

Labour Migrants from the Whole World How did the 2008 Swedish labour immigration reform fair?

New legislation regarding labour immigration from countries outside of the EU was introduced in Sweden in 2008. The purpose was to facilitate the recruitment of labour for shortage occupations and provide employers with better opportunities to hire people with the appropriate skills. One important new feature was that the Swedish Employment Agency was no longer to assess the need for labour within different industries. The legislation instead highlighted the needs of individual employers for the granting of residence and work permits. The reform received both praise and criticism. A new Delmi anthology has been produced to evaluate the effects of the reform. Was this legislation appropriately formulated? What conditions have been provided for the immigrant workers and what unexpected and unwanted effects have occurred?

Introduction

Since the introduction of the legislation, the situation of labour immigrants has been subject to intense debate in the media and in research. Since the reform, Sweden has been positively referred to, both nationally and internationally,

as the world's most open country. Attention has also been drawn to the reform's shortcomings and the exploitation of migrants. In this anthology, a number of researchers from different fields provide a multi-faceted picture of labour immigration to Sweden. Henrik Emilsson and Karin Magnusson (international migration and ethnic

relations), Dominika Borg Jansson, Catharina Calleman, Petra Herzfeld Olsson, Niklas Selberg, Judy Fudge (law), Charlotta Hedberg (cultural geography), Eskil Wadensjö (economics), Olle Frödin, Anders Kjellberg and Anders Neergaard (sociology) as well as Lisa Pelling (political science) have contributed chapters. The anthology has been edited by Catharina Calleman and Petra Herzfeld Olsson.

Some questions highlighted in the anthology concern why the labour immigrants choose Sweden and the conditions they work under, possible explanations for the problems that have occurred, and policy solutions. The anthology is not only about the conditions for the citizens of countries outside of the EU, who come to Sweden in order to work. It also looks at the conditions for those changing their status from asylum-seeker to labour immigrant, since this immigration status change was part of the 2008 reform. In addition, it problematises the current legislation on irregular or undocumented labourers in order to illustrate the conditions for those who do not meet the requirements of the Aliens Act for working in Sweden.

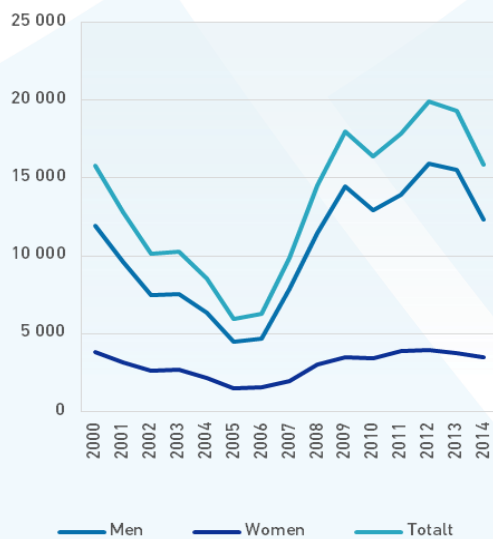
Results

In 2009, the first year that the legislation was in effect, approximately 18,000 residence permits were granted on labour market grounds. The number has varied between 16,000 and 20,000 since then. This change is in part associated with the new regulations and with increasing control. The fact that labour immigration started to increase already before the reform in 2008 is to some extent attributable to the significant increase in seasonal labour permits (for example for berry pickers) being granted in 2007 and 2008 compared to 2006.

There are two clear tendencies: the level of labour immigration has been slightly higher since 2008, and it has clearly risen in some professions with low qualification requirements, where it has not previously been possible to obtain a work permit due to labour market needs assessment. The labour immigrants arriving in Sweden are primarily affiliated with three very different categories. In rough terms, these categories are 1) berry pickers, 2) data specialists and 3) people working in cleaning and the restaurant industry

The number of berry pickers and labourers in professions with low entry requirements have varied over the years, in part due to the measures that have been taken to control the conditions in those industries. The number of data specialists has increased slowly but steadily.

Figure 1. Number of third-country citizens granted a residence permit on labour market grounds in Sweden, 2000–2014



Source: Swedish Migration Agency 2015

There is an “international division of labour” among the labour immigrants to Sweden: Berry pickers, etc. come from Thailand, data specialists from India, specialist chefs from China and so on. The proportion of cleaners from Mongolia and Uzbekistan is very high, in some years at least; as is the proportion of newspaper distributors from Pakistan. This also says something about existing international networks and contact routes.

Why do they come to Sweden?

The berry-picking seasonal labourers view berry picking in Sweden as a way to supplement their income, since agriculture in Thailand is becoming an increasingly unreliable source of income. Berry pickers migrate so as to realize part of a household strategy. With the help of their work in Sweden, under conditions that would not be accepted by people already established in Sweden, they can improve their families’ economy in Thailand. The labourers are generally disinterested in settling down permanently in Sweden. They are “circular migrants”, meaning that they are not looking to stay, but make regular visits for economic reasons.

Among the highly skilled labourers, many will only stay for a short period. They often travel between

different units of multinational companies for limited assignments. Evidence suggests that the companies' driving forces play a clearer role in these cases than in other forms of labour immigration. The companies' goal is to gain access to certain expertise for a limited time. For the highly skilled labourers that choose to stay for a longer period of time, the decisive factor appears to be the Swedish welfare system and the possibility of having a good balance between work and home life.

For the third large group of labour immigrants who arrive in Sweden, the motivations appear to be very

complex. They mainly work in sectors with low entry requirements, primarily the service sector, for example restaurants/large-scale households and cleaning. (However, this does not necessarily mean that the labour immigrants themselves are unskilled). A significant proportion of them come from countries topping the list of asylum-seekers, and the rules regarding work permits give people who want to escape violence and insecurity a chance to come to Sweden legally. The line between asylum and work permit seems in many cases unclear to the members of this group, and they often change "tracks" from asylum to work or vice versa.

Table 1. The regulation of labour immigration before and after December 2008.

	Basis of assessment	Time	Family	Category
Earlier regulation of labour immigration	Permanent residence permit on labour market grounds	No limitation	Yes	Not specified, based on the long-term needs of the labour market
	Temporary labour shortage	18+6 months	Yes	Qualified and experienced labourers to cover short-term shortage
	International exchange	A maximum of 4 years	Yes	Business leaders/specialists within international companies
			18 months	Trainees
			12 months	Au pair
	Seasonal work	A maximum of 3 months	No	Workers within agriculture, horticulture and forestry
2008's legislation	Salary according to industry standard	2+2 years, then possibly permanent. However, these permits may be of a shorter validity	Yes	Same legislation for all professions/categories

Source: SOU 2005:50, p. 212; edited

Note: The table is taken from chapter 3 (by Emilsson and Magnusson) of the anthology.

What are their working conditions like?

Ever since the reform legislation entered into force at the end of 2008, the implementation of the rules has received a lot of attention. While the Confederation of Swedish Enterprise has been generally positive, the labour unions have criticised the rules. In the media, there have been discussions of exploitation and abuse, about forced labour and human trafficking. The criticism has led to different types of new control measures and legislation against abuse. This anthology does not provide any definitive answers to whether or not labour immigrants are working according to the terms of their labour permit. Several of the authors bring up the subject, however, and evidence suggests that labour immigrants often end up with worse conditions than what they were offered, and worse than for the labourers who are established in Sweden. For berry pickers, it may be the case that the prescribed working hours are not adhered to. The working hours are often stated as 12–19 hours per day, seven days a week.

Some appear to receive the salary prescribed in the collective agreement, while others are forced to sign away their basic salary or to enter into double contracts. Within certain highly skilled professions, the labour immigrants have a significantly lower income than the industry average. The labour immigrants within low-skill sectors are often employed in workplaces with no collective agreements, where the labour unions are unable to control the terms of employment.

Asylum-seekers who have been working during the processing period for their applications and then apply for a work permit instead have sometimes been working under very poor conditions. They have been paid a salary far below the levels stipulated in relevant collective agreements; sometimes they are unable to report any income at all, and in other cases, they have received large deductions from their salary due to a debt to the employer. In some cases, the salary has matched the collective agreement level or has come close to this. However, for asylum seekers, there are no requirements set for employment terms until they change tracks to apply for a work permit.

How can these problems be explained?

One explanation for the shortcomings that have arisen could lie in the formulation of the legislation. The employers are now allowed to decide for themselves whether there is a need for labour from countries outside of the EU, and the labourer is tied to a single employer for the first two years. The employer is also the one to decide whether they want to extend the work permit. This puts the labourer in a position of dependence, which affects their negotiating position, both when entering the employment contract and throughout their employment. The choice of information, controls and sanctions also matter. The problems that have arisen can also be explained by the abolition of the labour market needs assessment, and the fact that the employment offer is not legally binding.

It is also possible to find explanations for these problems pertaining to the labourers. Global inequality, primarily in economic terms but also in relation to oppression, persecution or unbearable working conditions in the migrants' home countries, means that the individual labourer

does not necessarily feel exploited when working in Sweden. Many are willing to take on work at a very low salary, for financial or other reasons. In other cases, the situation at issue is perceived as gross exploitation by the labourers as well. In between, there are varying degrees of agreement/exploitation. It all depends on what alternatives the employer has at their disposal.

Another important explanation for the problems that have arisen for foreign labourers is the "Swedish labour market model". The Swedish model is based on strong capacity for the labour unions to safeguard the interests of the labourers in relation to the employers. However, in several of the industries where many labour immigrants are employed, the level of organisation is relatively low, and it is by no means always the case that a collective agreement exists to regulate conditions. Those arriving with temporary work permits may also be unfamiliar with the Swedish model, or for various reasons be disinterested in or sceptical of labour unions. Labour immigration constitutes a significant challenge for the Swedish Trade Union Confederation (LO) and its associated unions, and the labour unions' approach has been characterised by a

sense of insecurity in regard to whether it will be possible to organise this new labour force.

According to several authors, part of the labour migration to Sweden is supply-driven, meaning that it may be the needs of the labour immigrant that control the creation of the work opportunity. Talking about recruitment from a third country may thus be misleading. In addition – at least when it comes to the labour immigrants working in sectors with low entry requirements – many were already in Sweden when they applied for a work permit.

The state has only taken on one role when it comes to labour immigration to Sweden from a third country, namely ensuring that the labour immigrants that arrive are not exploited. This is quite unheard of in terms of Swedish conditions, when it comes to compliance with legislation and collective agreements for the domestic labour force; the fundamental idea is for the state to steer clear, with the exception of work environment requirements. And perhaps it is here, in this contradiction, that part of the explanation lies for why the regulations do not always work as planned. The question is whether the regulatory framework has been constructed in a way

that can really ensure the implementation of the prescribed employment terms.

If exploitation is discovered, this primarily affects the labour migrant, since they then lose their labour-related residence permit. So far, the legislators have chosen not to place any significant responsibility on the employer, in the sense that they do not face any sanctions should they fail to comply with the legislated requirements.

How can these problems be solved?

The authors of the anthology propose a number of solutions to the problems and the unwanted side-effects of the regulations.

One suggestion is to decriminalise the labour of irregular migrants. The offense of “illegal migrant labour” reinforces the subordination of undocumented migrants, and makes it easier for employers to exert downward pressure when it comes to working and employment conditions. This also increases the demand for an undocumented labour force. If so-called illegal labour was no longer a punishable offense, this could benefit all labourers.

Several of the authors also propose and discuss a requirement for a binding employment offer or employment contract to obtain a work permit, or the introduction of a special form of employment in order to ensure that the labour migrant is able to claim their rights. When it comes to the berry-picking industry, increased monitoring of the employment conditions and increased control are proposed, so that the labourers do not return home in debt, as well as a zero tolerance policy against poor working conditions and a cross-border dialogue between Thai and Swedish authorities. Other alternatives include joint and separate liability for berry companies and wholesalers when it comes to working conditions, along with a strict licencing system, for example, including requirements to provide large securities that can be used if the berry pickers' employment terms are not fulfilled.

Other proposals include reintroducing labour market needs assessment, employers guaranteeing that they have really done everything in their power to recruit and train labourers in Sweden, as well as introducing special control measures in industries where labour union influence is weak. One opinion is that a more effective safeguarding of the migrant workers' rights may lead

to fewer migrant workers being received, but that the ones who do come will be more likely to be integrated into the Swedish labour market. Another is that improvements in the working conditions of labour migrants must be weighed against the risk of more rights leading to fewer people with protection needs being given an opportunity to get to Sweden legally as workers.

Lastly, a proposal is presented to improve the possibilities of a “track change” for those who have been denied asylum, and to increase the legality/predictability of the decisions: the employment terms that have been permitted during a processing period of a certain length could be sufficient to qualify the applicant for a work permit. Employment that has been transferred from one employer to another could be considered as one continuous employment rather than two when calculating the period of employment, which could allow for an extension of the deadline by which the application can be submitted. Another closely related proposal is that it should suffice to make one's identity probable in order to be allowed to work without a work permit (AT-UND) – which would increase the chances of asylum seekers finding work during the processing period.

In conclusion, the authors of the anthology wish to underline the importance of balance in the implemented measures. The state's responsibility is limited to controls which in practice are intended to protect the domestic labour force against undercutting competition and which, where it is discovered that the right conditions are not applied, affects the labour immigrants,

who may then lose their residence permits. In the current system, the employer cannot be held accountable for not implementing the conditions on which the work permit is based. It is important to formulate regulations in a way that also creates an incentive for the employer to make well-conceived decisions to recruit from a third country.



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The full anthology is available in Swedish at www.delmi.se



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