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Convergence, capitalist diversity, or political volatility? Immigration policy in Western Europe

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Abstract

Are immigration policies in European countries converging? Or do some countries remain more open to immigrants than others? We address these questions through an analysis of labour migration policies in five European countries from 1990 to 2016. Using an original immigration policy index (ImPol) to measure policy restrictiveness we examine whether policies have converged, to what extent immigration regimes reflect distinct ‘varieties of capitalism’, and whether national policy trajectories are shaped by domestic politics. We find little evidence of convergence; mixed evidence that immigration policy regimes reflect capitalist diversity; and strong evidence that policies respond to changes in domestic political conditions. Whilst ‘varieties of capitalism’ may set the broad parameters for immigration regimes, the direction and timing of policy changes are determined by domestic political competition.

Keywords: immigration, labour migration, political economy, varieties of capitalism

Introduction

Are immigration policies in European countries converging? Or do some countries remain more open to immigrants than others? These questions are at the core of the literature on immigration policy. A central debate revolves around the extent to which immigration policies are determined by forces of economic globalization that are beyond governments' control, or whether domestic-level political contestation better explains policy outputs. In this paper, we address these questions through an analysis of labour migration policy trends from 1990 to 2015 in five European countries. Using an original immigration policy index (ImPol), which allows us to measure policy restrictiveness between countries and over time, we examine three hypotheses: first, that immigration policies have converged; second, that immigration regimes reflect distinct varieties of capitalism; and third, that cross-national variation and trajectories of policy change are shaped by domestic politics, specifically party competition and the mobilisation of ideas about immigration.

Our approach combines quantitative analysis of policy outputs with qualitative case studies to examine policy changes at the country level. We first unpack, then examine, each hypothesis. We find little evidence of convergence. We then consider possible explanations for variation between countries and change over time within countries. First, we consider whether variation in policy across countries is conditioned by distinct varieties of capitalism. We find mixed evidence that immigration regimes reflect patterns of capitalist diversity. Second, we present three country case studies, to explore whether policy changes over time are shaped by party politics and domestic debates about immigration. We find strong evidence that policies respond to changes in domestic political conditions.

Three approaches to immigration policy

A key debate in the immigration policy literature concerns the extent to which policies vary across major destination countries, and in particular whether there is evidence of convergence in policy outputs. The idea of convergence relates both to the direction of travel on an open-closed continuum (are policies converging on more or less restrictive approaches?), as well as in differences in the types of migrants that national regimes select (for example, is the relative openness towards higher and lower-skilled labour migrants increasingly similar across states, or are there persistent patterns of differentiation, some countries prioritising high-skilled, others low-skilled migrants?).

We identify three approaches to these questions in the literature. The first contends that immigration policies in rich democracies are converging. For example, in *Controlling Immigration*, Hollifield et al. (2014) suggest that immigration policies across advanced economies are becoming increasingly similar. Although they do not specify the mechanisms behind convergence, their discussion points to economic globalization as a key factor pushing governments in similar directions. Facing similar economic pressures, rich countries are converging on more open labour migration policies. An alternative explanation of convergence looks not to external factors, but to endogenous processes in immigration policymaking in Western democracies. Freeman (1995) famously argued that immigration policymaking was shaped by ‘client politics’, which creates an ‘expansionary bias’ in labour migration policies across advanced economies. The politics of immigration in liberal democratic states ‘exhibit strong similarities that are broadly expansionist and inclusive’ despite anti-immigrant public preferences (Freeman 1995: 881). Whatever the drivers, recent research has provided some empirical support for the convergence hypothesis, finding immigration policies in Western

countries to have become increasingly liberal over the period 1980-2010 (Helbling and Kalkum 2018) and 1946-2013 (De Haas et al. 2018). As the literature offers diverse potential explanations, and moreover since empirical studies of convergence do not examine the factors behind it, we treat the convergence hypothesis as descriptive, rather than explanatory.

A second school of thought contends that convergence is unlikely given the varied labour market structures and production strategies across advanced economies. Comparative political economists argue that immigration policies will tend to reflect distinct labour market configurations or patterns of employer demand. For example, Menz (2008) argues, contra Freeman (1995), that employers do not pursue more liberal immigration policies across the board. Instead, they lobby governments to open channels for migrant workers with particular skills and in certain sectors. According to Menz, the production strategy in a country will shape the types of firms and their preferences for labour and skills.

This last point has received growing attention as scholars have begun to examine ‘the links between international migration and capitalist diversity’ (Afonso and Devitt 2016: 592; Devitt 2011; Paul 2016; Ruhs 2018). One approach draws on the varieties of capitalism (VoC) literature as developed by Hall and Soskice (2001). The core idea of VoC is that distinct capitalist models can be identified ‘based on the extent to which demand and supply are ‘embedded’ in social and political rules which constrain market forces’ (Afonso and Devitt 2016: 593). In their analysis of institutional differences and complementarities in a firm-based political economy, Hall and Soskice distinguished between liberal market economies (LMEs) found in the Anglo-Saxon world (US, UK, Australia) and the coordinated market economies (CMEs) of Germany, Japan, Sweden, and Austria. Other political economists have argued for a third ideal-type – a hybrid Mixed Market Economy (MME) – to describe Southern European

states such as Spain and Italy, and by some accounts France (Devitt 2011; Molina and Rhodes 2007).

Given differences in the supply and demand for skills and labour with which these models are associated, VoC implies that firms' demand for migrant workers will vary across the capitalist types. Labour market institutions, welfare systems, and education and training institutions should influence the domestic supply of labour and thus employer demand for migrant labour (Devitt 2011: 580); while the degree of coordination between political elites, firms, and trade unions, should condition the way in which policies are made (Menz 2008; Devitt 2011; Ruhs 2018; Paul 2016; Afonso and Devitt 2016). This suggests that immigration policy will reflect the institutional differences of LMEs, CMEs and MMEs. We unpack these differences below, but in brief we expect that LMEs will be relatively open towards both high- and low-skilled migration, whereas CMEs should be open only to high-skilled and relatively closed to low-skilled migrants. MMEs exhibit a mix of logics and a high degree of institutional incoherence, making it more difficult to derive expectations. Nonetheless, for reasons we explain below, we expect MMEs to be open to low-skilled migration, particularly agricultural workers.

In contrast to accounts which view immigration policies as structured by national political economies, a third approach views policy as strongly shaped by domestic politics. Scholars who argue that immigration policy is shaped by shifting and often unstable changes in domestic politics are sceptical that exogenous processes of globalization are driving convergence *and* political economy approaches that emphasise structural explanations. Two implications of this approach are: firstly, that immigration policies are likely to fluctuate over time, evolving in more or less restrictive directions depending on political competition about immigration; and

secondly, that policies are unlikely to exhibit consistent patterns of cross-national variation grounded in stable models of political economy.

Several scholars argue that political parties matter in shaping immigration policy, for example whether centre-left or centre-right parties are in government (Schain 2008; Hampshire and Bale 2015), or whether successful radical right parties are able to exert direct or indirect effects on policy (Norris 2005); others point to the role of historically embedded ideas and public debates in immigration policymaking (Boswell and Hampshire 2017; Consterdine 2018; Hansen 2000). According to these accounts, there is little reason to believe that policies will converge, nor that they will straightforwardly reflect institutional differences in national production strategies; rather, the ebb and flow of domestic politics will shape policy outputs. Volatility, rather than convergence or stable cross-national variation, is to be expected.

In summary, the three approaches sketched above generate different expectations about immigration policies. The first hypothesises that policies are converging, whether as a result of exogenous constraints associated with globalization, or structural similarities endogenous to immigration policymaking in Western democracies. By contrast, comparative political economists predict patterned variation in immigration policies that reflect the institutional differences and complementarities across advanced capitalist economies. Liberal, coordinated, and mixed market economies should exhibit relatively stable differences in terms of their openness towards higher and lower-skilled migrant workers. Finally, a third approach analyses immigration policy as the product of domestic political processes. In contrast to both the convergence and patterned divergence hypotheses, policy is more likely to respond to changes in the composition of governments, the success of anti-immigrant parties, and the framing of immigration in public debates.

We examine to what extent trends in immigration policies across five European countries – France, Germany, Italy, Spain, and the United Kingdom (UK) – during the period 1990 to 2016 bear out these contrasting expectations. Is immigration policy in these countries characterised by convergence, patterned variation, or political volatility? To address this question, we utilise a new immigration policy index, which allows us to make systematic comparisons over time and between countries.

Methodologyⁱ

Our analysis is based on an original dataset and immigration policy index (ImPol), which systematically measures the restrictiveness of immigration policies in five European countries during 1990-2016. ImPol enables analysis of cross-national variations between countries, as well as change over time. ImPol is designed to capture changes in labour migration policies at different levels of aggregation, allowing the examination of work-related routes by occupations or skill level, which is important since entry criteria and conditions attached to admission are often differentiated depending on the job, education or skills of migrants (Ruhs 2018).

This distinguishes ImPol from other immigration policy indexes such as IMPIC (Helbling et al. 2017), IMPALA (Beine et al. 2016), DEMIG (De Haas et al. 2018) and Ruhs's labour migration index (2018). Most of these indexes treat labour migration as a homogenous category, without the differentiations afforded by ImPol. The exception is Ruhs' index, which does distinguish between low- and high-skill migration, but is limited to a single year (2009). Our indicators for labour migration, coupled with a unique 'by-occupation' approach (see

below), means that ImPol provides the most advanced measure to date of labour migration policy.

The first conceptual question for any measurement of policy restrictiveness is how to capture the complex and multidimensional nature of immigration policy itself (Helbling et al. 2017). What do we mean when we say immigration policy is more or less restrictive? Which instruments are we measuring and how can this be operationalised? ImPol measures restrictiveness in two dimensions: entry criteria (whether policy makes admission to a country easier or harder through more or less stringent eligibility requirements); and conditions attached to admission (whether policy grants more or less generous conditions to migrants after they are admitted). Examples of entry criteria include language, age, and job offer requirements; examples of conditions attached to admission include rights for accompanying family members, the possibility to transition visas, and routes to settlement. We do not include in-country rights that are affected by non-immigration policies and institutions, for example healthcare, education or social security rights, as this would confound cross-national comparisons of immigration policy per se.

ImPol uses a total of 24 indicators for labour migration: 12 for entry criteria, and 12 for conditions attached to admission. Each indicator is measured using an ordinal scale, with three options: restrictive (-1), neutral (0), and open (1). The codebook sets thresholds for coding decisions using objective criteria. For example, if a language requirement is set at B1 or above on the Common European Framework of References for Language then this route is coded as -1, a requirement at a lower level is coded 0, whereas no language requirement is coded 1. This approach to thresholds means that ImPol not only captures changes in restrictiveness over time for a given country, but also enables systematic comparison across countries. Each indicator is

coded for every year in the time series. In our analysis below, we aggregate entry criteria and conditions attached to admission as states use both to regulate work migration. Scores are averaged with equal weighting for each indicator.

An innovative feature of ImPol is the ‘by occupation’ approach. This approach is our solution to a methodological problem presented by the complexity of policies regulating the entry and stay of work migrants. Labour migration policies are highly, and often increasingly, differentiated, and their structure varies considerably across different national policy regimes. In most countries, there is not a single route or set of criteria for migrant workers, but many different visas and routes, each with different entry criteria and conditions attached to admission, depending on factors such as the applicant’s education and skills, whether they have a job offer, and if so, what sector that job is in. Indeed, ‘labour migration policy’ is really shorthand for myriad policies operating within a national framework.

This creates significant challenges for consistent and reliable measurement, especially across countries and time. It is not possible simply to measure visas, since comparable visas do not exist in all countries. For example, not all countries operate a visa for ‘high-skilled’ workers distinct from other work visas, yet there will usually be some entry route for those who would be considered high-skilled. Even within a given country it is not always possible to track a single visa, since categories are created, amalgamated, and abolished over time.

To overcome this problem, we measure work-related migration policies using selected occupations at different skill levels as defined by the International Labour Organization’s International Standard Classification of Occupations (ISCO-08). For each occupation we code the visa or programme that applies to that occupation or, where there is no dedicated visa or

programme, we code the ‘general route’ (see below). This allows us to track changes in entry criteria and conditions attached to admission for a given occupation over time and across countries, even when the applicable visa category for that occupation changes over time or is different across countries. For low-mid skilled routes we coded agricultural labourers, construction labourers, teachers’ aides, and au pairs. For high-skilled routes we coded doctors, researchers, software developers, and managing directors. This approach allows us to analyse policies on specific occupations between countries and over time; and by aggregating occupations at different skill levels we can produce measures of restrictiveness towards selected higher- and lower-skilled workers. We also measure what we call the ‘general route’, which is a construct to capture the main route for work visas in the absence of specific occupational programmes. This is often numerically the most significant route.

Once the coding scheme was agreed, the coders compiled a database of legal texts for each of the five countries. For some indicators, coding could be completed with reference to primary legislation, but since the details of entry criteria and conditions attached to admission are often specified only in lower-level rules, coders often had to consult secondary legislation, decrees, circulars, internal instructions, etc. To verify our coding, we interviewed immigration officials (especially where lower-level instructions were unavailable), and expert lawyers were consulted to confirm coding decisions in each state.

The convergence hypothesis

To examine whether policies are converging we begin with the ‘general route’ across our five states. This represents the primary entry channel for work-related migration and is the default work visa in the absence of occupational or sector-specific routes. If the convergence

hypothesis is correct, we should see evidence of the general route converging over the last 25 years.

Figure 1 (see the online appendix) presents results for the general route. It provides at best mixed evidence that these European states' work migration routes have converged. The range has reduced from 0.48 in 1990 to 0.32 in 2016, but there remains considerable variation between the five countries, and they have followed quite different trajectories: France and Germany are essentially stable (with minor restrictive adjustments in the mid-2000s); Spain has become considerably more open; Italy and the UK have become more restrictive. During the mid to late-2000s, four countries converged, but in 2012 Italy made a strong restrictive turn. The UK, which has the most restrictive approach of all five countries throughout the period, tightened its main work visa after 2010. The overall trend across the five countries is moderately restrictive: the mean ImPol score was 0.48 in 1990 compared to 0.40 in 2016. This hardly supports claims that functional pressures associated with economic globalization are sweeping countries in a more liberal direction.ⁱⁱ Furthermore, ImPol shows an overall restrictive trend since the 2008 crash, driven by tightening in Italy and the UK (cf Tilly 2011).

To further examine the convergence hypothesis, we next consider high-skilled routes. It is often argued that immigration policies have become increasingly selective (Helbling and Kalkum 2018: 1787), and migrants with specialised skills are sought by advanced economies in a 'global race for talent' as governments compete 'to lure the best and the brightest' (Triadafilopoulos and Smith 2013). These migrants are enticed with attractive policy packages including facilitated entry and generous conditions, such as the right to bring dependents or a route to permanent settlement.

Below we examine policies on high-skilled migration by aggregating all occupations defined as high-skilled within ImPol. As explained above, our bundle of high-skill occupations includes software developers, doctors, managing directors, and researchers. Figure 2 (see online appendix) presents the mean scores on all indicators for these occupations across our five countries. While the occupations are not a representative sample of high-skilled migration, they represent a numerically significant proportion of high-skill flows, and the results provide a good indicator of policy trends.

As Figure 2 shows, we do not find evidence for convergence across high-skilled immigration policies, nor is there a clear trend towards more open policies. During the early to mid-2000s, all five countries loosened their entry criteria or conditions attached to admission for high-skilled migrants. After 2008, however, they moved in different directions: Italy and especially the UK became more restrictive; Germany (post-2004 liberalization) and France remained relatively stable, while Spain became more open.

We therefore find little evidence to support the idea of policy convergence on high-skilled migration. Instead, there is considerable cross-national variation by the end of 2016. While all countries liberalized high-skilled routes at some point between 1990 and 2005, since 2008 they have followed different paths. If there was a ‘race for talent’ in the early 2000s, recently these European countries have been running in different directions.

Varieties of capitalism, patterns of immigration policy?

We turn now to consider whether immigration policies are patterned according to varieties of capitalism (VoC). ImPol includes examples of each of the main VoCs: a LME (UK), a CME

(Germany), and three MMEs (France, Italy, Spain). To date, there are no systematic analyses of whether policy outputs consistently vary between these VoC over time.ⁱⁱⁱ

We examine whether immigration policies are consistent with expectations derived from the literature about demand for labour migrants at different skill levels across the main VoC types. We do not make claims about political economy as an explanation of variation; rather our (more modest) aim is to test whether there is a good ‘fit’ between what the comparative political economy literature leads us to expect immigration policies should look like and policy restrictiveness at different skill levels across the three VoC types.

The literature suggests that the deregulated labour markets of LMEs should be open to both low- and high-skilled migrants: employers in LMEs ‘seek easily transferable skills paired with flexible recruitment and redundancy strategies....[and] an abundant and flexible labour supply in lower skilled job markets’ (Paul 2016: 1632). We expect that firm lobbying for migrant workers will lead to comparatively expansive policies for low-skill migrants. At the same time, as LMEs are geared towards radical product innovation they will try to attract high-skilled migrants. This means that in LMEs we would expect to find policies that are expansive towards *both* high- and low-skill migrants.

In contrast, CMEs adopt longer-term and more incremental production strategies, with firms investing in specialist and firm-specific skills through vocational training (Paul 2016: 1632). Employers ‘will lobby for skilled migrants who either complement existing production modes directly or provide valuable synergies if they permit the ‘import’ of skills that are not or not sufficiently generated domestically’ (Menz 2008: 5). The importance of collective bargaining in CMEs implies they will seek to ensure that migrants do not undermine wages and working

conditions. CME employers will favour migrants that can address specific skills shortages, but ‘tend to exclude lower skilled admissions in order to avoid unwanted competition for jobs and excess migration’ (Paul 2016: 1632). Therefore, in CMEs we would not expect to see much demand for low-skilled migrant labour. Rather, CMEs should be mainly interested in high-skilled migrants.

As MMEs exhibit a mix of logics, it is more difficult to derive expectations about their migration policies. The position of MMEs regarding high-skilled migrants, for example, is ambiguous. There is limited investment in training in MMEs compared to CMEs so we would expect to see skills shortages in the domestic workforce, leading to demands for high-skilled migrants (Molina and Rhodes 2007: 16). However, MMEs also have polarized labour markets, with high levels of protection for permanent job-holders and barriers to the recognition of qualifications from other countries. We would therefore expect some encouragement of high-skilled migration, but at a much lower level than LMEs or CMEs, and only in specific sectors. At the other end of the labour market, there is a clearer picture. Given the low barriers to entry into their large, low-skill sectors we would expect to see a high level of demand for low-skill migrants in MMEs, on a par with LMEs and certainly higher than CMEs. In particular, in the MMEs of Southern Europe there should be high demand for migrant labour in the agricultural sector (Devitt 2011).

To consider whether these expectations are borne out, we use the measures of the general and high-skill routes (Figures 1 and 2 respectively) and also a measure of policy on low-skilled migrants. This latter measure uses the same methodology as high-skilled routes, except this time aggregating the lower skilled occupations: agricultural workers, construction laborers, teachers’ aides, and au pairs. These results are presented in Figure 3 (online appendix).

What do the results in Figures 1-3 tell us? Beginning with the UK, the results do not fit our expectation that an LME should be open towards both high- and low-skilled migrants. Over the last three decades the UK has consistently had the most restrictive ‘general route’, and since 2008, the most restrictive policy for high-skilled migrants of all five countries (see Figures 1 and 2 online appendix). It is also far more restrictive than the other countries towards low-skilled migration, as shown in Figure 3. This is partly explained by the large number of European Union (EU) workers entering the UK labour market under free movement provisions, particularly since 2004 when eight Central and Eastern Europe (CEE) states acceded. But this does not explain the UK’s restrictive approach before 2004. Free movement is also arguably less plausible as an explanation of the UK’s restrictiveness on high-skilled migration.

Germany fits the expectations of a CME more closely. Since the 1990s, it has a restrictive policy on low-skilled migration, as VoC predicts. Intra-EU mobility comprises a large proportion of migration to Germany, especially since the lifting of transitional controls on CEE states in 2011/14 (BPB 2018: 38; Clemens and Hart 2018). Germany’s high-skilled migration policy has been more volatile. During most of the 1990s and early 2000s, it had the most restrictive policy of all five countries, which does not conform to the expectation that a CME should be relatively open towards high-skilled migrants. In 2004, however, the federal government liberalized its policy, and for the remainder of the period Germany was either the first or second most open country for high-skilled migrants. Thus, by 2016, Germany looks as a CME should do, with a clear discrepancy between a restrictive regime for the low-skilled and a relatively open regime for the high-skilled. The drivers of policy change during the period will be explored further below, but the fact that there was such an abrupt policy change in 2004 casts some doubt on the static institutional approach of VoC.

France, Italy, and Spain are examples of MMEs (Molina and Rhodes 2007). As outlined above, the VoC literature on MMEs does not lead to clear expectations for high-skilled migrants and our findings show diverse patterns across the three countries (see Figure 2 online appendix). ImPol results do support VoC-derived expectations about low-skilled migration, with Spain, Italy and France having the most liberal low-skilled immigration routes across the 26-year period, albeit with a clear restrictive trend in the case of Italy.

One of the reasons Southern European MMEs should have open low-skill migration policy is the size of their agricultural sectors, which depend heavily on migrant labour. We therefore expect MMEs to have liberal policies towards agricultural workers in particular (though reliance on undocumented migration could potentially confound this expectation in ways similar to the effect of free movement in the UK). Figure 4 (online appendix) presents the results for agricultural routes. Our results broadly confirm our expectations: Italy persistently has the most liberal route over the period, despite a restrictive trend, and Spain has the second most liberal route for most of the period, with a liberalising trend. The anomaly is Germany, which is more open to agricultural workers than we expect a CME to be.

In summary, ImPol provides some support for VoC-derived policy patterns, but it is far from fully consistent with them. Low-skill immigration policies are broadly consistent, with Germany relatively restrictive, and Italy and Spain relatively open. The UK appears anomalous, but as explained above, this is probably a consequence of the significant number of EU workers from CEE states. On the other hand, our measures of high-skilled routes do not fit well with VoC: the UK is most restrictive, Germany only opens after 2004, and Spain became more open than both these countries following its 2013 reforms. Lastly, the high levels

of volatility across most routes, and the contrasting trends in, for example, Italy and Spain, casts some doubt on whether there are stable VoC-type policy patterns over time.

Politics matters

If there is little evidence of policy convergence across the five countries, and only partial evidence to support VoC-type patterns, can cross-national variation and changes over time be explained by political competition? We briefly examine the relationship between policy trends and party politics through case studies of three of our countries: UK, Germany and Italy. We identify party political competition, and the mobilisation of narratives about immigration by political parties, which often draw on national experiences, as explanatory factors for policy change in our three cases. Here we follow Ruhs' argument that 'qualitative research and in-depth case studies are critical to gaining a better understanding of the relationships and dynamics between migration policies and other types of public policies and institutions' (2018: 27).

Immigration policy in the UK has become more restrictive across high-skill, low-skill, and general routes (see Figure 5 online appendix). During the 1990s and the first half of the 2000s, the UK operated one of the most liberal policies on high-skilled migration, through the Highly Skilled Migrant Programme and then Tier 1 (General) of the PBS, which allowed high-skilled migrants to enter the UK without a job offer. This route was tightened in 2008 and then, in 2010, closed altogether. Since then, only the smaller entrepreneur and investor schemes operate under Tier 1, both with stringent entry requirements. The general route, which in the UK refers to the work permit scheme for workers with a job offer (since 2008, Tier 2), followed a similar trend. Finally, the few low-skill routes for non-EU nationals have been closed down altogether.

The route for low-skill work (Tier 3) has never been opened. The only significant scheme for manual work was the Seasonal Agricultural Workers Scheme (SAWS), which closed to non-EU nationals in 2008. The only other low-skill route was the au pair visa – which involved small numbers of applicants and was terminated in 2008. Unlike other EU countries, the UK has never operated a scheme for construction workers.

A liberalisation of immigration policy occurred under the Labour Governments in the early 2000s (Consterdine 2018). As Figure 5 shows, the liberalisation of entry criteria was in fact fairly modest. What was perhaps more significant was Labour's discourse about immigration, and its decision not to impose transitional controls on citizens from the newly acceded CEE states in 2004. New Labour's immigration discourse framed labour migration as an essential part of an open economy and society (discourse and policy on asylum was, by contrast, highly restrictive). Tony Blair, and several of his ministers, made high profile speeches extolling the economic and cultural benefits of immigration, depicting migration as an inevitable and desirable aspect of globalisation (Boswell and Hampshire 2016).

New Labour's discursive shift soon met with a political backlash. Right-wing tabloid newspapers carried sensationalist headlines on immigration and the Conservatives attacked Labour's immigration record in the 2005 election. Under Nigel Farage, the United Kingdom Independence Party (UKIP), began to campaign on an anti-immigration platform, threatening to take votes from the Conservatives, and also disgruntled Labour voters. As public opinion polls revealed negative attitudes and increased salience (Ipsos Mori 2007), the new Labour leader, Gordon Brown, tried to fight a rear-guard action, tightening policy and adopting a nationalistic discourse, famously captured in his 2007 conference speech pledge to create 'British jobs for British workers'.

In the 2010 general election campaign, the Conservatives exploited Brown's vulnerability on immigration by committing to reduce net migration 'from hundreds to tens of thousands.' After the Conservatives formed a Coalition Government with the Liberal Democrats, the net migration target drove a raft of restrictive policy changes to tighten entry criteria and reduce inflows (Hampshire and Bale 2015): Tier 1 was closed, criteria for Tier 2 were made more stringent, and a monthly quota for work permits was introduced.

The UK starkly illustrates how immigration policy change can be driven – rapidly and substantially – by the dynamics of party competition. Policy tightening began with Gordon Brown's attempt to mitigate the electoral risk of Labour's openness towards work migration and was then extended by the Conservative's political gambit in announcing a net migration target.

Italy has also seen a restrictive trend, with all three routes scoring lower on the ImPol index by 2015 than in the early 1990s (see Figure 6 online appendix). Italy only became a country of net immigration in the 1980s. It has a relatively immature immigration system characterized by 'weak statism' (Zincone and Caponio 2005: 7). For much of the last three decades, restrictive political discourse has co-existed with tacit permissiveness towards irregular migration, and the frequent use of *sanatorie* – large-scale regularization programmes, such as the 1995 Dini Decree, which regularized nearly 250,000 migrants.

Immigration legislation dating from the 1980s did not provide an effective regulatory framework for labour migration. In 1998, the Turco-Napolitano Act introduced a requirement that labour migrants needed a formal job offer from a sponsoring employer, and created a one-

year job seekers residence permit, which converted the residence rights of many visas from permanent to temporary. Turco-Napolitano was subject to continuous bargaining between political actors (Zincone and Caponio 2005: 9), with the centre-left coalition government forced to accept amendments from its left-wing, while pursuing a restrictive course in the face of electoral threats from the increasingly anti-immigrant Lega Nord.

In the run up to the 2001 general election, Silvio Berlusconi's right-wing coalition, *Casa delle Libertà* (CdL), which included the Lega and the National Alliance (AN), attacked the supposed failings of the 1998 Act. The centre-left government attempted to defuse the issue by enacting a number of restrictive measures, including a 2000 circular that made it more difficult for migrants to obtain permanent residence, but the CdL won the 2001 election and moved to enact new, restrictive legislation.

The 2002 Bossi-Fini Act, named after the leaders of the Lega and AN, introduced a number of harsh measures on irregular immigration, as well as tougher provisions on regular migration, including a unified contract of residence and employment, which tied legal residence to a work contract, and set limits on renewals for residence permits. Contentious wrangling in a divided parliament shaped the Act and the drafting itself was 'accompanied by strong internal conflicts within the governing coalition' (Zincone 2006: 364). The government's electoral promises to clamp down on irregular migration proved to be 'a political boomerang' (Zincone 2006: 362) as the proposed deportation of irregular migrant workers threatened small businesses in electoral strongholds of both the AN and Lega Nord. In response, provisions for further regularisations were incorporated into the bill. Like the 1998 Act, the Bossi-Fini Law was a patchwork bill shaped by compromises needed to hold together a fissiparous coalition (Zincone and Caponio 2005: 10-11).

Some of the restrictive measures in Bossi-Fini caused such problems that the government later watered them down. For example, due to the tightening of renewal conditions, immigrants were compelled to leave the country temporarily in order to renew their application on their return. The government responded by increasing the renewal period for seasonal permits to three years. Amidst the overall restrictive trend, there was some liberalization for high-skilled migrants. Whilst annual quotas were in place for work permits, some high-skilled occupations were exempted, meaning holders could enter and work in Italy in unlimited numbers, albeit on a temporary permit. In 2004, the Government approved the Decree 18 n.334 that erased the temporary element of the *Casi Particolari* (high skilled), and allowed for a route to permanency.

Immigration was an issue of political contention through the late 2000s. Policy responses to the financial crisis and its aftermath continued the restrictive trend started by the 2002 Bossi-Fini law (Caponio and Cappiali 2018: 117). The annual migrant quotas were considerably reduced and the majority of permits were offered only to a small number of nationalities. Two further regularisations were launched in 2009 and 2012, although the criteria were far more selective than previous programmes.

In summary, the restrictive direction of Italy's immigration policy since the 1990s was shaped by party competition over immigration, especially the rise of anti-immigrant parties, tempered to some extent by the practicalities of governing a country with a large irregular migrant labour force. Restrictive shifts in policy were the product of fragmented coalition politics, where brokering and compromise are the norm: lobbying by advocacy coalitions has occasionally resulted in liberal concessions, but the overall direction of travel has been restrictive, strongly

influenced by the Lega's influence when in government and their contagion effect on other parties.

Immigration policy in Germany has been relatively stable for most of the period under analysis, with one dramatic exception. The ImPol index shows that the general and low-skilled routes have remained largely unchanged over three decades (see Figure 7 online appendix). Only the high-skilled route has undergone substantial change, in 2004. The relative stability of German immigration policy is not altogether surprising given the more consensual decision-making processes of the German legislative system, compared to single-party majoritarian governments in the UK or unstable coalitions in Italy.

There is, however, a more specific reason for immigration policy stability, which points to the importance of national historical legacies, and their mobilisation by political parties in debates about immigration. During the post-war years, Germany recruited thousands of migrant workers as *Gastarbeiter* or guestworkers (Martin 2014). When many of these migrants decided to stay in Germany rather than return to their countries of origin, the guestworker scheme was widely described as a policy failure. After the recruitment stop in 1973, Germany had a settled migrant community, and through family reunification, continued arrivals of migrants. Despite this, during the 1980s politicians often denied that Germany was a country of immigration (*Wir sind kein Einwanderungsland* was a common refrain). This underpinned a restrictive citizenship regime, which denied access to German nationality not only to immigrants, but also to their children, and a refusal to debate immigration policy reform. With immigration largely off the public agenda, policy barely changed through the 1990s, though during this decade Social Democratic Party of Germany (SPD) and Greens did begin to question the *kein Einwanderungsland* paradigm and propose policy reforms (Ellermann 2015). As Boswell and

Hampshire (2015) argue, a distinctive national ‘public philosophy’ was crucial to understanding immigration policymaking in Germany.

The only significant policy liberalisation of the entire period had its origins in the Schröder government’s proposal in early 2000 to create a new programme to recruit foreign IT workers. This ‘Green Card’ scheme was modest: it was sector-specific and allowed for the admission of only 20,000 workers per year who would be admitted on strictly time-limited five-year visas. Despite the relatively small scale and temporary nature of the permits, the scheme was opposed by the opposition – Christian Democratic Union (CDU) and Christian Social Union (CSU) –, who invoked the ‘failure’ of the post-war guestworker programme and the supposed inability of German society to accommodate immigrants. At the same time, the opposition Free Democratic Party and the SPD’s own coalition partners, the Greens, demanded more radical reform of the immigration system. Caught in the crossfire, the SPD interior minister, Otto Schily, established an immigration commission in the hope that it would provide technocratic support for policy liberalisation. The Süßmuth Commission’s report, published in July 2001, opened with the statement ‘Germany needs immigrants’ and went on to recommend work permits for foreign graduates and the introduction of a points system for skilled migrants. These recommendations were put into draft legislation, which after heated debate passed through the Bundestag, but were then narrowly defeated in the Bundesrat. The recommendations of the Süßmuth Commission were, however, gradually normalised in political debate, and in 2004 a new Immigration Law was passed, which introduced a high-skilled visa with a route to permanent settlement, breaking with all previous schemes’ insistence on temporariness (Ellermann 2015; Green and Danielson 2004).

This brief case study illustrates how Germany's comparatively stable policy *and* the liberalisation of the high-skilled route in 2004 can only be understood with reference to contestation between the SPD-Green governments and the CDU-CSU opposition over the legacy of Germany's guestworker experience. Mobilisation of this legacy was central to the CDU-CSU's resistance to immigration policy liberalisation, which was overcome only once, and only for high-skilled migrants, via the recommendations of a commission which contested the mantra that Germany was not a country of immigration.

Conclusion

In this paper we have examined three hypotheses about immigration policies: first, that immigration policies are converging; second, that they are conditioned by varieties of capitalism; and third, that they are shaped by party competition in national politics. Our analysis does not support the claim that immigration policies have converged since the 1990s, nor do we find evidence of liberalisation over time. Using the ImPol index, we examined policy trends across the general, high-skilled, and low-skilled routes: since the 1990s, the range of policy variation has narrowed on the general route, but this is largely a function of Italy's restrictive trend, and despite this, by 2015 there remained considerable variation between the five countries; high-skilled routes converged during the early 2000s, but since the financial crisis countries have followed different paths, some tightening, others relaxing policy in an attempt to entice high-skilled workers to stimulate economic growth. Since the financial crisis of 2008 the overall direction of travel in these five countries has been one of stability or restriction.

Our analysis provides some support for the idea that immigration policies reflect patterns of capitalist diversity. The VoC literature leads us to expect that distinct policy regimes should emerge in liberal, coordinated, and mixed market economies: LMEs should be open to both high and low-skilled migrant workers; CMEs open to high, but closed to low-skilled; and MMEs open to low-skilled. Low-skill immigration policies are broadly consistent with these expectations. As a CME, Germany is relatively restrictive, while the three MMEs are relatively open. The UK appears anomalous, but in fact receives a large number of migrant workers into lower-skilled jobs through free movement of CEE citizens. High-skilled routes, however, do not fit well with VoC: the UK, which should be open, is the most restrictive, Germany only opened after 2004, and Spain after 2013 is more open than both these countries. Furthermore, the number and extent of policy changes within the five countries raises doubts about whether their immigration policies reflect stable institutional differences.

Indeed, we find evidence of policy changes that can only be understood by paying attention to party politics and national debates in individual countries.^{iv} Immigration policies move sometimes in a liberal, sometimes a restrictive direction, and their course is set by national-level political conflict. Through three case studies we have shown how policy changes in Germany, Italy and the UK were shaped by party competition: the UK's immigration regime was opened and then closed under different governments, as a direct result of intensified competition on immigration; Italy's restrictive trend was influenced by the rise of anti-immigrant parties in the context of a relatively immature immigration regime; while Germany's policy stability *and* its moment of liberalisation was shaped by contestation over the legacy of its post-war guestworker scheme. In short, while VoC may set the broad parameters for immigration regimes, both the direction and timing of policy changes are shaped by party competition.

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Notes

ⁱ For methodological details including coding scheme of ImPol see Consterdine and Hampshire (2016).

ⁱⁱ We ran separate tests using only entry conditions to verify our results for general, low-skilled and high-skilled, and the results of the separated and aggregate analyses correspond with one another. We do find moderate convergence on conditions attached to admission on the general route, especially in the mid-2000s (likely due to implementation of the 2003 European Long Term Residents' Directive). However, there is little convergence on entry criteria.

ⁱⁱⁱ Devitt (2011) examines capitalist diversity and migration, but focuses on labour migration flows rather than policy. Paul (2016) examines VoC and policy outputs, but her analysis is limited to a comparison of Britain and Germany. Ruhs (2018) covers more countries, but only for a single year (2009) and tests only temporary labour migration programmes for each country.

^{iv} Our analysis has considered only labour migration policies, which, in contrast to other migration streams such as family or humanitarian forms of migration, are discretionary and therefore not subject to the same kinds of legal constraints.

References

Afonso, A. and Devitt, C. (2016) 'Comparative political economy and international migration' *Socio-Economic Review* 14.3: 591-613

-
- Beine, M., Boucher, A., Burgoon, B., Crock, M., Gest, J., Hiscox, M., McGovern, P., Rapoport, H., Schaper, J. and Thielemann, E. (2016) 'Comparing immigration policies: An overview from the IMPALA database' *International Migration Review* 50.4: 827-863
- Boswell, C., and Hampshire, J. (2017) 'Ideas and agency in immigration policy: A discursive institutionalist approach' *European Journal of Political Research* 56.1: 133-150
- Bundeszentrate für politische Bildung [BPB] Datenreport (2018) 'Ein Sozial-bericht für politische', Bildung, Bonn: BPB
- Caponio, T and Cappiali, T. (2018) 'Italian Migration Policies in Times of Crisis: The Policy Gap Reconsidered' *South European Society and Politics* 23.1: 115-132
- Clemens M. and Hart J. (2018) 'EU immigration has increased Germany's economic growth' *DIW weekly report 44/2018. 441-449*, Berlin: Deutsches Institut für Wirtschaftsforschung
- Consterdine, E. (2018) *Labour's Immigration Policy: the making of the migration state*, London: Macmillan
- Consterdine, E., and Hampshire, J. (2016) 'Coding legal regimes of immigration entry to the EU with a focus on labour migration', Temper working papers, WP8. [URL: <https://www.temperproject.eu/wp-content/uploads/2016/08/Working-Paper-8.pdf>]
- De Haas, H., Natter, K. and Vezzoli, S. (2018) 'Growing restrictiveness or changing selection?'

-
- The nature and development of migration policies' *International Migration Review* 52.1:324-267
- Devitt, C. (2011) 'Varieties of capitalism, variation in labour immigration' *Journal of Ethnic and Migration Studies* 37.4: 579-596
- Ellermann, A. (2015) 'Do policy legacies matter? Past and present guest worker recruitment in Germany' *Journal of Ethnic and Migration Studies* 41.8: 1235-1253
- Freeman, G.P. (1995) 'Modes of immigration politics in liberal democratic states' *International Migration Review* 29.4: 881-902.
- Green, S. and Danielson, M. N. (2004) *The politics of exclusion: Institutions and immigration policy in contemporary Germany*, Manchester: MUP
- Hall, P. A. and Soskice, D. (2001) *Varieties of capitalism: The institutional foundations of comparative advantage*, Oxford: OUP.
- Hampshire, J. and Bale, T. (2015) 'New administration, new immigration regime: Do parties matter after all? A UK case study' *West European Politics* 38.1: 145-166.
- Hansen, R. (2000) *Citizenship and Immigration in Post-war Britain*, Oxford; OUP
- Helbling, M., Bjerre, L., Römer, F. and Zobel, M. (2017) 'Measuring immigration policies: The IMPIC database' *European Political Science* 16.1: 79-98

-
- Helbling, M. and Kalkum, D. (2018) 'Migration policy trends in OECD countries' *Journal of European Public Policy* 25.12: 1779-1797
- Hollifield, J., Martin, P.L. and Orrenius, P. (2014). *Controlling immigration: A global perspective*, California: Stanford University Press.
- Ipsos MORI (2007) Importance of Key Issues to Voting, available at <http://www.ipsos-mori.com/polls/trends/issues.shtml#2007> (accessed on 1 April 2019)
- Martin, P. (2014) 'Germany', in J. Hollifield, P.L. Martin and P. Orrenius (Eds.), *Controlling Immigration*, California: Stanford University Press, 224-251
- Menz, G. (2008) *Varieties of capitalism and Europeanization: National response strategies to the single European market*, Oxford: OUP
- Molina, O. and Rhodes, M. (2007) 'The political economy of adjustment in mixed market economies: A study of Spain and Italy', in R. Hancké, M. Rhodes and M. Thatcher, (Eds.), *Beyond Varieties of Capitalism. Conflicts, Contradictions and Complementarities in the European Economy*, Oxford: OUP, 223-252
- Norris, P. (2005) *Radical right: Voters and parties in the electoral market*, Cambridge: CUP
- Paul, R. (2016) 'Negotiating varieties of capitalism? Crisis and change in contemporary British and German labour migration policies' *Journal of Ethnic and Migration Studies* 42.10: 1631-1650.

Ruhs, M. (2018) 'Labor immigration policies in high-income countries: Variations across political regimes and varieties of capitalism' *The Journal of Legal Studies* 47.S1: 89-S127

Schain, M.A. (2008) 'Commentary: Why political parties matter' *Journal of European Public Policy* 15.3: 465-470

Tilly, C. (2011) 'The impact of the economic crisis on international migration: a review' *Work, employment and society* 25.4: 675-692

Triadafilopoulos A. and Smith, C.D. (2013) 'Introduction' in T. Triadafilopoulos (Ed.) *Wanted and Welcome: Policies for Highly Skilled Immigrants in Comparative Perspective*, New York: Springer: 1-15

Zincone, G. and Caponio, T. (2005) 'Immigrant and immigration policy-making: The case of Italy', IMISCOE Working Paper: Country report

Zincone, G. (2006) 'The Making of Policies: Immigration and Immigrants in Italy' *Journal of Ethnic and Migration Studies* 32.3: 347-375