. By last year, over 60,000 new temporary workers were granted entry in skill levels C and D, up from approximately 20,000 lower-skilled entrants throughout the early 2000s. The numbers rose in lockstep with policy changes that streamlined the process for employers. In 2007, Labour Market Opinion permits were extended to 24 months from 12 and the Expedited LMO was introduced which promised processing of employer applications within five days.

The government faced a number of responses to the increase in temporary workers, but perhaps two of the most significant were the 2009 report from the Office of the Auditor-General of Canada, which was critical of the apparent lack of strategy in the move to a demand-

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<sup>2</sup> In 2006's *Advantage Canada: Building a Strong Economy for Canadians*, the government promised the "world's most flexible workforce" and in his 2008 Budget, Finance Minister Jim Flaherty committed to the establishment of a "just in time competitive immigration system" that delivered immigrants to jobs where they were needed (Department of Finance Canada 2006; Department of Finance Canada 2008, cf. in Siemacki 2010).

based system and the 2009 Report of the Standing Committee on Citizenship and Immigration on Temporary Foreign Workers and non-status workers. The report was uncharacteristically polarized for the CIMM, with the Conservative members of the Committee registering their dissension with several recommendations, including allowing family members of low-skilled temporary workers to enter the country, expanding paths to permanent residency for LSWs with 24 months working experience in Canada and tying work permits to the worker rather than the employer.

Interviews reveal that employers in service industries in the Western provinces have become dependant on foreign guest workers. While wage rates have to be set at prevailing official levels, real wage rates may be lower in practice. This has sometimes resulted in native workers being paid less than the foreign workers they work alongside. Administrative organizations, government officials and labour groups agree that employers would prefer hiring foreign workers due to the perception that they have a superior work ethic, tolerate more flexible hours and working conditions and show reduced levels of absenteeism. For labour groups such as the AFL, however, the docility of the temporary work force testifies to the risks of seeking a position other than the one associated with the LMO, a process that in its difficulty is seen as constituting a form of coercion.

Such changes as made by the government in the past year and taking effect this spring have had the effect of further restricting the options available to low-skilled workers, most importantly the capping of temporary residence in Canada at four years after which a temporary worker is not eligible to work in the country for another four-year period. One question that bears more scrutiny is whether the policy will lead to a decline in the number of temporary workers and their replacement through Bill C-50. Such a path is possible if future Minister's instructions include low-skilled positions on the list of occupations in demand as has been the case in the U.K. (skilled chefs, for example). For now, however, advocates for temporary workers have suggested that the four-year cap will result in the status of workers already in the country becoming irregularized.

### **U.K. Labour policies**

Whereas the neoliberal ideational orientation of the Canadian Conservative party is reflected in the growth of demand-driven programs that respond to local conditions, policies in the U.K. case can be partially explained by the actors' self-conception, a "cosmopolitan" outlook that interacted with the economic liberalism of the Labour party's Third Way, to lead to one of the country's most open worker migration systems. Policy-makers understood the movement of labour as not only possessing economic and cultural benefits, but as a mark of international confidence.<sup>3</sup> This is not to argue that in the absence of a receptive ideational environment the various interests involved in setting immigration policy would not have received a hearing. Rather, it is to explore the notion that while the government's embrace of such ideas made the

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<sup>3</sup> Informants were unanimous in seeing ideational orientation as an explanatory variable for Labour's migration policy. "There was a genuinely liberal response to immigration," said Don Flynn, the executive director of the Migrant Rights Network and a former officer at the Joint Council for the Welfare of Migrants. "In the 1990s, the U.K. economy had liberalized and globalized and politicians had that background themselves." Similarly, the Migration Advisory Committee's David Metcalf said: "everyone was very gung-ho [in 2004], migration was seen to reduce inflationary risk and there was pressure to be flexible."

interests of labour and business more likely to be reflected in the government's final policy, just as importantly, the perception of self-interest held by business and labour was itself shaped by liberal notions of immigration.

Stakeholders affected by immigration policy in the U.K. defined their interests at a time that was concurrent with the ascendance of ideas about the economic benefits of high labour mobility and the reality of more insecure, flexible workplaces. While it is beyond the scope of this paper to explore these issues, on another level, migrant labour provides, and provided, a *deus ex machina* solution to structural bottlenecks in Britain's existing labour force that were identified by both Conservatives and Labour, but were resistant to change in response to demands for a service-driven economy (Hall 2003; Lewis 2005; Page 2007; White 2001). These factors were combined with an external environment where a European identity was in ascendance, where ideas and people were shaped by porous borders (Robyn 2005, Breakwell 2004). As many observers have pointed out, non-European countries are excluded from Fortress Europe (Caviedes 2004, Hepple 2004), but within it, "buy-in" to the idea of free movement can be measured by the astronomical and ever increasing numbers of Continental holidaymakers. In this realm, the British government's initial embrace of a liberal immigration policy can be understood as part of its larger "cool Britannia" image-building, an exercise that drew as much on contemporary myth-making as on the excavation of Britain's heritage in the Commonwealth (Caldwell 2006, Van Ham 2001, Scott and Street 2001, McRobie 1999). More than one observer remarked that no country was more open to Europe and more confident in opening its market to Europe than Britain prior to 2006.

Two areas will be discussed. The opening of borders to the A8 in 2004 (and the closure of working permits to the A2 of Romania and Bulgaria two years later) and the managed migration system. The labour stream of the U.K.'s "managed migration" system has been developed over the last decade primarily through four immigration bills passed by the Labour party in the period 1997 to 2010. The direction of policy throughout has linked labour migration and asylum, presenting the former as dependent on the public's confidence in the latter.

The accession of the A10 countries to the European Union was greeted by Britain with minimal regulations, even as the Treaty of Accession allowed countries to impose transitional limits on the movement of A8 citizens for seven years after joining. In conjunction with Sweden and Ireland, the U.K. in 2004 chose to allow workers from the former Eastern European countries immediate access to the labour market, requiring only that they register under the Worker Registration Scheme (WRS). Home Office minister John Reid predicted that flows would reach only 10,000 but the number of A8 workers reached 160,000 entrants registered under the WRS one year after accession (IPPR 2007) and almost a million by December 2008 (MAC 2008). The high numbers stoked the cold war between Labour and the right-wing tabloids and conservative papers into a full-out conflagration and the mistaken estimate would fuel anti-immigration sentiment for several years (ALP, NFU, TUC 2006).

It also led to a rather different treatment given to the A2 two years later. Rather than simply requiring registration, A2 migrants could only work in Britain without a job offer if highly-skilled or enrolled in sector schemes (Seasonal Agricultural Worker Scheme and food processing schemes) for low-skilled workers which were closed to workers outside the EU and staffed with Eastern Europeans. The WRS was due for review every two years, with its continuation for a final two years past an initial five, dependent on the government believing that closing the scheme would lead to a "serious disturbance in the labour market." The government (and the Migration Advisory Committee's report on which it based its decision) surprised

observers by continuing the WRS in 2009 and justifying its choice by pointing to the country's economic recession and the very small risk that an additional inflow of workers from the A8 would depress wages on the low end.

The government's reluctance to end the scheme can be more clearly explained as a result of its electoral concerns. As stated by a 2005 Ministerial working group on asylum and immigration document which was considering lifting the WRS requirements, one of the priorities of the Labour government was meeting demands for labour without alienating voters. The group stated that any decision to close the WRS would not prevent its imposition on Bulgaria and Romania, but it would make those two countries "a hotter media issue" at their entry to the EU. The group also stated that while employees wanted the WRS closed, the employer lobby "has been contained and managed effectively within the Illegal Working Stakeholder Group." Nevertheless, the end of the WRS "is likely to to be **perceived domestically as a loosening of the Government's grip on migration and benefit shopping**. This would contrast unhelpfully with other Government policy to tighten management of the migration system (as set out in the [five year strategy]." Public and media opinion, the group believed at the time, remains resistant to "rational" arguments for migration, "and the media climate is arguably more hostile to migration now than in early 2004." Four years later, those concerns would have endured and be cast in an even brighter spotlight.

Voter and media considerations were particularly important as the government was pressing forward with its point-based managed migration system that would open the doors to highly-skilled labour from outside the EU without any quotas. The managed migration system was most clearly outlined in 2005's *Controlling our Borders: Making Migration work for Britain*. The document accorded business needs primary importance in determining the entry of workers. It proposed a points-based system, modeled, according to interviews, on Australia's highly flexible, demand-driven regime, in which foreign highly-skilled labour, shortage occupations, students and national skills council would form a matrix of economic levers. The government's tilt toward a liberal entry system is further underlined by the absence of quotas for what would become Tier 1 – the most highly-skilled independent workers. This group would be allowed entry on an "employer-led" basis.

The point system was welcomed by the business community. The less onerous administrative burden – it rationalized the work permit system from 80 streams of potential entry that had been established in the 1971 Immigration Act into five - met the corporate sector's needs for foreign workers in the high and middle-end sectors, particularly for ease in inter-company transfers in software industries. The system, however, was launched almost immediately after the financial meltdown of fall 2008 and continual adjustments to the manner in which it calculated points for potential immigrants are a testament to the government's continuing need to balance electoral considerations with its ideational commitment to a "corporate-state" orientation.

Several changes were made to the scheme within months of its introduction, all of them presented as tightening eligibility. As of February 2009, employers wishing to sponsor a foreign worker had to advertise the position at a local JobCentre Plus (employment office) – this requirement was extended in December of 2009 to four from two weeks; the qualifications to enter under the independent highly-skilled Tier 1 category were raised from a B.A. to a MA; and the shortage occupation lists would be used to trigger skills reviews that would focus on training residents in those areas. The Home Office minister at the time, Jacqui Smith, said: "Just as in a growth period we needed migrants to support growth, it is right in a downturn to be more

selective about the skill levels of those migrants, and to do more to put British workers first.” Labour’s electoral loss in the 2010 election would lead to the eventual imposition of a quota of 10,000 entries a year in Tier 1 by the coalition government.

The rationale underpinning the point system, however, represented one of the most liberal entry policies of any Western government to the movement of highly skilled workers, a de facto extension of the European right of free movement to the highly-skilled outside of the EU. It was congruent with the Labour refashioning of itself as a Third Way between conservative certainties and labour rigidities. Labour came to power in 1997 offering a vision that was seen to attract a younger, middle-class voter rather than its trade-union base (Hall 2003; Lewis 2005; Page 2007; White 2001). For the former voter, liberal immigration was part and parcel of Britain’s cosmopolitanism. In other words, managed migration did not just meet business interests or the immediate need for labour, nor did it pertain solely to the immigration field but instead it was a plank in Labour’s Third Way project and a reflection of the identity held by the party’s political actors (Bevir 2003).

### **Conclusions**

One of the hypotheses animating the argument is that ideational preferences held by political actors can insulate decision-makers – to some extent – from electoral pressures and economic cycles. A neoliberal, corporate state orientation that exists independently of the satisfaction of demands made by capital, is likely to result in the persistence of an open migration system even during recessionary cycles. That assertion does not imply that political actors will not adjust programs at the margin – both to account for possible negative effects on domestic markets and more often, to satisfy calls for the appearance of protection of the national labour market. Evidence of this process can be seen in the shifts made to the U.K. point system, crafted during an economic boom seemingly without end, but introduced during a harsh British recession. Policies, however, not only create politics (Pierson 1996), they have unintended consequences (Pierson 2004). The point system created business allies for the Labour party, allies who have actively campaigned against the restrictions imposed by the coalition. However, in spite of Labour schemes to use the migration system as a way identify and redress skills shortages in the domestic labour force, lower-skilled workers have faced high levels of unemployment and have provided a constituency open to supporting calls for restrictions on immigration. One research question specific to the U.K. but with wider applications to the literature on party politics is how the coalition government – and the Conservative party in particular – is and will be navigating the legacies of Labour immigration politics. What predictions can be made about the impact of Labour-led alliances on future possibilities for policy change? And finally, did the ideas Labour attempt to turn into policy shift preferences among other political parties?

In the Canadian case, the demand for flexible and temporary labour found an ideational match in the Conservatives’ economic neoliberalism. While the door to the labour market had been quietly opened by the Liberal government in the 2002 IRPA, Bill C-50 has allowed various stakeholders, including business and labour, influence in determining the list of occupations in demand, with the final list to be decided by the immigration minister. The economic recession of 2008 – 2010 reduced the government’s willingness to fasttrack the entry of temporary workers and led to the cancellation of expedited labour market opinions (which had had guarantees of LMOs in five days) in spring of 2010 and a slight decline in 2009 to 178,478 temporary workers from a peak of 192,519 the year before. However, perhaps due to the relatively less severe

recession in Canada and the lower number of entries than in the U.K. (based on the perception of A8/A2 workers as ‘foreign’ workers in Britain), calls for the restriction of labour immigration have been much more muted. One possibility that requires further exploration, however, is that the Conservative government’s insistence on a flexible labour system, and the absence of a connection between domestic market gaps and national training strategies can be explained by the range of interests able to influence government positions. Without a connection to labour interest groups, unlike the situation in the U.K., ideational factors can be expected to demonstrate an even higher degree of dominance in policy decisions.

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