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How effective are migration and
non-migration policies that affect
forced migration?

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Introduction

In an increasingly globalised world, large numbers of displaced persons and their highly unequal distribution constitute a key challenge for public policy¹. This challenge is compounded by the fact that one state's policies, aimed at regulating migration, will often create negative externalities for other states. Policy makers trying to find effective responses to the actual or potential displacement of persons have been faced with the following questions: What explains the variation in the numbers of forced migrants that states receive? What role can we expect public policy measures to play in influencing such numbers? And how effective have such policies been in practice? From a national perspective, it has sometimes been argued that if a state's reception burden is large, then that country's policies are probably too lenient and its welfare provisions for migrants too generous relative to other destination countries. By increasing the restrictiveness of its policy, the argument goes, a state will be able to reduce inflows and redress the inequitable distribution of refugee responsibilities. However, this argument risks overestimating the link between the policies of destination countries and the direction and size of migration flows. This paper argues that the effectiveness of migration and non-migration policies in regulating migration flows should not be overestimated². To support this argument, the paper analyses the role of push and pull factors of migration, the impact of different types of national policies and the effects of international cooperation on forced migration, including reference to highly developed institutions of regional cooperation in the European Union (EU) context. Particular attention will be paid to lessons learnt in the field of asylum and refugee policy, the area of forced migration with the most established evidence base.

The determinants of migration flows – push and pull factors

Underlying some of the most prominent theories and models of international migration (Massey *et al.*, 1993) is the so-called 'push–pull model'. It is a conceptual framework that suggests that there are push factors in countries of origin that cause people to leave their country³, and pull factors that attract migrants to certain receiving countries. Although this

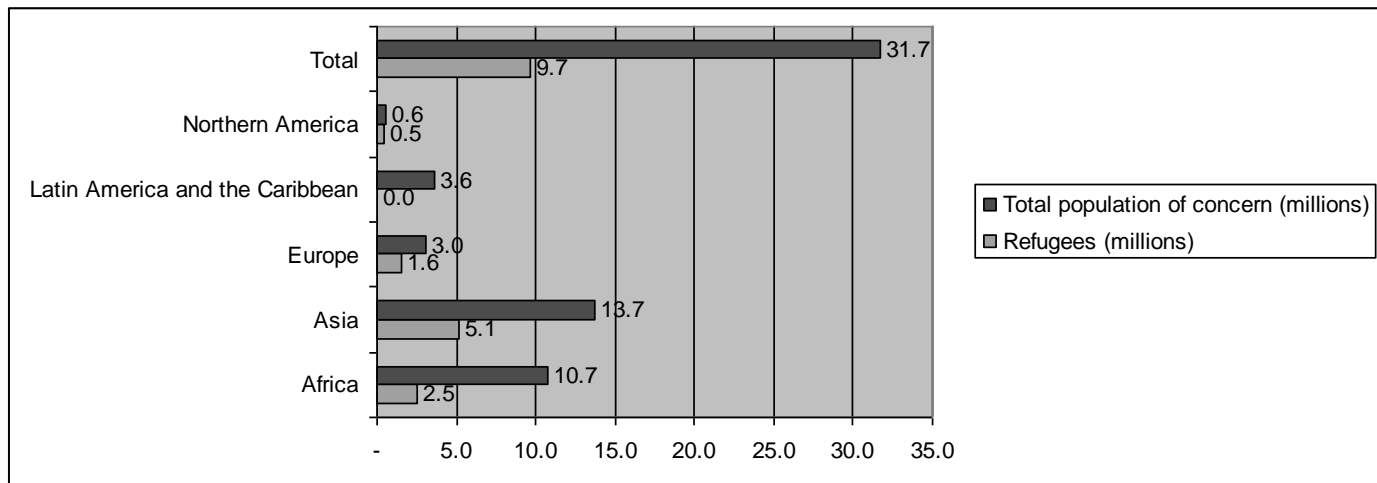
¹ The terms 'displaced person', 'forced migrant' and 'protection seeker' are used interchangeably in this paper. They refer to individuals who have left their country of origin involuntarily in the belief that they cannot or should not return to it in the near future. In this usage, the terms refer to asylum seekers and refugees under the Geneva Convention but also those who have been forced to leave their home country for environmental or other reasons. It should be recognised that the dividing line between categories of 'forced' and 'voluntary' migration is not always clear-cut. It might be more appropriate to conceptualise the idea of a continuum with clear cases of involuntary migration on the one side, clear cases of voluntary migration on the other and a large 'grey zone' in between (IOM, 2009: 5).

² States can, of course, pursue several objectives in this field. While the humanitarian aim of protecting displaced persons is clearly one of them, arguably the principal objective for any sovereign state is likely to be the control of migration inflows as any unregulated influx of migrants is likely to be viewed as a threat to other state objectives. Some have even portrayed the relationship between these two objectives in terms of a trade-off: a policy choice between large numbers of migrants with relatively few rights or smaller number of migrants that are granted more rights (Ruhs and Martin, 2008).

³ See UNDP (2009) for a useful overview.

model was developed with economic migration in mind and has its limitations⁴, it does offer important insights for research on forced migration too. An analysis of the most established data available in the wider field of forced migration, the annual statistical reports of the United Nations High Commissioner for Refugees (UNHCR), shows the highly unequal distribution of responsibilities for forced migrants (Figure 1). In particular, it reminds us that the world's most developed countries host less than 20% of the world's forced migrants and refugees. A more detailed scrutiny of asylum trends in industrialised countries over the past two decades (Figure 2) highlights the importance of push factors in the evolution of forced migration flows. It shows that asylum applications peaked during the Bosnian war in the early 1990s and that numbers were also very high during the major refugee-producing conflicts in Kosovo, Afghanistan and Iraq in the late 1990s and in early 2000. The broad fluctuations in asylum flows, hence, are at least in part driven by violent conflicts, which constitute one of the principal push factors for forced migration.

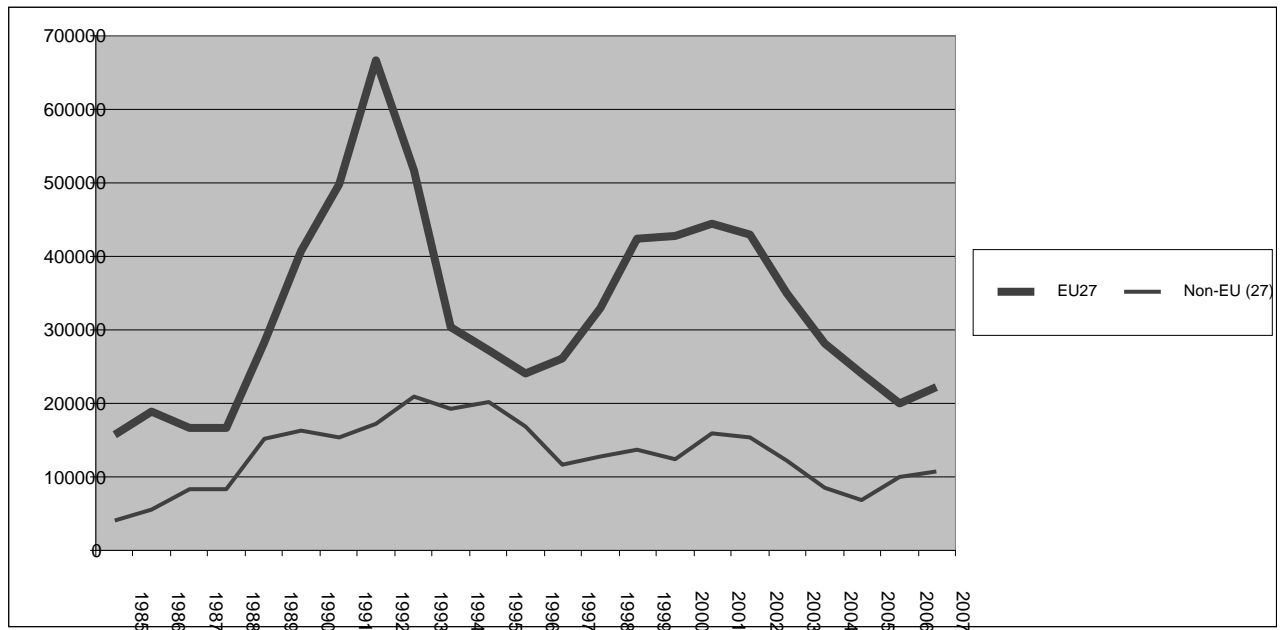
Figure 1: Population of concern to UNHCR in 2007.



Source: UNHCR (2009).

⁴ For example, the model tends to underestimate factors that can facilitate migration, such as migration networks or the people smuggling industry. For a critical review see de Haas (2010).

Figure 2: Total number of asylum applicants in OECD countries, 1985–2007.



Source: UNHCR Statistical Yearbooks (several years). Author's own calculations.

The results of this kind of broader quantitative analysis have been supported by several case studies. For example, an influential study on Switzerland concluded that governments' policy efforts to regulate migration flows can be expected to be ineffective 'if the push factors in a region nearby to the receiving states reach a critical level' (Holzer *et al.*, 2000: 1205). Even in the case of the often quoted 71% drop in asylum applications in Germany from 1992 to 1994 (see Table 1), which has widely been attributed to the introduction of new restrictive policies that came into effect with the changes to the German Basic Law in 1993, many observers appear not to have sufficiently taken into account that this drop happened against an overall drop of 70% in the number of applicants from former Yugoslavia, for which Germany had been the preferred country of destination. Again, changes in push factors, i.e. the improvement in the security situation in Bosnia, were clearly more responsible for the drop in asylum applications than any particular change in policy (Thielemann, 2006: 468–469). In 1994, Germany, as the major recipient of forced migrants from former Yugoslavia, was the greatest beneficiary of then much smaller overall numbers of asylum seekers leaving Bosnia in search of protection.

Table 1: The role of push factors: forced migrants in Europe, 1992 and 1994

	1992	1994	Drop
Asylum applications in Germany	438,191 (62% of total)	127,210 (38% of total)	71%
Asylum applications in Europe	708,984	335,811	53%
Asylum applications from former Yugoslavia in Europe	419,637	124,149	70%
Asylum applications from former Yugoslavia in Germany	223,555 (52%)	55,034 (43%)	75%

Source: UNHCR data from Thielemann (2006: 69).

Although push factors are often responsible for migrants' decisions to leave their home country, it is the variation in pull factors that is widely seen as determining the direction of migration flows, i.e. influencing a migrant's choice of destination country. A review of the theoretical literature on migration (see in particular Massey *et al.*, 1993), produces five principal categories of pull factors – economic, historic, political, geographic and policy related – which will be discussed further below⁵.

Which pull factors matter? The role of policy relative to structural determinants

There is an extensive general literature on states' capacity to manage migration (Freeman, 1994; Joppke, 1998; Castles, 2004, 2006; Düvell, 2005). A number of studies have focused on forced migration and have aimed to assess the relative impact of different pull factors, in particular with regard to comparing the influence of policies relative to structural factors. Hatton (2004: 51) argues that although the effect of policies is limited, it is still significant. Regarding the evolution of asylum flows since the early 1990s, he writes:

The reason that the effects of policy on the proportion of applicants flowing to different parts of the EU seem to have been small is that similar policy responses have occurred across the board. But in the absence of growing policy restrictiveness, the absolute number of applications to the EU would have ballooned by even more than it did.

This research is supported by Neumayer (2004: 174), who finds that restrictive asylum policies (in this study, countries with low recognition rates) are systematically associated with lower relative shares of asylum seekers. However, as the use of recognition rates as a proxy for the relative restrictiveness or liberalness of states' policies on forced migration

⁵ For a more extensive summary of these different pull factors see Thielemann (2006: 451–455).

has its limitations, other studies use a composite measure of policy to capture the variation in asylum policies among states (Thielemann 2004; 2006). This study demonstrates that structural pull factors provide more powerful explanations of the relative distribution of asylum responsibilities than policy-related factors. Like similar studies (Havinga and Böcker, 1999; Hatton, 2004; Neumayer, 2004), it finds that the most important factors explaining the direction of forced migration flows (i.e. the relative attractiveness of destination countries) relate to historical and network effects. Historical connections, colonial links, language ties or cultural networks between countries of origin and destination facilitate transport, trade and communication links between countries. These links tend to promote movements of people from one country to the other (Massey *et al.*, 1993: 445–447). Political and geographic factors are also found to matter in an important way. A host state's liberal reputation matters, particularly for humanitarian migrants, as does the geographic distance between countries of origin and destination countries. Using data for 20 Organisation for Economic Co-operation and Development (OECD) countries over a 15-year period, Thielemann's study finds that the impact of policies relative to other structural pull factors is more limited than has sometimes been assumed. Restrictiveness in national policies does not automatically go hand in hand with small inflows. On the contrary, the study shows that since the mid-1980s countries such as Germany, Switzerland and Austria experienced the highest relative asylum inflows in Europe, despite being among the countries that had introduced the most restrictive policies in Europe. Powerful structural pull factors trumped the effects of restrictive policies.

The impact of different types of migration and non-migration policy measures

Even if policy-related pull factors have a smaller impact on migration flows than the key structural pull factors, it is still important to ask what types of policies are more likely to influence migration than others. National policy making over the past 10–15 years in Europe has been characterised by the adoption of new, often restrictive, legislative and administrative instruments aimed to better control migration. Policy makers have introduced changes in three areas in particular. First, measures in the area of access control policy (i.e. to rules and procedures governing the admission of foreign nationals) have included the tightening of visa policies, regulations for carriers, safe third country provisions, etc. Second, rules concerning access to residence (temporary or permanent) have also been made more restrictive. In the asylum context, restrictive measures in this dimension have included changes to countries' refugee determination systems (e.g. fast-track procedures), appeal rights and rules concerning subsidiary protection. Finally, integration policies have also been tightened in the process of toughening up countries' policy regimes. This has meant that rules concerning the rights and benefits given to asylum seekers inside a country of destination (e.g. work and housing conditions, rules on freedom of movement, welfare provisions, educational opportunities, etc.) have seen new restrictions. In order to assess how countries' policy regimes have evolved over time in terms of their relative

restrictiveness, some studies (Hatton, 2004; Thielemann, 2004, 2006) have created policy indices that seek to quantify cumulatively countries' policies across different dimensions. Owing to limitations in the available comparative data⁶, it is impossible to provide comprehensive accounts. By focusing on a selection of key measures that run across all three principal policy dimensions (access, determination and integration), Thielemann's research sought to arrive at a reasonable approximation of a broader composite policy index using measures that have been widely regarded by policy makers as having the potential to significantly influence an asylum seeker's decision as to which country to apply to (see, for example, UK Home Office, 2002). Thielemann (2006) finds that the significance of his policy index is largely due to the effect of two sets of policy measures, which regulate access to residence and control access to the labour market. First, the likelihood of forced migrants receiving some kind of status that will allow them to remain in the host country legally clearly is of the utmost importance. We have known for some time that that host countries interpret common legal obligations for displaced persons in very different ways (ECRE, 2000) and that host states' status determination decisions vary greatly between countries, even for forced migrants from the same country of origin (Holzer and Schneider, 2002: 43; Neumayer, 2005). Second, given the high significance of employment opportunities for migrants, it is not surprising that labour market restrictions can play an important role in decisions on choice of destination country for those migrants who are in a position to make a choice. This will be true not only for those applicants whose motives are primarily economic, but also for those forced migrants who have the choice between several safe host countries. Overall, this suggests that even though displaced persons will have only limited insights for decisions on where best to seek protection, some relevant information on states' policies clearly appears to be transmitted to potential migrants through community networks or agents.

However, the studies mentioned above found only a much weaker or no significant effect by policies in the integration dimension. For example, Thielemann's study showed that measures that seek to limit a migrant's freedom of movement within a host country (dispersal schemes) and measures that seek to curtail cash benefit payments to asylum seekers (voucher schemes) have had no significant impact on the relative distribution of forced migrants among OECD countries (Thielemann, 2006: 467–468). Neumayer corroborates this as he also finds no significant evidence for the impact of difference in welfare regimes on the distribution of forced migrants (2004: 176). The limited impact of policies in the integration dimension is perhaps surprising as it has been those policies that have shaped prominent debates about popular destination countries being a 'soft touch'

⁶ The International Migration Policy and Law Analysis (IMPALA) database aims at closing these data gaps. IMPALA is a collaborative project of researchers from Harvard University, the University of Luxembourg, the University of Amsterdam, the London School of Economics, the University of Sydney and the Wissenschaftszentrum in Berlin. It is collecting comparable data on immigration law and policy in over 25 countries of immigration between 1960 and 2010. More information on IMPALA can be found at: <http://projects.iq.harvard.edu/impala/home>.

when it comes to immigration. Debates that have triggered demands that countries with large numbers of asylum seekers should focus on restricting access to welfare (and prevent 'welfare shopping') when trying to regulate migration more effectively. Clearly the symbolic effects of welfare restrictions to migrants are greater than such policies' substantive impact. In sum, existing studies suggest that some information about variations in policies on access to territory and work does inform the choices of migrants in a significant way. However, knowledge about variation in welfare regimes is either not available or less relevant when it comes to migrants' choices of destination country.

Forced migration, collective action and international cooperation

Having demonstrated the limitations of national policies aimed at regulating migration flows, it is important to stress that multilateral refugee protection efforts have shortcomings too, as they face a number of collective action challenges. Crucially, these stem from the fact that a host state's protection obligations are only triggered once a refugee enters into its jurisdiction. The procedures for dealing with such obligations at that point can be lengthy and costly for host countries. As states face no such obligations for forced migrants outside their territory, there is an incentive for states to use restrictive policies unilaterally in an attempt to limit the number of forced migrants entering their territory, while, at least indirectly, encouraging migrants to seek protection in another country or region (Thielemann, 2003).

In Europe, one of the objectives of the EU in creating a Common European Asylum System has been to curtail such free-riding dynamics by creating a

level playing field, a system which guarantees to persons genuinely in need of protection access to a high level of protection under equivalent conditions in all Member States while at the same time dealing fairly and efficiently with those found not to be in need of protection.

(European Commission, 2007)

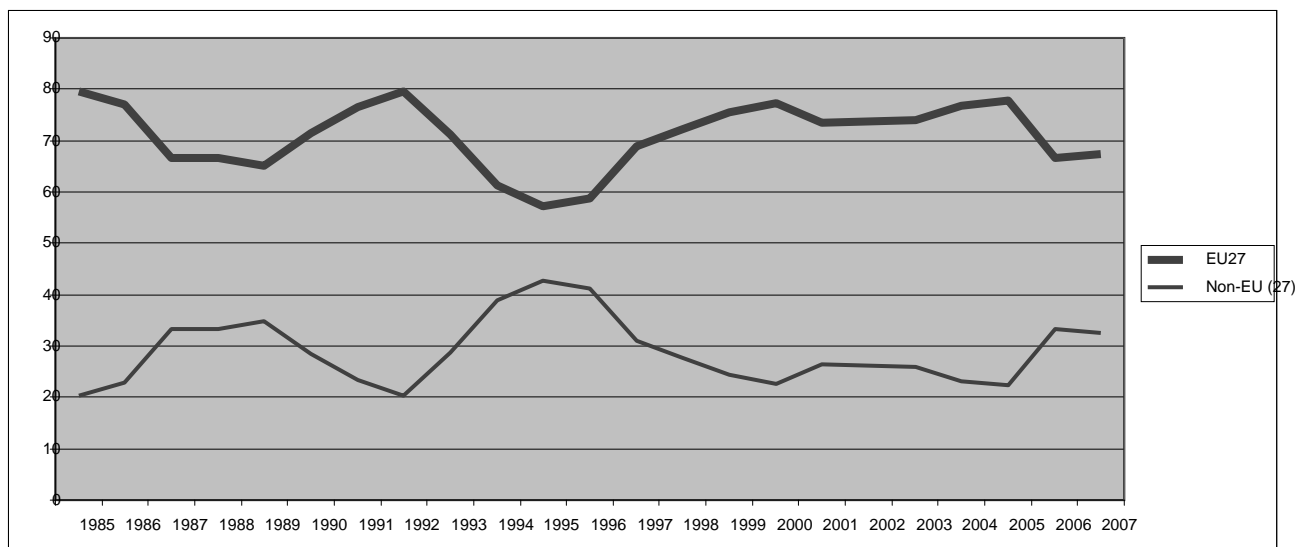
Since the mid-1980s, the EU has developed a set of minimum standards on specific areas of asylum policy applicable in the legal systems of all member states. It has done so around four main legislative directives: reception, qualification, procedures and return (Thielemann and El-Enany, 2009, 2010).

Whether such common policies have strengthened or weakened the protection of forced migrants has been the subject of considerable debate. It has sometimes been said that European cooperation on forced migration has led to the development of 'Fortress Europe', as common policies have made it increasingly difficult for displaced persons to reach EU territory and benefit from effective protection. However, Thielemann and El-Enany (2009) have argued that such restrictive policies are not unique to the EU but can be found in other OECD countries too. With regard to the treatment of asylum seekers in the member states,

they show that European cooperation has had some significant rights-enhancing effects on protection standards. European cooperation and the development of a common asylum law on the basis of EU minimum standards in this area has curtailed regulatory competition among the member states and in doing so has halted the race to the bottom in protection standards in the EU. Rather than leading to policy harmonisation at the ‘lowest common denominator’, EU policies have led to an upgrading of domestic laws in several member states, strengthening protection standards for several groups of forced migrants (Thielemann and El-Enany, 2009).

In terms of the impact of the EU on Europe’s collective protection responsibilities, there is little empirical support for the claim that regional cooperation in Europe has decreased the total share of forced migrants that the EU deals with relative to all applicants in the OECD area. The analysis of the evolution of application shares across industrialised countries (Figure 3) shows that the EU’s share of total asylum applications in the industrialised world has fluctuated significantly over time, but today is similar to its share in the late 1980s (Thielemann and El-Enany, 2010: 222). There is, hence, no evidence that regional cooperation encourages free-riding.

Figure 3: Relative shares of asylum applicants in OECD countries, 1985–2007.



Source: UNHCR Statistical Yearbooks (several years). Author's own calculations.

However, within a region, attempts to develop common policies to create a ‘level playing field’ and bring about a more equitable distribution of responsibilities between states can be counterproductive. If structural factors are indeed often more important than policy-related pull factors in determining how responsibilities for forced migrants are distributed among countries, then the harmonisation of policy measures might not achieve its burden-sharing objectives. Even if international cooperation succeeded in fully harmonising policies in this

field, refugee responsibilities across countries can be expected to remain highly unequal owing to differences in the structural pull factors that characterise states.

Given the limitations of regional responsibility-sharing initiatives⁷, it is not surprising that there is a broad consensus in the literature on the ineffectiveness of more global policy initiatives on refugee burden sharing (Hathaway, 1997; Schuck, 1997; Thielemann and Dewan, 2006; Betts, 2009). The one exception can be found in the context of large-scale refugee emergency situations, such as in Southeast Asia in the 1970s or in the Balkans in the 1990s, when sometimes quite effective ad hoc resettlement mechanisms such as the ‘Comprehensive Plan of Action’ for the resettlement of Vietnamese refugees (Schuck, 1997) or the Kosovo Evacuation Programme (Van Selm, 2000) were developed. However, these initiatives were exceptional responses to particular crises, and states failed to institutionalise these into mechanisms that could be called upon if, and when, similar resettlement needs were to emerge in the future. Proposals for such institutionalised mechanisms, as put forward by Schuck (1997), have been widely criticised (Anker *et al.*, 1998), but so far no realistic alternatives have been put forward. Only in the EU context, with the establishment of the so-called ‘Mass Influx Directive’⁸ have we seen the institutionalisation of such emergency resettlement mechanisms. However, the fact that this directive was not called upon in the recent migration crisis triggered by the war in Libya casts serious doubts about the effectiveness of this legal instrument.

To date, destination countries have shown an exaggerated concern with pull factors, which has sidelined other initiatives aimed at tackling the root causes of forced migration. Both national and multi-lateral policy initiatives have so far overly focused their attention to reactive measures of border control, deterrence, return and burden sharing from the perspective of receiving countries. Despite some considerable rhetoric to the contrary, they have focused on post-crisis rescue mechanisms without sufficiently engaging and cooperating pro-actively with sending countries to address what has been referred to as the ‘silent crisis’ underlying many refugee situations (Piguet *et al.*, 2011: 21). They have failed to satisfactorily embrace the logic of pro-active migration management that would put greater emphasis on policies focused on addressing the underlying root causes of forced migration rather than just being primarily concerned with its consequences⁹. So far, the track record of policies that seek to address the political, economic, demographic and environmental problems that can lead to forced migration is far from impressive. Efforts to encourage foreign investment, fair trade, well-managed debt burdens, well-directed development aid and effective reintegration programmes should be part of a long-term strategy to reduce push factors for forced migration and need to be given a higher priority (Crisp and Dessalegne, 2002: 3–6).

⁷ For a summary, see European Parliament (2010).

⁸ Directive on Temporary Protection in the Case of Mass Influx, Council Directive 2001/55/EC of 20 July 2001. For an assessment see Thielemann (2010).

⁹ For a discussion of reactive versus pro-active policies in the area of forced migration, see Thielemann and Dewan (2006).

Conclusion

This paper has argued that the effectiveness of policies in regulating migration should not be overestimated. Migration flows are often shaped by push factors that are often beyond the direct control of policy makers in receiving countries. This is particularly true in the area of forced migration when the choices of migrants are often very limited and harder to influence through policies than in other areas of migration. Migration and non-migration policies can have a considerable impact on migration flows, but existing studies find little evidence for differences in welfare regimes driving migrants' choices of host country. Policies, however, are only one of many pull factors that influence migration flows. Historical, economic, geographic and other structural pull factors can have very powerful effects on migration flows and are often beyond the direct control of policy makers. Finally, it has been argued here that regional cooperation and the establishment of common policies for displaced persons can raise protection standards. However, policy harmonisation comes at the expense of states' ability to use distinct national policies to counter-balance country-specific structural pull factors. The reinforcement of highly inequitable distributions of responsibilities for forced migrants might be an unintended consequence unless states give more substance to an international refugee burden-sharing agenda. There can be little doubt, though, that, in principle, cooperation between states at regional and international levels does offer scope policies that deliver a fairer distribution of responsibilities and higher standards of protection for forced migrants. If well designed, such collaboration can help states address collective action problems and reconcile the tension between their control and protection objectives. Existing governance frameworks and policies that have been devised largely to manage political refugees are clearly insufficient to deal with new migration governance challenges of the 21st century (Boncour and Burson, 2009; Warner, 2009; Betts, 2010). However, the above analysis of established international and regional governance structures can offer a number of valuable insights for the task of developing more effective policies to deal with the new challenges posed by environmental migration.

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