

# On the Effectiveness of Immigration Policies

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## Abstract

This paper elaborates a conceptual framework for assessing the character and effectiveness of immigration policies. To a considerable extent, the public and academic controversy about this issue is spurious because of fuzzy definitions of policy effectiveness, which partly stems from confusion between (1) policy discourses, (2) policies on paper, (3) policy implementation, and (4) policy impacts. The paper distinguishes three policy gaps: The discursive gap (the discrepancy between public discourses and policies on paper); the implementation gap (the disparity between policies on paper and their implemented policies); and the efficacy gap (the extent to which implemented policies affect migration). Although implemented policies seem to be the correct yardstick to assess policy effectiveness, in practice, the (generally more pronounced) discourses are often used as a benchmark. This can easily lead to an overestimation of 'policy failure'. Existing empirical studies suggest that although policies often significantly affect the targeted migration flows, but they crucially fail to assess the relative importance of policies in comparison to other migration determinants, including non-migration policies. Policy restrictions may also have unintended 'substitution' effects such as through category jumping, geographical diversion, beat the ban rushes or decreasing return flows. Evidence on such effects is still scarce, showing the need for more empirically informed insights about the short and long term effects of migration policies.

**Keywords:** immigration, migration policy, migration determinants, effectiveness, political discourse

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## Introduction

The effectiveness of immigration policies has been widely contested. Over the past decades, several scholars have argued that efforts of states to regulate and restrict immigration have often failed (cf. Bhagwati 2003; Castles 2004a; Cornelius, Tsuda, Martin, and Hollifield 2004; Düvell 2005). The argument is that international migration is mainly driven by structural factors such as labour market demand, huge inequalities in wealth and political conflicts in origin countries, factors on which migration policies have little, if any, impact. Rather than affecting overall volumes of inflows, immigration restrictions would primarily change the ways in which people migrate, such as through an increased use of family migration or irregular means of entry.

Furthermore, the argument goes that, once migration reaches a critical threshold level, migration networks, employers and the ‘migration industry’ (recruiters, lawyers, smugglers and other intermediaries) tend to facilitate the onward movement of people (Castles and Miller 2009; Krissman 2005; Massey 1990). Such ‘internal dynamics’ explain why migration can become partly self-perpetuating (de Haas 2010). Finally, states have limited legal and practical means to control immigration because they are bound to human rights such as the right of family life and the protection of asylum seekers, children and other vulnerable groups. In this context, Hollifield (1992) argued that liberal democracies in particular face embedded constraints, in the form of constitutional norms and principles, which act to “constrain the power and autonomy of states both in their treatment of individual migrants and in their relation to other states” (Hollifield 1992: 577).

These factors combined would explain why immigration policies only have a limited effect on the long-term volume and trends of migration. Bhagwati (2003: 99) therefore stated that “the ability to control migration has shrunk as the desire to do so has increased. Borders are largely beyond control and little can be done to really cut down on immigration”. To many, the fact that immigration to North American, European and other wealthy countries has soared over the past decades notwithstanding efforts by states to curtail migration, seems to corroborate the idea that immigration policies have been largely ineffective.

Other migration researchers have countered scepticism on the effectiveness of immigration policies by arguing that, on the whole, immigration policies have been largely effective and that there is no major migration control crisis, and that migration policies have instead become increasingly sophisticated (Bonjour 2011; Brochmann and Hammar 1999; Geddes 2003). Broeders and Engbersen (2007) argued that the capacity of states to effectively

implement immigration policies such as the detection of irregular migrants has increased. Drawing on fieldwork done in the developing world, researchers like Carling (2002) have argued that for poor people it has effectively become more difficult to migrate to wealthy countries due to the introduction of visa requirements and stricter border controls. Also studies of historical and contemporary migration have pointed to the major role of states in shaping migration patterns (Skeldon 1997; Strikwerda 1999). This line of argumentation seems to be supported by a small but growing number of quantitative empirical studies, which indicate that immigration restrictions do significantly affect the magnitude and composition of immigration flows (Beine, Docquier, and Ozden 2011; Hatton 2005; Mayda 2010; Ortega and Peri 2013).

This controversy begs the question why researchers who are apparently studying the same phenomenon reach such different assessments about the effectiveness of immigration policies? How can we explain that while policies do have significant effects on immigration that these policies are nonetheless often perceived as ineffective? This paper argues that, to a considerable extent, the controversy about migration policy effectiveness is spurious, because it primarily reflects conceptual confusion about what constitutes ‘migration policy effectiveness’. Depending on whether public policy discourses, the implicit objectives of policies on paper, or the implemented policies are used as benchmarks for evaluating migration outcomes, studies tend to reach different conclusions about policy effectiveness.

Second, while some analyses of policy effects tend to focus on the impact of *specific* measures on *specific* immigration categories over relatively limited time periods (cf. Hatton 2005), other studies are more generic assessments of the effects of migration policies on long-term migration trends (cf. Castles 2004a). Because different studies tend to ask and answer different questions, it is not surprising that they also reach different and potentially opposed conclusions.

In order to fill this gap and increase conceptual clarity, this paper aims to provide a conceptual framework for the empirical assessment of migration policy effectiveness. It argues that, to a considerable extent, it is possible to reconcile apparently opposing positions on migration policy effectiveness by clearly distinguishing the different dimensions and levels of aggregation at which we can assess migration policy outcomes. However, before embarking upon a definitional discussion of policy effectiveness, it is important to start by defining what a migration policy actually entails as well as to make a vital distinction between the specific effect of migration policies and the more general role of states in migration processes.

## **What is immigration policy?**

The academic controversy about the effectiveness of migration policies is partly related to the various implicit meanings attached to ‘migration policy’. Defining migration policies is not as straightforward as it may seem. Broadly defined, migration policies are executed in order to affect behaviour of a target population (i.e. potential migrants) in an intended direction. Importantly, many policies which are not usually seen as migration policies do nevertheless affect migration, and their effects may in certain cases be even larger than those of targeted immigration policies. Examples include labour market, macro-economic, welfare, foreign, military, colonial, and aid policies. In other words, the role of the *states* in migration processes is much greater than a myopic view on migration policies alone would suggest.

This raises the following question: where do we draw the line between migration and non-migration policies? In some cases, such as with foreign or macro-economic policies, there seems little debate that these are non-migration migration policies. In the case of labour market, development or education policies this become less straightforward, as these may also be affected by concerns to stimulate or to discourage immigration. Even if this is not the case regulations with regards to labour markets and education can have a significant effect on migration propensities. For instance, it has been argued that the trend towards more flexible labour market policies and the ‘neoliberal globalization’ of the past decades has boosted the demand for higher- *and* lower-skilled migrant labour, which would explain increasing migration despite the political desire to curb immigration (Castles and Miller 2009; Sassen 1988; Sassen 1991). The distinction between migration and non-migration policy becomes even more blurred with policies on integration and citizenship, which often also aim to affect immigration.

This makes defining immigration policy a potentially ambiguous affair. In fact, there is no clear objective yardstick we can use to distinguish migration from non-migration policies. The only *practical* yardstick to define immigration policy is by the (mostly implicitly) stated objectives of policies on paper. Bearing this consideration in mind, we can say that international migration policies are *rules (i.e. acts, laws, directives, regulations, and measures) national states define and implement with the (often only implicitly stated) objective to affect the volume, origin, direction, and internal composition of immigration flows.*

The *volume* refers to objectives to increase or reduce migration flows or to maintain them on similar levels. Immigration quota as used by classical immigration countries such as the US and Australia or the immigration caps recently implemented by the UK are examples of policies that try to affect the volume of inflows. Other policies intend to change the *composition* of migrant flows in terms of countries (or regions) of origin. Before the immigration reforms in the 1960s

and 1970s, classical immigration countries such as the United States and Australia favoured white settlers and discriminated against immigrants of non-European origin. In recent decades, such regulations have been abolished. Nowadays countries increasingly favour immigration of citizens of free mobility regimes, such as in the European Union or the ECOWAS region. This often goes in par with increasing restrictions for immigrants from ‘third countries’ (Geddes 2012).

Other policies target the internal composition of flows by encouraging or discouraging the immigration and settlement of particular categories of migrants, such as asylum seekers, family migrants, high and low-skilled labour migrants, business migrants and student migrants. Such ‘selective’ policies generally aim to affect the skills, income and class composition of migrant inflows, based on perceived economic needs and social desirability of different types of immigrants. Over the last two decades, for instance, increasing restrictions for low-skilled labour migrants have co-evolved with policies that favour immigration of high-skilled labour migrants and students in countries all around the world.

Obviously, the objectives of these policies can overlap, especially if migrants from particular origin countries tend to belong to particular class, ethnic, religious or income groups. With the exception of the preferential access many states give to descendants of ‘ethnic’ nationals (such as German ‘*Aussiedler*’ or Japanese ‘*Nikkeijin*’ in Latin America), policies selecting migrants on class background (such as through point systems) can be an indirect and covert measure to *also* influence national, ethnic and religious origins of migrants. Policies favouring high-skilled migrants can also have the objective of reducing immigration from poor or culturally distinct countries. Sometimes such objectives are made explicit, reflecting the agendas of anti-immigration parties and interest groups. For instance, in the Netherlands, Geert Wilders, the leader of an anti-immigration party, has presented restrictions on family migration from countries such as Morocco and Turkey as a measure to reduce Muslim immigration, whereas mainstream political parties presented it as a measure to decrease low-skilled immigration.

## **Immigration policy effectiveness: objectives, outcomes, and gaps**

To bring more clarity and precision into the debate about migration policy effectiveness, there is a need to define what we mean by *policy effectiveness*. It is rather surprising that the relevant migration literature rarely defines this term, and, as we argued, the resulting confusion may account for a lot of spurious disagreement in the debate on immigration policy effectiveness. According to the Webster dictionary, ‘effectiveness’ pertains to “producing a decided, decisive, or desired effect”. According to the same dictionary, an ‘effect’ is the “power to bring about a

result”. So, the key difference between effectiveness and effect is that the former is linked to a *desired* effect and the latter to the actual (objective, descriptive) effect. Thus, the term ‘effectiveness’ makes a relation to policy objectives, and thus adds an evaluative and, hence, inherently subjective dimension to the analysis of the ‘effects’ of migration policies. So, a policy may have an effect, but this effect may be judged as too small to sufficiently meet the stated policy objective or may even be in the opposite direction to the intended effect.

This reveals two major problems. First, how can we empirically attribute a change in the volume, timing or composition of migration to a particular policy change? The mere existence of a certain correlation between policy and migration trends does obviously not prove there is a causal link. Nor does the absence of such a correlation or the existence of a negative correlation prove that policies are ineffective or fail. After all, the counterfactual argument is that, without immigration restrictions, the level of immigration would have been even much higher. The empirical assessment of policy impacts is complicated by the notorious difficulty of quantifying migration policies and the limited availability of good migration data.

While the measurement of policy *effects* on migration is primarily a methodological challenge, a second and perhaps more fundamental problem is how to determine what the ‘intended’ effect is. There is often a considerable discrepancy between publicly stated and ‘real’ objectives of migration policy, resulting in a considerable gap between policy rhetoric and actual policy objectives and policies on paper. ‘Tough’ discourses on immigration often serve to address concerns about immigration among politicians’ constituencies (cf. Castles and Miller 2009; Massey, Arango, Hugo, Kouaouci, Pellegrino, and Taylor 1998). In this context, Massey et al. (1998: 288) observed that “elected leaders and bureaucrats increasingly have turned to *symbolic* policy instruments to create an *appearance* of control”. Hence, the stated intention does not necessarily equate the *intended* effect. But that brings us to the related question whether it is possible to *objectively* determine the ‘real’ intention of migration policy at all. As with most policies, migration policies are typically a compromise between multiple competing interests (Bonjour 2011; Boswell 2007; Boswell and Geddes 2011; Freeman 1995). For instance, while business associations typically lobby in favour of more liberal immigration policies, trade unions have historically seen immigration as threatening the wages and interests of native workers. Such competing interests also exist across and within political parties, governments and bureaucracies. Ministries of social affairs, justice, foreign affairs, economic affairs, and international development are often involved in a continuous tug-of-war in trying to influence migration policy outcomes.

Particularly in democratic states, elected politicians have to juggle popular concerns about perceived ‘mass’ or ‘uncontrolled’ immigration with human rights, economic interests and business lobbies generally favouring liberal immigration policies, compelling governments either to avoid adopting harsh immigration laws or to turn a blind eye to illegal immigration, residence and employment. This alone cannot explain the gap between the often ‘tough’ migration rhetoric and the often more watered-down policies put in place, but it shows that the objectives of policies are often not singular, but simultaneously serve a broad range of competing interests and objectives. This may also explain the ambiguous, composite and apparently ‘incoherent’ nature of many migration (and other) policies (cf. Boswell 2007). For instance, after the 1973 Oil Crisis, West European governments suspended labour recruitment programmes to address popular concerns about immigration, but continued to issue new work permits to low-skilled immigrants and used family reunification as an alternative channel for ‘importing’ migrant labour (SOPEMI reports 1974–1980). It is therefore often difficult to identify a singular ‘objective’ of migration policies, as they typically serve multiple interests, and the same policy measure might also be explained differently by different political parties and interest groups.

In this context, it might be useful to see migration policy as the subject of ‘discursive coalitions’. Building upon earlier work by Hajer (1993) and Jobert (2001), and based on her research on return migration policies in Senegal, Pian (2010) used the concept of discursive coalitions to understand migration policies which appear irrational or incoherent. The idea is that all stakeholders in such a coalition agree upon a common, publicly stated definition of a situation or a policy objective – for instance, to ‘fight’ or ‘combat’ illegal migration from Africa to Europe. However, the formation of a discursive coalition around such belligerent rhetoric does not necessarily imply the genuine sharing of a values or belief system, as each stakeholder is focused on the pursuit of its own interests (Pian 2010). A discursive coalition may therefore well ‘unite actors with opposing views on the interests they intend to promote, but who agree on the cognitive frame and the institutions to manage their conflict’ (Jobert 2001: 5).

Particularly in democratic states, discursive coalitions around migration policy serve to win electoral and parliamentary support for particular migration policies. A good example is the tendency to insist that immigrants are allowed entry only temporary, even if policy-makers realize that many ‘temporary’ migrants will eventually settle. The need to form such coalitions and to take into account a multitude of interest is not the exclusive prerogative of democratic immigration states. Even in authoritarian states such as in the Gulf, rulers have to take into account anti-immigration sentiments or may actively stir up xenophobia in order to garner support, and also the interests of the various stakeholders are likely to differ substantially. For

instance, in Libya there was a popular anti-immigration backlash in the early 2000s, during which several sub-Saharan migrant workers were killed after street riots. This has presumably played a role in the harshening of Gaddafi's immigration policies, although Gaddafi's may have also have actively stimulated anti-immigrant sentiments to deflect the attention away from internal political and economic problems (Hamood 2006).

Migration policies are thus typically the outcome of a compromise. Because interests and objectives are multiple and often not explicitly stated, it is mostly impossible to identify a singular "real" objective of a given policy. Publicly stated intentions and objectives of politicians and various other stakeholders are problematic benchmarks for any evaluation of policy effectiveness, because vote-winning and effective lobbying may require narratives that do not fully reflect real intentions. This implies that meaningful analyses of immigration policy effectiveness cannot be conducted without a detailed and qualitative knowledge of the political debates and processes that have led to certain policies, and the objectives and interests of multiple stakeholders, which policies often trying to serve simultaneously.

In order to increase conceptual clarity, it is also useful to distinguish *specific* and *general* policy objectives. While specific policy objectives refer to laws, measures and regulations targeting a specific category of migrants, general objectives are rather concerned about the overall volume and composition of the immigrant population. For instance, high- and low-skilled workers, work permit issuance, family reunification, student migrants, migrants from OECD vs. non-OECD countries, all tend to be subject to different immigration regimes. On this level, migration policies can be seen as effective if analyses show that they have the desired effect on inflows or outflows of the targeted category when simultaneously taking into account all other theoretically relevant sending- and receiving-country migration determinants.

For example, if suspension of labour recruitment, or the introduction of carrier sanctions, lead to a measurable decrease in registered labour migration or asylum applications, respectively, the specific policy can be seen as having a significant effect. However, within 'effective' we can envisage a continuum of low to high levels of effectiveness – with reference to *the extent to which* policy objectives have been met. Such valuation leaves considerable room for ambiguities and subjectivities. When can we say that a policy has failed? How large should the effect be to qualify a policy as barely, moderately or very effective? Statistical studies of policy effectiveness focus on statistical significance, but generally ignore (with the notable exception of Hatton 2009) the relative magnitude of policy effects compared to other sending and receiving country migration determinants. Another source of ambiguities is the time-scale. While some



policies might have an immediate effect, these effects are not necessarily sustained over a longer time period, as migrants might adjust their migration strategies.

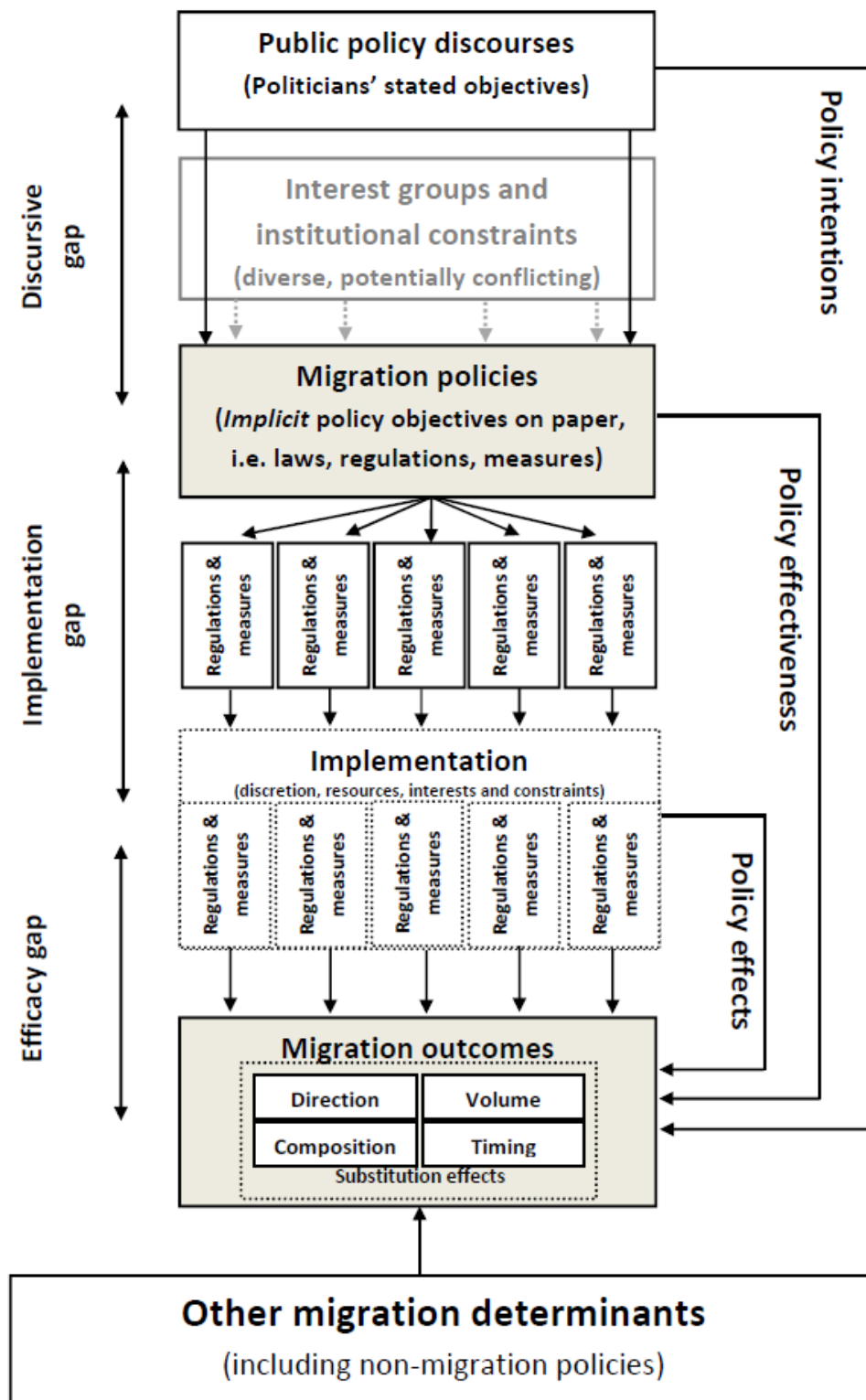
## **Conceptualizing policy gaps: discourse, implementation and efficacy**

The above discussion has shown that part of the controversy about immigration policy effectiveness is the result of unclear definitions of effectiveness and the frequent confusion between policy *effects* and policy *effectiveness*. Policy effects refer to the ‘causal’ ability of certain policies to affect the level, direction or composition of targeted migration flows. The notion of effectiveness creates a relation to the (stated) objectives of policies, and gives the analysis an evaluative and therefore also more subjective dimension.

Another source of spurious disagreement about migration policy effectiveness is rooted in misguided assumption of the nature of a policy change. Empirical evidence challenges the broadly shared assumption that immigration policies have become more restrictive (Ortega and Peri 2009, 2013). This partly undermines the argument that increasing immigration despite increasing restrictiveness is an indirect proof that policies have failed, because this is based on the probably erroneous assumption of increasing general policy restrictiveness. A third, related observation is that there is often a considerable gap between (often tough) immigration discourses by politicians and actual migration policies, which are generally much more nuanced and varied. Tough discourses may give the misguided impression that immigration policies have become more restrictive.

However, we need to further unpack policy practices by acknowledging that there is a considerable difference between policy on paper and their interpretation and implementation. The extent to which written policies are implemented varies widely, and depends on factors such as available financial and human resources, the weighing of different and potentially competing policy priorities and the discretion of civil servants and other state agents. Although politicians often pay lip service to restrictive aims and introduce tough measures against irregular immigration, governments do not always provide the resources -or are unable to do so- to implement these policies properly. For example, governments of countries with relatively restrictive migration policies accept officially ‘unwanted’ (legal and irregular) migrants, particularly if they are perceived to fulfil a useful economic role in sectors such as agriculture, construction, catering, domestic work or other low-skilled service.

Figure 1: Conceptual framework of migration policy effects and effectiveness<sup>1</sup>



<sup>1</sup> We are grateful to Simona Vezzoli for her essential contribution to Figure 1, which is the result of numerous discussions within the DEMIG team.

Figure 1 synthesizes the above insights. It makes a distinction between the four levels at which migration policies can be conceptualized: (1) public policy discourses; (2) actual migration policies on paper; (3) policy implementation; and (4) policy (migration) outcomes. This fourfold distinction allows for the identification of three ‘immigration policy gaps’:

- (1) the *discursive gap*, which is the discrepancy between public discourses and policies on paper;
- (2) the *implementation gap*, which is the disparity between policies on paper and their implementation; and
- (3) the *efficacy gap*, which is the extent to which implemented policies are able to affect migration.

Because each of these three gaps can be considerable, taken together they can amount to a wide gulf between policy discourses and policy practices on the ground. The *discursive gap* is the often considerable discrepancy between discourses and actual, concrete migration policies in the forms of laws, measures and regulations written down on paper. While this may reveal considerable ‘hypocrisy’ in the eyes of many, gaps between discourse and practice are common in public policy and should therefore not be automatically equated with policy failure. Discursive gaps are explained by three main factors. First, migration policies are influenced by the intentions and agendas of various parties and interest groups such as business, trade unions, and civil society groups (see Figure 1), which often need to be compromised in the political process (cf. Boswell 2007; Freeman 1995). Second, various political, economic and legal constraints limit the range of possible policy options, particularly in liberal democracies. For instance, international and national human rights and refugee law put limits on the extent to which liberal democracies can restrict inflows and rights of family migrants and asylum seekers, respectively (cf. Hollifield 1992). Third, migration discourses are often of a general, and a rather broad-sweeping nature (‘fighting illegal migration’, ‘zero immigration’, ‘comprehensive immigration reform’, ‘attracting talent’), whereas in practice migration policies often target very specific categories and groups of migrants. It is important to avoid interpreting such discursive gaps as ‘policy failure’, as discourses are not necessarily related to concrete policy formulation. What is seen as ‘migration policy failure’ may thus often reflect the considerable gap between public discourses on the one hand and policies implemented in practice rather than be the effect of actually implemented policies on migration. The discursive gap may therefore account for a considerable level of the spurious immigration policy failure.

The *implementation gap* is the discrepancy between policies on paper and their actual implementation. Some rules and regulations are not or only partly implemented because of practical, planning or budgetary constraints or as a consequence of corruption, ignorance or subversion. Politicians, civil servants or private companies (e.g. airlines implementing carrier sanctions, asylum case workers, border agents, or public or private institutions processing work visa requests) often have considerable discretion and agency in the way they implement policy on the ground (Ellermann 2006; Infantino 2010; Wunderlich 2010). This implementation gap seems to be particularly significant if there is a large degree of discretion and assessment involved in policy implementation. This leaves considerable scope for subjective interpretation and political or public pressure, for instance in refugee status determination and work permit applications (cf. Ellermann 2006). For instance, assessing whether an asylum seeker has a ‘well-founded fear of persecution’ (according to the respective UN Convention 1951/67), or whether there are no citizens available for a job for which a foreigner seeks to obtain a work permit, leaves open considerable room for subjective judgement. Recent qualitative and ethnographic field studies have revealed that such implementations gaps can be considerable (cf. Brachet 2005; Infantino 2010; Wunderlich 2010), particularly when policies on paper are unrealistic or detached from concrete migration experiences.

This implementation gap is a first source of a possible real ‘policy failure’. In most cases, it is practically impossible to precisely measure the degree to which policies on paper are implemented. In many quantitative studies, the official policy on paper (or the budget spent on it) is assumed to be implemented. Also here, a good understanding of the particular political-economic context and which policies have emerged and, if possible, qualitative research on policy implementation, is necessary in order to judge the extent to which this assumption can be maintained.

Finally, the *efficacy gap* reflects the degree to which the *implemented* laws, measures and regulations have the intended effect on the volume, timing, direction and composition of migration flows. This efficacy gap is the second source of possible ‘policy failure’. Policy efficacy is constrained because migration is driven by structural migration determinants in origin and destination countries (such as labour market demand) as well as of the above-mentioned internal dynamics of migration networks and systems. This explains why migration often continues despite the introduction of restrictions or border controls.

Second, the attempts of targeted policies to influence particular migration categories can have knock-on effects on other migration flows. De Haas (2011) hypothesized four ‘substitution

effects' which can limit the effectiveness of immigration restrictions: 1) *spatial substitution* through the diversion of migration to other countries; 2) *categorical substitution* through a reorientation towards other legal or illegal channels; 3) *inter-temporal substitution* affecting the timing of migration such as 'now or never migration' in the expectation of future tightening of policies; and 4) *reverse flow substitution* if immigration restrictions also reduce return migration and make the effect on net migration ambiguous. The existence of such substitution effects also shows the need to look at the 'externalities' of *specific* policy measures that go often beyond the (short-term) effects on *targeted* (e.g., asylum, family) migration categories by considering (short *and* long-term) effects of specific migration policies on other, untargeted immigration and emigration flows. This emphasizes the need to assess at the broader picture by embedding the study of particular policy effects in the broader context of migration system dynamics.

Within this framework, policy effectiveness refers to the relation between the objectives of policies-on-paper and actual migration flows, while implementation and efficacy gaps undermine the effectiveness of policies. However, a policy's limited effect is not automatically 'policy failure', but only an 'inefficient policy', which implies that policy outcomes do not justify the amount of resources invested in producing these outcomes. The fact that migration is also shaped by other factors than immigration policy is not a reason to qualify the policy as a failure as long as it has had a substantial effect in the desired direction when controlling for other migration determinants. Obviously, it ultimately remains open to subjective judgement how big an effect has to be to qualify as 'minor', 'substantial' or 'large'.

## Measuring policy effectiveness: methodologies and evidence

These considerations have implications with regards to the thorny methodological issue of the measurement of migration policies and their effect on migration patterns. Because of their diverse and 'qualitative' nature, migration policies, laws and regulations are difficult to express in numerical terms. Although some scholars have recently included immigration policy variables<sup>2</sup> in quantitative analyses of migration determinants, the operationalization of migration policy is far from being standardized and scholars use very different methodological approaches to 'test' policy effects. Most approaches focus on 'written' policy, because implementation is often impossible to measure. This means that quantitative tests inevitably confound implementation

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<sup>2</sup> There are apparently no studies which try to quantitatively measure the effects of *emigration* policies.

and efficacy gaps, and that contextual knowledge and qualitative assessment is essential to assess which of the gaps appear to be most important in explaining possible policy ineffectiveness.

Keeping in mind these conceptual and empirical considerations, the available empirical evidence suggests that migration policies have at least some (statistically significant) *effects* on overall levels of immigration, whereas effectiveness is more contestable with regards to policies are that target particular migrant categories and aim to affect the composition of immigration populations.

So far, quantitative empirical research has applied two alternative techniques in order to assess migration policy effectiveness. The first approach is to use a binary migration policy ('dummy') variable for indicating the years in which either a *particular* or *any* policy change has occurred. The second approach consists of constructing composite migration policy indices that scales differences in the intensity of policy restrictiveness.

The first approach, has for instance been used by Karemera et al. (2000) in their study of the determinants of migration from 70 countries to the USA and Canada, in which they use binary time variables to assess the effects of reforms of US immigration law in 1976, 1980 and 1986 and the Canadian Immigration Acts of 1976 and 1978. Their results suggest that immigration restrictions did significantly decrease immigration, at least to a certain extent. For the case of Germany, Vogler and Rotte (2000) use similar binary time variables for capturing the effects of major policy changes on African and Asian immigration to Germany between 1981 and 1995. They also find significant effects of three immigration reforms during that period: the expansion of the temporary work ban for asylum seekers from two to five years in 1987; the relaxation and subsequent complete abolishment of the work ban for asylum seekers in 1991; and the drastic asylum reform of 1993. While the 1987 and 1993 reforms restricted, the 1991 reform increased work-related rights for asylum seekers. As expected, the 1987 and 1993 dummy variables had a negative effect and the 1991 dummy had a positive effect on both total immigration and asylum inflows. The main problem with these approaches is that the relatively brief periods between policy changes only allow for assessing short-term effects. The long-term effect of the 1987 restrictions is compromised by the 1991 ban in work restrictions and overlaps with the drastic restrictions introduced in 1993. Because their study only captures migration data until 1995, the analysis cannot capture the long-term effects of the 1991 and 1993 reforms and is therefore unable to test for possible inter-temporal substitution effects (cf. de Haas 2011). Moreover, because the study focused on only one receiving country, it cannot test 'spatial

substitution' effects in the form of possible diversion of migration to other countries. The results should therefore be interpreted with caution.

In a similarly designed study on UK immigration and emigration between 1976 and 2000, Hatton (2005) applies time dummies to capture supra-national policy changes. He finds ambiguous effects of the two rounds of EU enlargements in 1986 (Spain and Portugal) and in 1995 (Austria, Finland and Sweden) on net immigration; only the EU enlargement in 1995 led to a significant increase in migration to the UK. Unfortunately, Hatton could not identify immigrants by their EU accessing country of origin, and thus, respective 'effects' of the liberalised migration policy regimes might not (only) originate from the new EU member states, but may also stem from other European countries which have been impacted by these EU enlargements.

Beine et al. (2010) find that a 'Schengen dummy', which indicates whether pairs of countries comply with the Schengen agreement, had a significant effect on the skill composition of immigration by raising the share of high-skilled migrants while they did not affect total immigration. However, their study does not identify whether this result points to the existence of a categorical (more high-skilled, less low-skilled) or rather spatial (more Europeans, less non-Europeans) substitution effect. Ortega and Peri (2009) find similar results for the Schengen agreement, and also a strong migration-accelerating effect of the Maastricht treaty. The question is, however, whether the respective 'Maastricht' dummy actually captures migration policy effects, or rather something else such as broader macro-economic effects of the common market indirectly affecting EU migration patterns. Although the Maastricht treaty (signed in 1992) introduced a 'common migration policy' mainly referring to third country (i.e. non-EU) nationals, it has not led to an immediate implementation of a common set of new immigration regulations across EU member states. Even 20 years after Maastricht, and various efforts towards an EU-wide harmonization of labour migration policies towards non-EU citizens, regulations are still under the domain of national governments.

Hatton (2005) also used a time dummy for the years after 1997 of an allegedly liberal shift in the national immigration policy regime to test whether 'the sharp rise in the number of work permits issued in the late 1990s is indicative of a significant relaxation of policy adopted by the Labour administration from 1997 onwards, including an increased allocation of work permits and relaxation of controls on non-economic immigration' (Hatton 2005, p. 726). Thus, this dummy does not explicitly test a particular immigration policy reform but a change in government (from Conservative to Labour), implicitly assuming an immediate shift towards

more liberal immigration policies. This assumption is questionable since higher immigration under Labour might also be related to non-migration policies, such as labour market and trade policies and economic integration in the EU.

As an alternative to the dummy approach, Hatton (2004), Thielemann (2004), Ortega and Peri (2009), and Mayda (2010) have constructed policy indices to measure the effect of policy changes on migration flows or stocks. For instance, to measure the effects of policies on the number of asylum applications, Thielemann (2004) designed an ‘asylum deterrence index’ as a proxy for the restrictiveness of national asylum policies in 20 OECD countries between 1985 and 1999. This index is a composite of three major aspects of asylum policies: access control; determination procedures; and integration policies, which are operationalized by (i) existence of a dispersal scheme, (ii) the provision of welfare benefits to asylum seekers through cash payments instead of ‘in kind’ or voucher systems, and (iii) granting of work permits during assessment of the asylum claim.<sup>3</sup> Aggregation of these five (equally-weighted) policy dimensions yields a composite deterrence index that ranges between zero (none of the measures in place) and five (all measures in place). By selecting specific policy categories, Thielemann excluded other relevant aspects of asylum policy-making, such as carrier sanctions, right of appeals, detention and deportation policies. Furthermore, weighting and aggregation procedures of index components are a delicate affair, since the underlying assumptions might not reflect their *de facto* relative importance. In fact, this relative importance of policy index components cannot be objectively established *a priori*, and thus inevitably involves a certain degree of subjective assessment. Another downside of a policy index is that information on the effects of each policy instrument is lost if they are lumped together. Therefore, the unaggregated inclusion of policy instruments seems preferable for identifying the isolated effects of specific policy measures. In fact, when Thielemann (2004) tested each of his instruments separately, he found that only two out of five instruments contribute to the (negative) effect of deterrence on asylum applications.<sup>4</sup>

Mayda (2010) used a slightly different approach for operationalizing and quantifying immigration policy. She constructed an immigration policy index based on a broader review of migration laws and policies (Mayda and Patel 2004). Her index uses an ordinal scale to capture *changes* in migration policies over time. Mayda assessed the direction of substantial immigration

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<sup>3</sup> The information on these asylum policy measures was retrieved from the annual OECD’s ‘Trends in International Migration’ (SOPEMI) reports and the ‘World Refugee Survey’ by the US Committee for Refugees (Thielemann 2004).

<sup>4</sup> Hatton (2004, 2009) designs a similar asylum policy index on an open-ended scale tracking asylum policy and law changes starting at value zero at the beginning of the observation periods (1980 in Hatton (2004), 1997 in Hatton (2009)).



policy changes by qualifying them as a shift in a more or less liberal direction. Contrary to the asylum policy indices constructed by Thielemann (2004) or Hatton (2004; 2009), Mayda (2010) includes any type of immigration reform but excludes ‘issues of citizenship’ (Mayda 2010, fn. 19). Ortega and Peri (2009, 2013) adopted Mayda’s index but extended its scope by covering a longer time period (1980–2005) and by including information on social policy reforms in the same 14 OECD countries.<sup>5</sup> They also provided a categorization by constructing three separate policy indices: one for entry policies, a second for residency laws of legal immigrants, and a third for entry and residence laws for asylum seekers.

Similar to Hatton (2004), but in contrast to Thielemann (2004), Mayda’s and Ortega and Peri’s immigration policy change indices do not have any upper or lower bounds. Because the index is ordinal, the scale points capture neither the relative ‘importance’ of a policy change nor the absolute level of ‘migration policy restrictiveness’, but solely indicate whether there has been a reform towards more or less liberal regulations. This puts some serious limits on the interpretation of statistical results.

Both Mayda (2010) and Ortega and Peri (2009, 2013) assign an index value of zero in 1980 for all countries, which conflates all differences in absolute levels of restrictiveness across countries. Both studies try to capture time-invariant and unobserved features of overall level of immigration policy ‘restrictiveness’ by including a destination country (‘fixed effect’) dummy variable. However, such ‘fixed effects’ also capture all other unobserved country-specific characteristics, which may not be related to migration policy but rather to other (e.g., economic, labour market and education) policies or the role of the state more in general. Thus, this approach does not really solve the attribution problem in evaluating migration policy effectiveness.

For 14 OECD destination countries, both Ortega and Peri (2009) and Mayda (2010) find similar impacts. Ortega and Peri find that, on average, loosening of *any* restrictions increased total immigration by around 10 per cent (Ortega and Peri 2009). Obviously, this estimate ignores the relative magnitude, and thus, relative importance of each reform and therefore has to be treated with some reservation. Although restrictions significantly affect overall levels of immigration, it remains unclear which particular policy change ‘caused’ this effect.

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<sup>5</sup> Information on social policy reforms originates from the Fondazione Rodolfo DeBenedetti (FRDB) Social Reforms database (2007).

Assessments of the relative magnitude of policy effects are further complicated if we take into account that migration policies may interact with other migration determinants. For instance, after interacting her policy index with GDP per worker, Mayda (2010) finds that the more liberal immigration policies reinforce the positive effect of income levels on immigration. Similarly, factors such as distance or the relative number of young people in sending country populations have larger effects if immigration policies are less restrictive. So, the effects of migration policies and other migration determinants may either be mutually reinforcing or counterbalancing. While Mayda (2010) provides a qualitative interpretation of her results, Ortega and Peri (2009) are more explicit by stating that, e.g. for the case of Canada, the liberalisation of immigration policy between 1985 and 2005 (by 6 points on their scale) has increased immigration rates by 25 to 54 per cent. These estimates are based on the assumption that the liberalisation of Canada's immigration policy had an independent (short-term) effect on immigration. This ignores other factors, such the role of (presumably more restrictive) immigration policies in other countries ('multilateral resistance effect'). This may potentially have given rise to spatial substitution effects by which immigrant flows have been deflected towards Canada.

In their study on the determinants of migration to the UK over the period 1981 to 2007, Mitchell et al (2011) experiment with another way of assessing migration policy effects. They calculate the ratio of the UK immigration rate (i.e. inflow relative to UK population) relative to the weighted average of immigration rates for Belgium, France, Germany and the Netherlands as a measure for the relative restrictiveness of UK immigration policy. Obviously, this measure captures not the cause but the assumed consequence of immigration policy changes. Outcome-based measures create problems of endogeneity and are therefore inherently problematic in assessing policy effects: an outcome-based index does not quantify actual migration policies, but captures their (potential) effects.<sup>6</sup>

While most studies so far have looked at the effects of policy reforms on total or net immigration, some studies which specifically focus on asylum migration find that asylum policies

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<sup>6</sup> In their analysis on the relation between aid policy and levels of migration, Berthélemy et al. used another outcome-based migration policy index which was originally developed by the Centre of Global Development (CGD) and is part of their Commitment to Development Index (CDI). The design of this migration index goes back to Grieco and Hamilton (2004) but has been significantly adjusted by CGD. This composite index is a weighted average of five indicators primarily based on data on stocks and inflow data of migrants, students and asylum seekers from developing countries (Roodman 2010). A comprehensive mix of output and outcome indices is the Migrant Integration Policy Index (MIPEX), which was developed in 2007 (Niessen et al. 2007). The MIPEX, which covers 25 EU Member States and three non-EU countries, combines about 100 policy indicators across six policy areas including labour market access, family reunion, long-term residence, political participation, access to nationality, and anti-discrimination laws (see more on [www.integrationindex.eu](http://www.integrationindex.eu)). This provides a wide range of comparative, quantitative measures of immigration and, particularly, integration policies across European states.

have statistically significant, but rather moderate effects (Hatton 2004; Holzer, Schneider, and Widmer 2000; Thielemann 2004). Both Hatton's (2004) asylum policy index and Thielemann's (2004) deterrence index find that restrictive asylum laws in the 1980s and 1990s significantly reduced inflows. Hatton (2009) estimates for 19 Western destination countries that the tightening of asylum access policies between 2001 and 2006 reduced the number of asylum applications on average by 14 per cent, while the restrictions on asylum processing account for a reduction of about 17 per cent. He therefore concluded that 'while tougher [asylum] policies did have a deterrent effect, they account for only about a third of the decline in applications since 2001' (Hatton 2009: 183). For instance, the reduction in the number of conflicts in origin countries also played an important role in explaining the decline in asylum migration.

In their study on US immigration between 1971 and 1998, Clark et al. (2007) have used quotas for different visa preference categories relative to the total population of the countries eligible for these categories as proxies for the level of US immigration policy restrictiveness towards different origin countries. Covering the four main visa categories for non-immediate relatives, employment, 'diversity' as well as refugees and asylum seekers separately, they assessed the effects of this immigration policy instrument. The main limitation of this approach is that quotas are only used in a few, mainly Anglo-Saxon countries. Furthermore, a quota often only applies to some migration categories, and categories such as family migrants are usually excluded. Thus, 'categorical substitution effects' may occur when immigrants start shifting to other immigration categories for which no quota applies. This can bias the results on measuring the actual effectiveness of a quota system.

Most of the existing studies are not able to capture potential categorical and spatial substitution effects. 'Category jumping' can occur when more restrictive regulations on issuing work permits compel migrants to choose other legal (or illegal) channels to enter the destination country's territory and labour markets. Only Hatton's (2004) study of determinants of asylum applications in EU member states between 1980 and 1999 attempts to look at such broader issues. Besides assessing the effects of restrictiveness measured by an asylum policy index, Hatton also assesses the indirect effect of the overall immigration policy restrictiveness by including a dummy variable based on the United Nations' periodic survey of government immigration policies.

Only a few studies looked at the long-term effect of immigration policies on the composition of immigration flows. By using data from 1955 to 1993 on immigration flows by entry class and intended occupation, Green and Green (1995) examined the effect of changes in

the Canadian point-system (introduced in 1967) on the composition of immigration flows. They found that the introduction of the new point system in 1967 initially had the intended strong effect on the occupational composition of new immigrants. However, once the system was in place, only large policy shifts significantly affected the composition of immigration. They concluded that although the point system provided some control over the overall occupational composition of inflows, it was not able to ‘fine-tune’ immigration. So, the effect of skill-selective entry policies seemed waned over time, which may for instance be due to the increasing autonomous role of network dynamics in continuing family migration.

This reflects the general argument that the effectiveness of particular immigration policy measures is often constrained by the effects of social networks and other internal dynamics of migration processes (de Haas 2010). For instance, Beine et al. (2010) argue that the effectiveness of policies that aim to increase the educational level of immigrants may be thwarted by the presence of a strong diaspora enabling the influx of lower-educated migrants. Thus, in the presence of large immigrant populations, skill-selective migration policies might fail unless family reunification programs are deeply reformed and limited, which is generally not possible because of constitutional and human rights constraints.

In sum, the limited available evidence supports the preliminary conclusion that the effects of migration policies on immigration are *existent*, but *relatively small* compared to other social, economic and political determinants, which may confound (intended) migration policy efficacy. In particular, ‘non-migration policies’ such as macro-economic, labour market, social welfare, education, aid and trade policies might often play a much bigger role than ‘typical’ migration policies.

## **Conclusion**

This paper argued that, to a considerable extent, the public and academic controversy about the effectiveness of immigration policies is spurious because of unclear definitions of immigration policy effectiveness. Acknowledging that non-migration policies have a potentially large, albeit indirect effect on immigration, we defined immigration policies as the laws, rules, measures, and practices national states define and implement with the (implicitly or explicitly) *stated objective* to affect the volume, origin and internal composition of immigration flows.

In qualitative and quantitative assessments of the effectiveness of immigration policies it is often unclear whether (1) policy discourses, (2) policies on paper or (3) implemented policies

are used as an evaluative benchmark. In order to improve conceptual clarity, this paper elaborated a conceptual framework for analysing immigration policy effectiveness based on the distinction between three policy gaps: the discursive gap (the discrepancy between public discourses and policies on paper); the implementation gap (the disparity between policies on paper and their implemented policies); and the efficacy gap (the extent to which implemented policies affect migration outcomes). In order to avoid confusion, empirical evaluations should be explicit about the particular policy gap they are addressing.

Frequently, the (generally tougher) discourses are implicitly or explicitly used as an analytical benchmark in the evaluation of migration policy effects and effectiveness, which can easily lead to an overestimation of 'policy failure'. For instance, if we assume that governments want to 'stop' migration based on politicians' tough public discourses, it is tempting to conclude that policies have failed if immigration continues or increases. However, public discourses are often not matched by policy formation and implementation. 'Discursive gaps' are very common in public policy and should not be automatically equated with policy failure.

Contradicting views on immigration policy effectiveness can also be partly reconciled by clearly distinguishing policy *effects* from policy *effectiveness*. Policy *effects* refer to the 'causal' ability of policies to affect the level, direction, timing or composition of migration. Assuming that appropriate data is available, that policies can be operationalized and other sending and receiving country migration determinants are accounted for, empirical analysis studies can assess whether a migration policy has a significant 'effect'. However, the notion of *effectiveness* creates a relation to a *desired* outcome, or policy objectives, which introduces an inherently subjective dimension to assessments. The difficulty partly lies in the fact that 'the' objectives are often multiple because various stakeholders, interest groups and parties favour measures with often opposing objectives. While the various points of interests and objectives can be mapped through in-depth qualitative research, it seems methodologically impossible to distil 'the' policy objective of 'a state', because states are not homogenous and policies not singular.

This brings us back to our initial argument about the intrinsically and therefore almost inevitably incoherent nature of immigration policies. Multiple objectives and competing political agendas of various interest groups often 'make or unmake' migration policies (Castles 2004b) in such a way that the effectiveness of a particular policy instrument is reduced or counteracted by other policy instruments. Migration policies are shaped in a complex political-economic context in which the attitudes and preferences of politicians and voters, interest groups such as employers, trade unions and human rights organizations, compete with each other (cf. Boswell 2007; Facchini and Mayda 2008; Facchini and Willmann 2005; Mayda 2006). This results in

policy regimes which are typically a ‘mixed bag’ of regulations and measures. Migrants see these as opportunity structures, and are likely to opt for the most convenient migration channel.

Empirical evidence suggests that although policies significantly affect migration outcomes, these effects seem to be limited compared to other migration determinants. However, we need to be careful not to automatically interpret this as policy failure. The fact that migration is also influenced by other factors is not a reason to qualify the policy as a failure as such, and perhaps we can say that a policy has only failed entirely if it has produced no effect at all or even an effect in the opposite direction. Policy restrictions may also have unintended ‘substitution’ effects which occur when migrants shift to other legal or spatial channels to migrate or adjust the timing of their migration or reconsider their return migration plans. Because of limitations in data and research design, existing studies cannot properly test for such substitution effects. Since they miss out the ‘bigger picture’, they are not able to assess the existence of the various substitution effects hypothesized in the qualitative literature, and may therefore overestimate the effects of policies on migration patterns. The scarcity of empirical evidence on such categorical, inter-temporal or geographical substitution effects exemplifies the need for more empirically informed insights about the short and long term effects of migration policies on separate migration categories.

In order to come to a valid assessment of migration policy effectiveness, it is also important to distinguish between major systemic transitions in a migration regime and minor policy changes within an existing regime. Most immigration regimes are relatively time-invariant, such as regulations around visa acquisition, or naturalization and citizenship. Compared to systemic changes in ‘immigration policy paradigms’ through major policy overhauls (like the introduction of the point system in Canada in 1967, or the Hart-Celler Act in the US in 1965), the ‘fine-tuning’ of migration policies (like a change in the age limit for migrants’ children to be eligible for family reunification) seem bound to have limited effects, in particular when targeted towards a certain type of immigrant group only. This exemplifies the need to have a deep understanding of the broader policy regimes and political context of which specific policy changes are part of.

Last but not least, the limited effect of migration policies does not by any means imply that states have a minor influence on migration processes. In this context, it is important to distinguish the preponderant role of *states* shaping in migration processes from the more limited effect of specific *migration policies*. Over the course of modern history, trends and patterns of migration have been intrinsically linked to processes of state formation and decline, economic and territorial imperialism and warfare (cf. Castles 2010; Skeldon 1997). The very notion of

*international* migration presumes the existence of national states and clearly defined territorial and institutional borders. The importance of factors such as economic growth, labour market structure, education, inequality and conflict points to the importance of non-migration policies and institutions, and more in general, activities by nation states in shaping migration processes.

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