

**Extract from ‘The factors that make and unmake migration policies’
(Castles, 2004)**

Factors within political systems

The problems of migration policies arise largely from the interactions between the factors already mentioned and the political systems of the states concerned. However, political systems are complex and contradictory in themselves. This applies particularly to liberal-democratic receiving states, but countries of emigration also face contradictions, and even less-democratic receiving states find that migration control comes up against competing interests.

Political conflicts in emigration countries

Structural dependence on labour export was referred to above. Some governments have encouraged labour migration, while others concluded that, since they could not prevent it, at least some form of regulation was desirable (Abella, 1995). Several sending countries have set up special departments to manage recruitment and to protect workers, such as Bangladesh’s Bureau of Manpower, Employment and Training (BMET) and India’s Office of the Protector of Emigrants. The Philippine government takes an active role in migration management. Prospective migrants have to register with the Philippine Overseas Employment Administration (POEA), while the Overseas Workers’ Welfare Administration (OWWA) has the tasks of assisting and protecting workers abroad. But, as economies become dependent on remittances, it becomes increasingly difficult for governments to effectively regulate migration or protect their citizens. The result can be political mobilisation around the idea that the inability to provide a decent livelihood at home is a major failure of the state (Aguilar, 1996). This was shown vividly in the Philippines in 1995 in the case of Flor Contemplacion, a Filipina domestic worker hanged for murder in Singapore, which became a major focus of political conflict (Gonzalez, 1998:6–7).

Interest conflicts in immigration countries

Interest conflicts in immigration countries are also linked to the issue of structural dependence. Lobbying by plantation owners in Malaysia during the 1997–99 economic crisis was mentioned above. This was part of a trend to politicisation of migration involving many interest groups (Pillai, 1999:182–6). By 1999, the government was under pressure from the Malaysian Agricultural Producers Association, the construction industry and some state governments to bring in more workers. The Malaysian Trade Unions Congress opposed labour recruitment due to its effects on jobs and wages for local workers, while Chinese political groups feared that Indonesian immigration would alter the ethnic balance to their disadvantage. The government party, UMNO, and the main Islamic opposition party, PAS, both supported Indonesian entries as a potential boost to Malay and Islamic interests (Jones, 2000).

Interest conflicts and hidden agendas in migration policies

Interest group politics are all the more important in Western democracies, where such groups are seen as legitimate actors in policy formation. Typically, employers (at least in certain sectors) favour recruitment of migrant workers, while competing local workers may be opposed. Unions are often ambivalent: they may wish to oppose immigration in the interests of local workers, but are reluctant to do so, because they see the need to organise the newcomers. At the social level, some people may oppose settlement of immigrants in their neighbourhoods because they feel it will worsen their housing conditions and amenities, while others may see immigration as a source of urban renewal and a more vibrant cultural mix. Politicians, social movements and the media all have roles in shaping and directing people's reactions to migration (see Freeman, 2004). This topic cannot be explored further here because it requires detailed analysis of varying institutional structures and political cultures (Baldwin-Edwards and Schain, 1994; Hollifield, 2000; Koopmans and Statham, 2000).

The main point is that the state cannot easily decide to favour the interests of one group and ignore others. There are examples, such as German guestworker policy that was overwhelmingly driven by employer interests. But more often, the state tries to balance competing interests, or at least to convince certain groups that their wishes are being considered (see Hollifield, 2004). The strength of nationalist and ethnocentric ideologies in immigration countries has made it easy to mobilise public opinion against immigration. The mass media have done much to create hostility to immigrants and asylum seekers. In response, politicians sometimes give lip service to anti-immigration rhetoric while actually pursuing policies that lead to more immigration, because it is important for labour market and economic objectives. This helps explain the frequent hidden agendas in migration policies – that is, policies which purport to follow certain objectives while actually doing the opposite. The tacit acceptance of undocumented labour migration in many countries despite strong control rhetoric is an example.

The political ability to control migration

The notion of hidden agendas could be cast differently as whether the state (or the political class) really has the ability and the will to control migration. Official rhetoric stresses the desire to manage flows, but the reality seems to contradict this. Why, for instance, did the 1986 US Immigration Reform and Control Act (IRCA) lead to new streams of undocumented workers (Martin and Miller, 2000)? Was it because the authorities were unable to conceive of effective control measures, especially employer sanctions? Or was it because they lacked the political strength in the face of strong lobbying by employer groups? Similarly, one could ask why the 2002 UK Immigration and Asylum Act failed to set up a legal entry system for low-skilled workers, even though the need for them in such sectors as catering and the National Health Service was widely recognised? The reason surely lay in the heated polemics of Britain's tabloid press against immigration. In a wider sense, the growth of undocumented migration throughout Europe can be seen as a response to neoliberal trends towards labour market deregulation, which have led to a weakening of inspection systems and the decline of trade unions. Growth of casual employment and subcontracting has led to a rapid growth in the informal sector, even in Northern European

countries. This is a major source of attraction for migrant workers. Thus, undocumented migration is an indirect effect of state policies which have quite different motivations (Reyneri, 1999).

Contradictions within the policy formation process

Much of the above underlines the importance of economic and social interests and the way the state tries to balance these, or at least to convince the public that it is doing so. This leads to such ideas as 'clientelist politics', according to which migration policymaking can be dominated by powerful organised interests, such as agricultural employers or the construction industry (Freeman, 1995). In a similar way, some Australian scholars believe that there is a 'new class', consisting apparently of a mixture of employers and left-wing intellectuals, which has succeeded in imposing large-scale immigration on an unwilling public (Betts, 1993). Such critiques often take on a normative tone, with the implication that the state is somehow being captured or manipulated, yet surely this is how the liberal state is meant to function – as a mechanism for aggregating and negotiating group interests. Of course, in countries where immigrants can easily become citizens, they, too, can play a part in such politics.

In any case, as Hollifield has pointed out, such approaches tend to portray as a mere reflection of powerful economic interests (Hollifield, 2000:144–6). He argues instead for the need to take the state itself as the unit of analysis in explaining policy formation processes and policy outcomes. This approach is also advocated by Sciortino. He seeks to explain the 'low rationality of immigration policy in relation to its declared goals', by focusing on the 'social structure of policymaking' rather than on group interests. Using Luhmann's model of the sociology of the political system, he argues that immigration policy is actually close to the 'unstable/unable pole' of policy, but is generally misunderstood as being close to the 'stable/able pole' represented by labour market or economic policy. This explains how migration policy could shift from being seen as an economic issue to a national identity issue in Europe over the last two decades (Sciortino, 2000). However, it is important to understand that investigating the political economy of interests and studying the political sociology of the state are not mutually exclusive (as Sciortino seems to imply). Both clearly influence policy outputs and outcomes. The interaction between the two is yet another factor which makes migration policy so complex and contradictory.

The importance of rights

In his 'liberal state thesis', Hollifield draws attention to the importance of rights as a factor limiting the ability of the state to manage migration (Hollifield, 2000). Similarly, Hammar has shown how the acquisition of rights within receiving states led to a form of quasi-citizenship which he called 'denizenship' (Hammar, 1990). Soysal (1994) has emphasised the role of international legal norms in improving migrant rights. Constitutional norms concerning protection of the family and role of the courts in enforcing these helped to frustrate government attempts to send guestworkers home in 1970s Europe. Today, the European Convention on Human Rights is regularly invoked by migrants, often through appeals to the European Court of Justice. In Japan, constitutional rights and the strong legal system have been important in improving migrant rights (Kondo, 2001). As long-term immigrants acquire rights to employment and welfare in liberal states, it becomes harder to see them as temporary

outsiders in society. This generates strong pressures for social incorporation and eventually for access to citizenship. It seems that inherent factors in the liberal state lead to settlement, integration and even multiculturalism in the long run (Bauböck, 1996; Castles and Davidson, 2000).

The importance of civil society

Apart from the legal constraints, there has always been an additional factor: civil society or nongovernmental organisations (NGOs). In most immigration countries, movements have emerged to campaign against discrimination and racism and for the rights of migrants. Much of the motivation has been value- rather than interest-based, although as migrants gain rights they have also played an important role through their own associations. Civil society is also important in countries where political systems are very resistant to the granting of rights to immigrants (Castles, 2001). In Malaysia, for instance, a growing number of associations support migrants. The trial of Irene Fernandez, leader of the women's rights organisation *Tenaganita*, for exposing bad conditions in migrant detention centres, became a major public issue in the late 1990s (Jones, 2000). However, in October 2003, Ms Fernandez was sentenced to a year in jail 'for publishing false news', showing the limits of civil society action in authoritarian states (Sittamparam, 2003).

The welfare state

Social rights are an important part of the bundle of citizenship rights in liberal states. Some observers suggest that strong welfare states tend towards closure to newcomers (Bommes and Halfmann, 1998). This is born out by attempts to restrict access to welfare for recent immigrants in Australia and the United States. However, the welfare state has also been a major driving factor driving incorporation of immigrants. This is because the welfare state follows a logic of inclusion: failure to grant social rights to any group of residents leads to social divisions and can undermine the rights of the majority. The local state was far ahead of the national state in providing integration programmes in education and welfare in Germany. A de facto local multiculturalism was evolving in the 1980s, long before it became a policy issue at the national level (Cohn-Bendit and Schmid, 1993). In Japan, public authorities are gradually including foreign residents – even irregular workers – in health, education, employment and welfare services (Mori, 1997:189–206; OECD, 1998:131).