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Legal Pathways' Effects on Irregular Migration

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5 April 2019

Question

What effect does the availability of legal pathways (pathways for regular migration) have on irregular migration from source and transit countries?

Contents

1. Summary
2. Analysing the relationship between regular and irregular migration
3. The effects of limited legal pathways
4. Expanding regular pathways: work-related migration
5. Protection pathways
6. Potential policy options
7. References

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1. Summary

Regular migration pathways include labour mobility regimes, sponsorship programmes for high-skilled workers, student visas and protections for refugees. In contrast, irregular migration pathways include illegal entry, over-staying a visa and befallen irregularity (where regular status is lost) (Vickstrom, 2014). The links between regular (legal) pathways for migration and irregular migration are complex, however, two linked assumptions are common in the evidence base for this report.

The first assumption is that destination states' restrictive migration policies and the lack of regular pathways pushes migrants into irregular entry, illegal residence and befallen irregularity (see for example, Carrera et al., 2018). The second assumption is that expanding regular migration will reduce irregular migration as people would chose to migrate regularly if options were available (McAuliffe, 2017). Options for expanding regular pathways include labour mobility regimes, safe pathways for refugees and expanding visa options for students and low-skilled workers (Bither & Ziebart, 2018). However, it is also possible that expanding regular pathways could result in increases in irregular migration and smuggling along specific corridors (McAuliffe, 2017).

Key findings include:

- The evidence base is limited for both assumptions and there are only a small number of rigorous empirical studies.
- A lack of comprehensive data on irregular migration and the complex links between regular and irregular migration as well as the wider trends driving migration makes it difficult to assess the effectiveness of different regular pathways and to attribute causality. For example, Germany's Western Balkans Regulation, which expanded labour mobility for low-skilled workers correlates with a decline in the number of asylum claims from the Western Balkans. However, it was only one of a package of measures to address migration and potential effects varied by country.
- Restrictive visa and asylum policies can have deflection effects, pushing migrants into irregular channels. For example, people seeking protection may choose to migrate irregularly due to restrictive policies in destination countries.
- Labour pathways are the most widely studied in the literature reviewed for this report. Limited high-quality evidence was found assessing the effects of expanding family migration, migration for education and protection pathways.
- Labour market dynamics are a strong pull factor for migration, both regular and irregular, and can incentivise employers in destination countries to employ irregular workers. McAuliffe & Solomon's (2017) collection highlights how irregular labour migration pathways can lead to exploitation and abuse, with women particularly vulnerable.

This report is based on a series of online keyword searches to identify rigorous, empirical evidence assessing the effects of regular migration pathways on irregular ones. A large body of academic and grey literature address irregular migration and calls for expanding regular pathways are common. However, only a small number of high-quality evidence-based studies were identified. These studies include a mix of case studies and quantitative studies using cross-national datasets. Within this there is a split between those that examine the effects of restrictive regular pathways on irregular migration and those that assess the effects of expanding regular pathways.

2. Analysing the relationship between regular and irregular migration

Lack of reliable and meaningful data

The lack of reliable and comprehensive data on irregular migration stocks and flows makes it difficult to assess the effectiveness of new channels of regular migration in discouraging irregular flows (Triandafyllidou et al., 2019). Whilst the lack of detailed data on irregular migrants' employment makes it difficult to fully grasp how they interact with labour market dynamics (Triandafyllidou et al., 2019), there is also a lack of quantitative evidence demonstrating how legal migration impacts illegal migration (Papademetriou & Sommerville, 2014). Simon, Schwartz, Hudson & Johnson (2018) argue that it is difficult to empirically test the assumption that restrictive migration policies deflect individuals into irregular migration because of the clandestine and often unobservable nature of irregular migration and the problem of attributing causality. Irregular migration is difficult to measure, which is why a number of studies conflate undocumented border crossing with irregularity (Vickstrom, 2014).

Czaika and De Hass' (2013) conceptual paper defines migration policies as rules (i.e. laws, regulations and measures) that national states define and implement with the objectives of affecting the volume, origin, direction and internal composition of migration flows. It is difficult to empirically attribute a change in the volume, timing or composition of migration to a particular policy change: the correlation between policy and migration changes does not prove there is a casual link (Czaika & de Hass, 2013).

The limited availability of good migration data and the difficulty of quantifying migration policies also makes empirical assessment difficult (Czaika & de Hass, 2013). In order to meaningfully analyse immigration policy effectiveness, Czaika and De Haas (2013) argue that knowledge is also required of the objectives and interests of multiple stakeholders and the political debates and processes that have led to certain immigration policies (Czaika & de Haas, 2013). In terms of immigration policies there are often wide gulfs between policy discourses and policy practices, including discursive gaps (the discrepancy between public discourses and policies on paper), implementation gaps (the discrepancy between policies on paper and their implementation) and efficacy gaps (the extent to which implemented policies are able to affect migration) (Czaika & de Haas, 2013).

Attributing causality

Czaika and De Haas' (2013) brief review of selected empirical evidence on the effectiveness of migration policies concludes that whilst policies can significantly alter migration, these effects are relatively small compared to other social, economic and political determinants. Factors that reduce migration flows in origin countries include demographic change, greater economic opportunity and improvements in governance, peace and security (Newland & Riestler, 2018). For example, Martin (2017) argues that the number of unauthorised workers in the US farm workforce decreased between 2000 and 2014 from 55% to 47% due to the arrival of fewer new unauthorised workers from Mexico due to the 2008-9 recession, improving conditions in rural Mexico and increased US-Mexico border enforcement (Martin, 2017). Consequently, socio-economic policies should be taken into consideration when conducting empirical analyses of immigration policy effectiveness (Czakiia & de Hass, 2013).

Drivers of migration include structural demands for low-skilled workers, international wealth inequalities, and conflict in origin countries (Czaika & Hobolth, 2016). These are largely beyond

the immediate control of destination states (Czaika & Hobolth, 2016). Newland and Riester (2018) argue that expanding legal pathways will not stop irregular migration: history shows that legal and illegal migration stabilise and slow when a complex array of social, economic and political factors converge.

The lack of reliable data also makes it difficult to assess causality (Triandafyllidou et al., 2019). Triandafyllidou et al. (2019) argue that more inventive research strategies are needed using a comparative case study approach to assess specific phenomena and draw conclusions about what works/doesn't work in terms of policies to discourage/prevent irregular migration and encourage regular migration (Triandafyllidou et al., 2019). The nexus between potential irregular movements and regular pathways also needs to be studied as the challenge for policy-makers is to encourage migrant populations to engage with regular rather than irregular pathways (Triandafyllidou et al., 2019).

Substitution/Deflection effects

The relationship between irregular and regular pathways is complex. Targeted migration policies can have unintended effects on other migration flows through substitution effects, which can limit the effectiveness of immigration restrictions (Czaika & de Haas, 2013). Substitution effects include spatial (diversion of migration to other countries), categorical (reorientation towards other legal or illegal channels), inter-temporal (affecting the timing of migration e.g. encouraging migration now due to the expectation of future restrictions) and reverse flows (i.e. reduced return migration) (Czaika & de Haas, 2013). Data and research design limitations mean that existing studies cannot properly test for substitution effects: as such they may over-estimate the effects of policies of migration patterns (Czaika & de Haas, 2013). This highlights the need for more empirically informed insights about the short- and long-term effects of migration policies on separate migration categories (Czaika & de Haas, 2013).

Triandafyllidou et al. (2019) policy paper argues that stricter enforcement measures including both fencing (border controls) and gatekeeping (visa restriction) policies do appear to slow irregular migration. However, they also deflection effects as migrants move to other channels including migrant smuggling or applying for asylum (Triandafyllidou et al. 2019). Migrants seeking protection may shift to irregular migration instead of asylum seeking if a destination state's visa and asylum policies are restrictive (Triandafyllidou et al. 2019). Papademetriou and Sommerville (2014) argue that attempts to stem irregular migration through border security measures can deflect migrants to other routes and entry points as economic and family unification incentives to migrate often outweigh the deterrent effects of even the most sophisticated and well-resourced border controls (Papademetriou & Sommerville, 2014).

The nature of regular pathways can also deflect migrants into irregularity. For example, a large proportion of the US farm workforce are unauthorised Mexican workers, despite the existence of temporary work visa schemes (Martin, 2017). A 2017 Migration Policy Institute Brief argues that the employer conditions attached to temporary work visas, including the provision of free housing, can be linked to the large number of unauthorised workers (Martin, 2017). Whilst Papademetriou and Sommerville (2014) argue that the USA's backlog of approved family visas can encourage family members to immigrate illegally.

Migrants from Myanmar were previously able to migrate relatively easily to Thailand through porous borders (ESCAP, 2018). Despite the existence of a Memorandum of Understanding (MOU) between the two countries providing for regular migration pathways into Thailand, many migrants were not aware of this or considered it too costly (ESCAP, 2018). As such, migrant

perceived it as easier to migrate through irregular pathways and obtain a work permit ex-post through regularisation campaigns in Thailand (ESCAP, 2018).

3. The effects of limited legal pathways

Vickstrom (2014) argues that restrictive immigration policies actively produce pathways to irregularity. The material effects of increased external controls has been the creation of irregular entry flows and the transformation of regular flows into irregular ones (Vickstrom, 2014). Restrictive entry policies also produce overstaying by increasing the risks and costs of entry, making migrants less likely to depart after arrival (Vickstrom, 2014). Labour market dynamics and bureaucracy can also encourage irregular stay and work including employers who see benefits in employing cheap, often exploited labour (Triandafyllidou et al., 2019). Irregularity can be functional to labour market conditions in specific sectors e.g. construction, domestic work and agriculture, whilst restrictive requirements for stay and work can indirectly support unscrupulous employers (Triandafyllidou et al., 2019). Research suggests that status flows into irregularity (over-staying or befallen irregularity) are the predominant pathways into irregularity, as opposed to geographic flows (i.e. illegal border entry) (Vickstrom, 2014).

Effects of restrictive asylum and visa policies on irregular migration to Europe

Czaika and Hobolth (2016) argue that irregular migration and asylum migration are linked (for example, if entry visas are scarce, migrants seeking asylum may turn to irregular travel and entry), however the precise causal nature of the relationship is debated. Following irregular entry, asylum seeking migrants face two choices: whether or not to apply for asylum, and, whether to stay or return if they receive a negative asylum decision (Czaika & Hobolth, 2016). A number of factors affect both decisions including the policies and procedures of the destination country and the economic capabilities of the migrant (Czaika & Hobolth, 2016).

Czaika and Hobolth's (2016) analysis of the interplay between asylum and visa policies and the number of irregular migrants arriving and over-staying in 29 European countries in the 2000s found that restrictive policies were related to significant deflections into irregularity. Their estimates suggest a 10% increase in asylum rejections raises the number of apprehended irregular migrants by an average of 2-4%, whilst a 10% increase in short-stay visa rejections leads to a 4-7% increase in irregular border entries (Czaika & Hobolth, 2016). Restrictive asylum policies increase irregular stay, whilst short-stay visa rejections partly result in a deflection into irregular entry routes (Czaika & Hobolth, 2016). Diaspora communities can play a role in facilitating irregular stay (Czaika & Hobolth, 2016).

The study drew on a large three-dimensional (origin country, destination country, year) cross-national comparative dataset detailing apprehensions of irregular migrants at the border and on the territory of 29 European destination countries (Czaika & Hobolth, 2016). Asylum policy restrictiveness was operationalised by using UNHCR data on the number of nationality-specific (bilateral) asylum rejections, whilst migration policy restrictiveness was captured by the number of nationality-specific visa refusals: the dataset also accounted for changes in immigration policies (Czaika & Hobolth, 2016). Using absolute numbers of asylum and visa rejections allowed the authors to assess the likelihood that a refused asylum or visa applicant would later turn up as apprehended irregular migrant (Czaika & Hobolth, 2016). The dataset included 200 origin countries with the number of apprehensions used as the best proxy for the unknown true number of irregular migrants (Czaika & Hobolth, 2016). The aim was not to arrive at estimates of the

'true' absolute number of irregular flows, but to arrive at valid approximations and get the relevant rankings rights (Czaika & Hobolth, 2016).

Limitations to the dataset include: numbers may underestimate the actual entry of irregular migrants as the number of apprehensions depends on the amount, quality and effectiveness of government resources to policing and detecting irregular migrants (Czaika & Hobolth, 2016). The authors attempt to circumnavigate this by controlling for resources dedicated to the apprehension of irregular migrants using the relative size of police forces in different countries as proxies for this (Czaika & Hobolth, 2016).

Senegal-EU migration

Vickstrom (2014) analyses three pathways into irregularity (entry without a visa, over-staying a visa, and befallen irregularity) using data from the legal-status histories of Senegalese migrants in France, Italy and Spain from the 2018 Migration between Africa and Europe Senegal survey dataset¹. This dataset contained interviews with 603 current Senegalese migrants in France, Italy and Spain and 1,065 individuals in Dakar including 59 returned migrants. The dataset includes complete year by year residential and administrative histories of each respondent along with socio-demographic data (Vickstrom, 2014). Derived from this, Vickstrom's (2014) analytic sample includes 768 individual and destination specific trips as the unit of analysis.

Findings include:

- Context (destination and period of arrival) was important in structuring pathways that occurred early in the migrant's trajectory (no-visa entry and overstaying) than subsequent transitions to irregularity.
- The no-visa entry pathway was more likely in Spain and Italy than in France.
- Migrants entering with a visa were more likely to overstay and transition to fully irregular first status and find informal employment in Italy and Spain, than in France.
- There was no direct relationship between context and befallen irregularity.
- There was no association between entry status and befallen irregularity i.e. status transitions later in Senegalese migrants' stays at destination were not related to the mode of entry.
- Legal statuses are sticky: migrants with fully regular status were less likely to transition to irregular status than those with semi-irregular states. This suggests fully regular status is difficult to lose once gained.

Overall, this paints a picture whereby entry with a visa, not irregular entry, is closely related to first-status irregularity in southern Europe, but is unrelated to later transitions into irregular status (Vickstrom, 2014). Connections to institutions in the destination country influence transitions into full irregularity, for example, having children or a spouse in the destination country was associated with a reduced probability of over-staying into first-status irregularity, possibly because migrants might be able to access regular status through legal provisions for family attachment (Vickstrom, 2014).

¹ More information on this survey dataset can be found here:
https://ec.europa.eu/knowledge4policy/dataset/ds00111_en

Modelling the effects of restrictive policies

Simon et al.'s (2018) paper uses primary data collected in Jamaica, an origin country, to calibrate their agent-based computational model to estimate the substitution effects of restrictive migration policies. Findings include:

- Restrictions on student and high-skilled workers visa categories are not necessarily effective as these individuals are likely to be able to migrate through other regular pathways;
- Restrictions on family-based visas have large substitution effects, re-orientating migrants into irregular pathways
- Restrictions on low-skilled workers also re-orientate migrants to irregular pathways, but at a lower magnitude than restrictions on family-based visas (Simon et al., 2018).

4. Expanding regular pathways: work-related migration

Increasing or expanding regular labour mobility pathways is a key focus within the literature consulted for this review. This is potentially, because according to International Labour Organization (ILO) data, the search for work is the primary motive for the majority of the world's international migrants (Newland & Riester, 2018). Regular labour pathways are generally more accessible to high-skilled workers than low-skilled workers (Newland & Riester, 2018). This can create incentives for irregular migration due to rising labour demands in low-paid work and sectors in destination countries including agriculture, care and construction (Newland & Riester, 2018). The inadequacy of legal means to fill the demand for migrant labour is the major factor driving irregular migration, but policies about family reunification and access to asylum also affect unauthorised flows (Newland & Riester, 2018).

Existing low-skilled labour mobility pathways can be based on colonial or cultural ties, or on supply and demand for labour (e.g. Asian labourers moving to the Gulf States) (Newland & Riester, 2018). Regular pathways tend to be more available for male-workers than female ones as low-skilled women migrants tend to work in non-seasonal, non-temporary sectors such as care for children and the elderly (Newland & Riester, 2018). Consequently, female workers can be particularly vulnerable as these sectors lack regular pathways (Newland & Riester, 2018). A 2018 ESCAP report on migration in the Asia-Pacific argues that women may resort disproportionately to irregular migration channels due to restrictions on their migration. Hennebry (2017) argues that a lack of regular migration pathways combined with the lack of access to decent work create conditions for exploitation of women migrant workers. Consequently, enhancing access to regular migration and decent work are the ways to address systemic patterns of exploitation and discrimination (Hennebry, 2017).

Opening regular labour migration pathways as a pathway to reduce irregular migration is based on the assumption of a re-routing effect whereby migrants who would otherwise arrive and enter the asylum system or stay in a country without legal status will be incentivised to try and access a legal work permit from home rather than migrate illegally (Bither & Ziebarth, 2018). Additionally assumptions underpinning calls for increasing legal pathways for low-skilled labour migration including sparing migrants the abuse and violence that can occur on irregular migration routes and further development in origin countries as migrants' send wages home (Newland & Riester, 2018). Within existing regular pathways destination countries normally operate temporary employment programmes for low-skilled workers: some programmes have been criticised for failing to safeguard worker's rights (Newland & Riester, 2018).

Newland & Riester's (2018) policy brief identifies a number of potential benefits that could flow from facilitating low-skilled migration. However, they posit that in the short-term expanding regular pathways may actually increase irregular migration as it could thicken the networks that help people to migrate. In the medium-term, it will depend on the capacity of legal pathways to accommodate the number of low-skilled workers who want to migrate, but lack permission to enter their desired destination; and, in the long-term it will depend on a number of complex factors in the countries of destination.

US-Mexico labour mobility pathways and enforcement

The example of USA-Mexico labour migration pathways, both regular and irregular, are referenced frequently in the relevant literature. Clemens and Gough's (2018) briefing paper for the Center for Global Development argues that whilst there is little hard evidence that regular migration channels can essentially substitute for irregular channels, but the US-Mexico example illustrates that under demographic and economic pressure substantial legal channels for economic migration were necessary to curb irregular migration. However, these legal labour mobility pathways only suppressed irregular migration when combined with robust enforcement efforts (Clemens & Gough, 2018). The relationship works both ways: for legal channels to effectively alter the incentives for irregular migration they must be combined with enhanced immigration enforcement, and, enforcement efforts are only broadly successful when coupled with expanded channels for regular migration (Clemens & Gough, 2018). The briefing paper draws on and updates the statistical data from a 2016 working group report on regulating US-Mexico labour mobility (Gutierrez et al. 2016).

Gutierrez et al. (2016) compared statistical data from a number of sources including the US Immigration and Naturalization Service and the US Customs and Border Protection for the time period 1942- 2015, to compare the number of temporary work visas issued to Mexicans by the US and the number of apprehensions of Mexicans who had migrated irregularly. Measuring apprehensions is different from measuring irregular flows (Gutierrez et al., 2016). There is, however, some historical evidence that shows that changes in illegal flows mirrored the changes in apprehensions over the studied timeframe (Gutierrez et al., 2016). Comparing the number of temporary work visas and the number of apprehensions illustrates an inverse relationship.

Clemens and Gough (2018) summarise four phases in the Mexico-US bilateral migration flow between 1942 and 2016:

- 1942-1953: rising visas alongside low enforcement resulting in rising regular and irregular migration (due to the design of the bilateral labour mobility programme, which provided incentives for employers to hire employees through the black market).
- 1954-1964: ample visas alongside tight enforcement resulting in an immediate and near collapse in irregular migration. Changes to the labour mobility programme meant that employers shifted to hiring migrants through regular channels and migrant had incentives to move via regular channels, within a strict enforcement regime.
- 1965-2000: few visas alongside low enforcement resulted in a large wave of irregular migration. Ending the bilateral labour mobility programme, ended the availability of nearly all low-skilled US work visas to Mexicans. Combined with demographic pressures, this move created enormous pressures for irregular migration.
- 2001-present: rising visas alongside rising enforcement has resulted in the lowest incidence of irregular migration at the border in a half-century.

- Expansion in the use of seasonal work visas has directly coincided with a collapse in irregular migration pressures.

Contextualising the statistical data illustrates that demographic and economic pressures can drive migration (Clemens & Gough, 2018).

Germany's Western Balkans Regulation

Established in 2015 and due to run until 2020, Germany's Western Balkans Regulation opened the labour market to nationals from six countries (Albania, Bosnia and Herzegovina, Kosovo, Montenegro, Macedonia and Serbia) who were arriving in Germany in large numbers with almost no chance of receiving asylum (since 2010, only 1% had qualified for some form of protection) (Bither & Ziebarth, 2018). The scheme's pre-requisites for a temporary work visa were a valid job offer by an employer in Germany, subject to a standard priority check for third country nationals, and the applicant could not have received any benefits under the German asylum system in the 24 months prior to applying for a work permit: there were no minimum skill or qualification requirements (Bither & Ziebarth, 2018).

Drawing on publicly available data, fieldwork and 28 background interviews in Germany, Kosovo and Serbia, Bither and Ziebarth's (2018) policy paper argues that it is difficult to assess the impact of the scheme. The number of asylum applications from the Western Balkans did drop after the regulation's introduction from 120,882 first-time asylum applications in 2015 to 10,915 applications in 2017 (Bither & Ziebarth, 2018). Between 2016 and 2017, 117,123 valid work contracts for applicants from the Western Balkans were pre-approved by the Federal Employment Agency (Bither & Ziebarth, 2018). Of these 51% were for unskilled and low-skilled work and 42% for skilled (Bither & Ziebarth, 2018). In 2017, 42% of pre-approvals were in the construction sector, with large numbers also in the hospitality and health sectors (Bither & Ziebarth, 2018). However, during this period only 44,093 received visas, potentially due to process issues including embassies not being equipped with the resources to deal with the large increases in demands for visas (Bither & Ziebarth, 2018).

It is difficult to determine the exact causal role of the regulation in reducing the number of asylum applicants and irregular migration to Germany as it was part of a number of policy measures including restrictions, faster processing times for asylum applications and the closure of the Western Balkans route (Bither & Ziebarth, 2018). Across the six Balkan countries, there were significant differences: for example, in Bosnia-Herzegovina there were lower number of asylum applications between 2015 and 2017 and higher numbers of applications for pre-approvals, whereas in Kosovo there were high number of both asylum applications and pre-approvals (Bither & Ziebarth, 2019). This indicates that many different variable may play a role, for example, diaspora networks play a role in communication and contract facilitation and should be considered when crafting migration policy (Bither & Ziebart, 2018).

There were a number of process issues in implementing the policy including under-defined responsibilities between different agencies, no monitoring or information collection mechanisms (which would have provided data for evaluation), and an unclear communication strategy towards or in the Western Balkans countries (this left space for dubious information from local recruiters and informal networks) (Bither & Ziebart, 2018). There were also some concerns regarding abuse of the system including alleged abuse of workers or administrative offences (Bither & Ziebarth, 2018). The Regulation was also the result of political bargaining between German political parties and was not the result of a clear migration logic: there was no common

understanding of how the regulation would specifically influence the scale and type of migration to Germany (Bither & Ziebarth, 2018).

5. Protection pathways

Human rights advocates are concerned that destination states' restrictive migration regimes could adversely affect refugees and those seeking protection, pushing them into irregular migration (Papademetriou & Sommerville, 2014). A 2018 OECD-UNHCR report on third-country solutions for refugees argues that non-humanitarian complementary pathways (e.g. family reunification, education and labour mobility) may provide avenues for refugees to access international protection and solutions. Refugees face a number of challenges accessing complementary pathways (OECD-UNHCR, 2018). Quantitative data on the types of permits issued to refugee populations can highlight these challenges and help to increase accessibility and predictability of these pathways (OECD-UNHCR, 2018).

OECD-UNHCR (2018) analyses the quality of the available data and identifies gap and data limitations. The study focuses on permits issued for the first time for family reunification, work or study between 2010-2017 by OECD countries to five refugee populations, Afghanistan, Eritrea, Iraq, Somalia and Syria (OECD-UNHCR, 2018). Data limitations include data was available for 34 of the 36 OECD countries, including Turkey, which is the OECD country hosting the largest number of refugees so there is a risk of underestimating; risks of overestimation as for some OECD countries permit renewals could not be removed from the figures; and a breakdown by family permit was not available for the majority of OECD countries in the study (OECD-UNHCR, 2018).

Key findings from the study include:

- There is significant scope for expanding the use of complementary pathways;
- 86% of permits granted were for family reunification: this points to the need to continue decreasing barriers to family reunification e.g. by streamlining procedures;
- The use of work and study pathways were relatively modest, suggesting that legal, administrative and practical obstacles currently prevent refugees from accessing these pathways.
- The use and collection of data support efforts to achieve solutions for refugees (OECD-UNHCR, 2018).

6. Potential policy options

A small but growing body of literature has been produced by the International Organization for Migration (IOM) outlining a number of potential legal migration policy options that could reduce irregular migration. Evidence in this subset draws on existing schemes or pilots. McAuliffe and Solomon's (2017) convened set of papers under the IOM's Migration Research Leaders' Syndicate presents a number of ideas for regular migration pathways, including:

- **Humanitarian alternative pathways:** a number of schemes have been adopted or proposed in Latin America including resettlement in solidarity (developed as a response to Colombia's refugee crisis but since expanded to extra-continental refugees, mainly Palestinians and Syrians); humanitarian entry visas (established by Brazil in 2010 as a response to the Haitian earthquake and expanded in 2013 to include refugees from

Syria: Argentina has established a similar programme for Syrians); humanitarian residency permits (adopted across Latin America to assist Haitians and Venezuelans); regional residency permits (as part of the MERCOSUR customs union); and, regional citizenship (a proposed initiative) (Jubilut, 2017). Evaluations of these schemes' impacts on irregular migration were not found during the course of this review. The schemes have a number of positive features, however, a number of them are small in scale. For example, resettlement in solidarity reached just over 1,500 people between 2004 and 2014 (see Jubilut, 2017).

- **A sectoral approach to labour migration:** particularly in the care and agricultural sectors in EU countries where the demand for migrant labour is high and the risk of irregular employment is pervasive. As demand is high and supply is low in these sectors, there is a need to open up legal migration channels as well as measures to combat labour exploitation and abuse (Triandafyllidou, 2017).
- **Human development visas:** McAuliffe (2017) argues these offer an adaptable and sustainable solution for migrants and states. Elements include a centralised ballot-based selection of migrants with an annual quota based on factors such as labour market conditions; eligibility based on citizenship of a participating state with the destination state imposing specific health and security checks; accompanying family provisions; links to additional development assistance (e.g. community-based projects or schemes); and specific visa conditions related to work or length of stay (McAuliffe, 2017). As this paper is a technical paper proposing how the scheme could work, there is no empirical data.

Triandafyllidou et al. (2019) discussion paper identifies some of the dynamics linking regular and irregular migration and outlines how they could be addressed by relevant policies. It reviews four sets of approaches and policies:

- **Enhanced regional mobility regimes** work best when placed within wider economic and political frameworks e.g. the EU. 84% of migration movements in West Africa are directed towards another country in the region and the Economic Community of West Africa States has moved towards implementing a regional mobility regime, however, there have been administrative hurdles e.g. only 7 out of the 15 countries have issued the relevant travel document. Within the Association of Southeast Asian States, there has been large-scale tolerance of exploitation of migrant fisheries workers.
- **Bilateral mobility schemes** including the EU-Morocco Mobility Partnership, normally address seasonal/temporary needs in particular sectors, e.g. agriculture, or regulate more long-term relationships between two countries and can include flexible forms of circularity. These schemes can play a role in preventing irregular flows as they offer regular channels to prospective migrants.
- **Sponsorship schemes** including labour migrants with job offers, migrants seeking employment, refugees seeking resettlement in a third country. Sponsorship can be private (e.g. families or individuals), public (e.g. the states) or NGOs. Optimal sponsorship arrangements need to be supported and monitored by State structures. Sponsorship schemes are smart and flexible mechanisms that can develop in different directions to address both migration and asylum seeking pressures. Schemes also exist for low-skilled migration and in some cases can be open to abuse e.g. the Kafala system, employer sponsorship programme in the Middle East, particularly Lebanon and Jordan. New ideas for refugee sponsorship included UNHCR's skilled-refugee visa.
- **Humanitarian corridors** including state-based, faith-based and NGO schemes. The concern is whether these types of schemes could function on a regular or sustained

basis. Efficiency of schemes such as the 2018 EU large-scale evacuation scheme for migrants in vulnerable conditions in Libya are yet to be demonstrated. There are also examples of regularisation schemes which seek to reduce the vulnerability e.g. 2018 scheme in United Arab Emirates and Dubai to offer extendable one-year visas to people who have overstayed their previous visas if they come from countries affected by war or natural disasters. Regularisation mechanisms are a tool for addressing vulnerability in exceptional circumstances.

Triandafyllidou et al. (2019) argue that in order to deter irregular migration states should adopt flexible migration regimes, which include a variable geometry approach (e.g. different types of schemes for different types of migrants and for different sets of countries); a smart approach (understanding the contextual factors that drive irregular migration when regular pathways are not available); and, a balanced approach that responds to labour markets and other considerations of destination countries, developed in cooperation with origin countries and acknowledges the needs of migrants and their families.

The report also suggests a number of new regular migration policy options including temporary migration partnerships (to address some of the problems with bilateral migration partnerships e.g. poor living and working conditions for migrants), skills and mobility partnerships (drawing on the Global Skill Partnerships' approach whereby the destination country invests in training partnerships in the country of origin) and human development visa schemes.

Papademetriou and Sommerville's (2014) Migration Policy Institute report on policy tools to address immigration harms outlines a number of possible links between regular and irregular migration. For example, early interventions, which seek to reduce illegal immigration flows before they reach a country's border may unintentionally increase the profits for criminal enterprises, indirectly encouraging them to facilitate illegal migration (Papademetriou & Sommerville, 2014). Conversely, expanding legal routes could reduce crime by lowering the profits for actors facilitating irregular entry (Papademetriou & Sommerville, 2014).

Papademetriou and Sommerville (2014) argue that it is "too simplistic to just open up significant new legal immigration channels" (p. 13). For example, network effects could mean that expanded regular pathways increase demands for both regular and irregular migration, whilst certain regular pathways (e.g. for domestic workers) are open to abuse (Papademetriou & Sommerville, 2014). As such three types of policy measure would be needed:

- **Expanding legal channels:** legal channels could be opened to economic sectors in periods of high demand or where firms could not operate without immigrant labour. Careful selection of which occupations or source countries to target should help divert illegal flows through legal channels more effectively.
- **Increasing flexibility** within the system to mitigate drivers of illegality: complex and time-consuming visa renewal procedures can push authorised workers into illegal status even if they are eligible for a new visa. Policy options such as reducing administrative barriers to switching visas could help reduce avoidable illegality.
- **Simplifying** the system: employers sometimes do not comply with immigration laws because they are too burdensome, for example, the USA's H2-A visa for temporary agricultural workers (Papademetriou & Sommerville, 2014).

7. References

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Acknowledgements

We thank the following experts who provided advice to the author to support the preparation of this report. The content of the report does not necessarily reflect the opinions of any of the experts consulted.

- Helen Dempster, Center for Global Development

Key websites

Suggested citation

Cooper, R. (2019). *Legal Pathways' Effects on Irregular Migration*. K4D Helpdesk Report. Brighton, UK: Institute of Development Studies.

About this report

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