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Growing restrictiveness or changing selection?

The nature and evolution of migration policies

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DEMIG project paper 22

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- analyse migration as part of broader global change

- contribute to new theoretical approaches

- advance understanding of the multi-level forces driving migration

Abstract

Drawing on the new DEMIG POLICY database that comprises over 6,500 migration policy changes in 45 countries, this paper analyses the nature and evolution of migration policies over the 20th and early 21st centuries. The findings challenge the common assumption that migration policies have become increasingly restrictive over the past decades, and instead demonstrate that since 1945 migration policies have been consistently dominated by less restrictive changes. This trend is robust across a large number of countries, but differs across policy types and migrant categories. While entry and integration policies have generally become less restrictive, border control and, since the 1990s, exit policies have become more restrictive. Instead of a growing restrictiveness, the essence of post-WWII migration policies has been an increasing sophistication through the development of specific policy instruments targeting particular immigrant groups. While policies towards migrant categories such as irregular migrants and, more recently, family members have often become more restrictive, a larger number of – generally less visible – policies targeting high and low-skilled workers, students and migrants from specific origins have become less restrictive. Migration policies should therefore be understood as a tool of migrant selection rather than as an instrument affecting numbers.

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1 Introduction and conceptual underpinning

The effectiveness of migration policies is a hotly debated issue, some arguing that states are generally effective in regulating migration (Bonjour 2011; Brochmann and Hammar 1999; Geddes 2003), others that borders are 'beyond control' (Bhagwati 2003; Castles 2004; Düvell 2005). The perception that migration policies have limited or even counterproductive effects is fuelled by two basic observations: that migration policies of European, North American and other countries have become increasingly restrictive; and that migration – both regular and irregular – has increased simultaneously. Indeed, migration to EU25 countries from outside the area has increased from around 1 million per year in 1970 to 2.5 million per year in 2008 (cf. de Haas, Vezzoli and Villares-Varela forthcoming). From this it is tempting to conclude that European policies have failed to achieve their aim of reducing migration. Yet, this entire argument is based on the assumption that in the past, and particularly before the 1973 Oil Crisis, migration regimes were open and have since become more restrictive, aiming to decrease migrant numbers.

To our knowledge there is no prior research that has systematically investigated the long-term evolution of migration policies across a broad range of countries and thus, the crucial question is left unanswered: have migration policies really become more restrictive? This question is important, especially because the literature sends confusing messages about the nature and evolution of migration policies. On the one hand, research on border controls and South-North migration often portray contemporary migration policies around the world as increasingly restrictive, particularly towards low-skilled workers and asylum seekers. This impression is reinforced by frequently used metaphors such as 'Fortress Europe', increasingly sophisticated passport checks, border patrolling, the erection of border fences, and the detention and expulsion of irregular migrants (de Haas 2008; Geddes 2003; Massey 1999:310). The powerful imagery around restrictive policies, the intense scholarly debates on the 'externalisation' (outsourcing) of European border controls towards neighbouring non-EU member states or private agents (Infantino 2010; Paoletti 2010), and the debate about the 'securitisation' of migration (the linking of migration to national security issues, including terrorism) (cf. Boswell 2007a; Ibrahim 2005) seem to reinforce the belief that migration policies have become more restrictive *overall*.

On the other hand, there is literature arguing that international and national human rights and refugee law limit the extent to which liberal democracies can restrict migration and the rights of migrants such as family members or asylum seekers (cf. Bonjour 2011; Guiraudon and Lahav 2000; Hollifield 1992). Freeman (1995) argued that migration policies have an 'expansionary bias' despite growing public pressure for restriction, also because of the pro-migration attitudes of political elites. Yet these contrasting hypotheses have remained surprisingly untested because of a lack of empirical studies that assess whether migration policies have become more or less restrictive in past decades, and whether such trends are uniformly occurring across countries and for different migrant groups in terms of their nationality or migration status (e.g., labour, family or student migrants or asylum seekers).

This brings us to a more fundamental conceptual and methodological problem: how useful is it to talk in terms of *general* levels of migration policy restrictiveness? Indeed, migration policies are typically 'mixed bags' of measures, containing multiple laws or decrees that target various national, ethnic, skill, and income groups in quite different and often contradictory ways. Migration policies can be incoherent in their treatment of those migrant groups as migration policy-making typically involves bargaining and compromising divergent interest. Indeed, political parties, businesses, trade unions and human rights organisations favour or oppose the migration of particular groups (cf. Boswell 2007b; Freeman 1995). For instance, in the 1960s Dutch right-wing political parties and business lobbies

favoured the migration of 'guest workers' and their family members from Mediterranean countries, whereas left-wing parties and trade unions saw recruitment as a threat to the interests of native workers (Bonjour 2011). At the same time, left-wing parties and human rights organisations often favour the granting of residency and socio-economic rights to asylum seekers, irregular migrants and other 'vulnerable' immigrant groups.

Such divisions are also reproduced within governments, which are not homogeneous entities, and often ministries of justice and the interior take a more restrictive stance towards migration compared to ministries of labour or economic affairs (Bonjour 2011). Policies may also be subject to different agendas: while border control policies can be affected by security concerns, decisions on entry rules of labour migrants are often influenced by business lobbies and debates around integration policies are frequently related to broader debates about social welfare. In this context, Ruhs and Martin (2008) argue that we need to distinguish between the *number* of migrants a state allows in and the (post-entry) *rights* granted to migrants, and that there is a trade-off – and hence a negative correlation – between rights and numbers. If the hypothesis holds that liberal democracies have an internal 'expansionary' drive to increase the post-entry rights of migrants (e.g. permanent residency, right to family reunification and naturalisation) because of human rights considerations and international law, this should be reflected in increasingly restrictive entry policies. Because of this diversity in types of policies, and because they are subject to different arenas of political bargaining, migration policies are thus bound to display internal 'incoherencies' depending on the specific immigrant categories and policy areas at stake. This exemplifies the need to consider such policies separately, instead of lumping them together into one single index which measures their overall restrictiveness.

Furthermore, Kuboyama (2008) argues that migration policies have switched from being generically restrictive to being increasingly selective as part of a broader change from welfare states to more market-oriented states, which would have an interest in attracting migrants with desired skills and education. This process of 'commodification' of migration would have been accompanied by an increasing discursive division between 'desirable' and 'undesirable' migrants. Thus, while governments would have opened entry channels for migrants regarded as 'desirable' – e.g. high-skilled workers, students or members of regional blocks such as the European Union (EU) – they would have restricted rights for the entry of 'undesirable' migrants such as low-skilled workers. Yet, it is important to emphasise that this is a *discursive* distinction and that there can thus be a considerable gap between political discourses and the actual policies on paper on which this research focusses. This 'discursive gap' (the discrepancy between public discourses and policies on paper (see Czaika and de Haas 2013)) implies that actual policies may be a strongly watered-down version of the 'tough talk' of politicians. Several researchers have also argued that this 'tough talk' is not primarily about limiting migration, but fulfils an important symbolical function, in which 'elected leaders and bureaucrats increasingly have turned to *symbolic* policy instruments to create an *appearance* of control' (Massey et al. 1998: 288). If this hypothesis about the primarily symbolic nature of migration policies holds, an increase in control policies such as border patrolling, the erection of walls and fences, immigrant detention and expulsion are not necessarily paralleled by a decrease in the actual entry and stay rights attributed to migrants.

These debates have, however, so far lacked a sound empirical basis because of the absence of databases that track the evolution of migration policies over extended time periods and across a large number of countries, and which break down these policies in their different sub-components with regards to policy types and targeted migrant categories. While there is a large and rich literature on the evolution of migration policies more generally, existing studies mainly consist of case studies on one or a few countries, generally address relatively short time periods or emphasise the political economy

of policy-making. Historical articles have focused on traditional immigration countries such as Canada and the United States, as well as some European countries (Brochmann and Hammar 1999; Cornelius et al. 2004; Geddes 2003; Kubat 1993; Papademetriou and Heppel 1996). Other researchers have examined 'late adopters' of migration policies, such as Italy and Spain, with a specific interest in processes of policy-making and how policies respond to changing migration patterns (Ortega Perez 2003; Pastore 2004; Sciortino 1999). More recent studies have also established quantitative policy indices to measure the effect of restrictions on levels of migration (Hatton 2009; Mayda 2010; Ortega and Peri 2013). Notwithstanding these advances, there is still an absence of research that systematically map the nature and evolution of migration policies while differentiating between policy areas or migrant target groups. Such analyses are however necessary to 'unpack' migration policies regimes and assess their specific characteristics, restrictiveness and evolution over time.

In order to fill this gap, this paper aims to assess whether migration policies have indeed become more restrictive over time and to examine how patterns of selection have changed since World War II. This analysis will focus on the policies on paper and defines migration policies as the 'rules (i.e., laws, regulations and measures) that national states define and [enact] with the objective of affecting the volume, origin, direction, and internal composition of […] migration' (Czaika and de Haas 2013:489). Drawing on new migration policy data from 45 countries recently compiled in the DEMIG POLICY database, this paper will provide a detailed investigation of the nature of migration policy change since 1945 and assess whether migration policies have become more or less restrictive across the different target groups, policy areas, policy instruments and countries. Through tracking yearly changes in migration policies, it will also enable to establish whether such trends have been uniform and linear, or rather show differentiated trends and patterns.

2 Methodology and data

DEMIG POLICY is a new database that tracks over 6,500 changes in migration policies in 45 countries over the 1945-2014 period.[1] For more than half of these countries, the data collection dates back to the beginning of the 20th century. The Annex provides information about the countries included in DEMIG POLICY throughout different periods, as well as the number of changes tracked in each country (Table 1 and 2, Annex). This database was compiled between 2010 and 2014 as part of the DEMIG project (*Determinants of International Migration: A Theoretical and Empirical Assessment of Policy, Origin and Destination Effects*) to generate an improved understanding of the evolution of migration policies over time and to evaluate the effect of these policies on the volume, direction, timing and composition of international migration. A detailed outline of the conceptual and methodological underpinnings of DEMIG POLICY, as well as of the process of compiling and coding migration policy data can be found in de Haas, Natter and Vezzoli (2014).

The DEMIG POLICY database was initially set up based on a systematic review of the OECD's Continuous Reporting System on Migration (known as SOPEMI and since 2006 as International Migration Outlook) published between 1973 and 2013. This information was complemented through reviews of national migration profiles published by the Migration Policy Institute, the Migration Policy Centre, Focus Migration and the European Migration Network. This information was further complemented and cross-checked through the consultation of scholarly studies and other publications

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[1] Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Czech Republic, Czechoslovakia, Denmark, Finland, France, Germany, German Democratic Republic, Greece, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, Morocco, Netherlands, New Zealand, Norway, Poland, Portugal, Russia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States of America and Yugoslavia.

by national governments, international organisations and NGOs. National migration policy experts have reviewed the final country datasets. Their in-depth knowledge of the country-specific context has allowed to cross-check the database and to identify gaps and errors. Despite these efforts, three sources of bias may have remained. First, politically salient migration policy changes may be overrepresented in the database, while some of the relatively uncontroversial, hence less publicised, policy changes may have remained unrecorded, leading eventually to a bias towards policies highlighted in official discourse. Second, information is often less detailed with regards to policies implemented before the 1970s, which partly seems to reflect the lower density of migration policy changes in the past, but may also result of the non-recording of some earlier policies. Third, some policies such as bilateral and multilateral agreements pertaining to re-admission, reintegration, trainee exchanges or seasonal workers have only partially been recorded given resource and time constraints.

DEMIG POLICY has four main characteristics: First, it offers a unique geographical and historical coverage of migration policy changes. Second, DEMIG POLICY tracks not only entry policies – the usual focus of research – but also exit policies. Third, the structure and coding system of the database acknowledges that migration policies are often 'mixed bags' of contradictory measures and thus disaggregates policy reform packages into their different policy measures. Fourth, DEMIG POLICY specifies the migrant group targeted by each policy measure. This enables the analysis of policy changes towards a specific group of migrants, such as family members, refugees, entrepreneurs, international students or low-skilled workers.

All entries recorded in DEMIG POLICY reflect a *policy change.* Because not all changes are equally important, their respective magnitude was assessed using two indicators. First, the *degree of coverage* measures for each policy change whether it targets an entire migrant category (such as 'all migrant workers') or only a sub-section of a migrant category (such as high-skilled workers). Second, *the degree of departure* measures for each policy change whether it represents a fundamental departure from the existing policies. According to these two criteria, each policy change was classified according to an ordinal scale as 'fine-tuning measure' (weight 1), 'minor change' (weight 2), 'mid-level change' (weight 3) or 'major change' (weight 4). We used this to achieve some rough 'weighting' of the policy changes according to their relative importance. For each policy change, we also assigned a code indicating whether the measure introduces a change (compared to the existing policy framework) in a more or less restrictive direction. In order to determine this, we assessed whether a policy measure increased or decreased the rights granted to the targeted migrant group. For instance, a policy measure that introduces a new entry channel for high-skilled workers makes migration less restrictive for this migrant group. Another policy measure (which may be part of the same reform package) can raise the income threshold for family reunification, which increases the restrictiveness for the entry of spouses and children of immigrants (for further methodological details, see De Haas, Natter and Vezzoli 2014).

Besides the direction of change in restrictiveness and its magnitude, DEMIG POLICY also coded each policy change according to four variables: (1) policy area; (2) policy tool; (3) migrant category (or target group); and (4) geographical origin. The *policy area* variable determines whether a policy change deals with border and land control; legal entry and stay; integration and post-entry rights; or exit regulations. The *policy tool* variable indicates which instrument is used to implement the measure by distinguishing 27 policy tools – such as work visas, recruitment programmes, regularisations or employer liabilities. The *migrant category* variable reflects the specific migrant group which is targeted by the policy measure, distinguishing between 14 possible target groups, such as high-skilled workers, low-skilled workers, family members, irregular migrants, asylum seekers or international students. Finally, the *geographic origin* variable specifies whether the policy measure targets all foreign nationalities, EU citizens, citizens or specific nationalities. Drawing on this new database, this paper

analyses how migration policies have evolved over time in terms of changes in restrictiveness and patterns of selection along different policy areas, policy tools, migrant categories and geographical origins.

3 Growing restrictiveness?

Figure 1 shows average yearly changes in migration policy restrictiveness over the 20th and early 21st century. While a restrictive policy change was coded as 1, a policy change towards less restriction was coded -1. For every year, the average change in migration policy restrictiveness was calculated. A score above 0 means that the number of restrictive policy changes introduced was larger than the number of less restrictive policy changes, while a score below 0 means that less restrictive changes dominate. Policies across all policy areas, policy tools, migrant categories and geographic origins were included in this first long-term overview. The pooling of all these policy changes enables us to analyse the evolution of migration policies over the entire twentieth century, including earlier decades for which the lower number of entries preclude a more detailed, policy- and target group-specific analysis.

Figure 1 Yearly average change in migration policy restrictiveness, 1900-2014
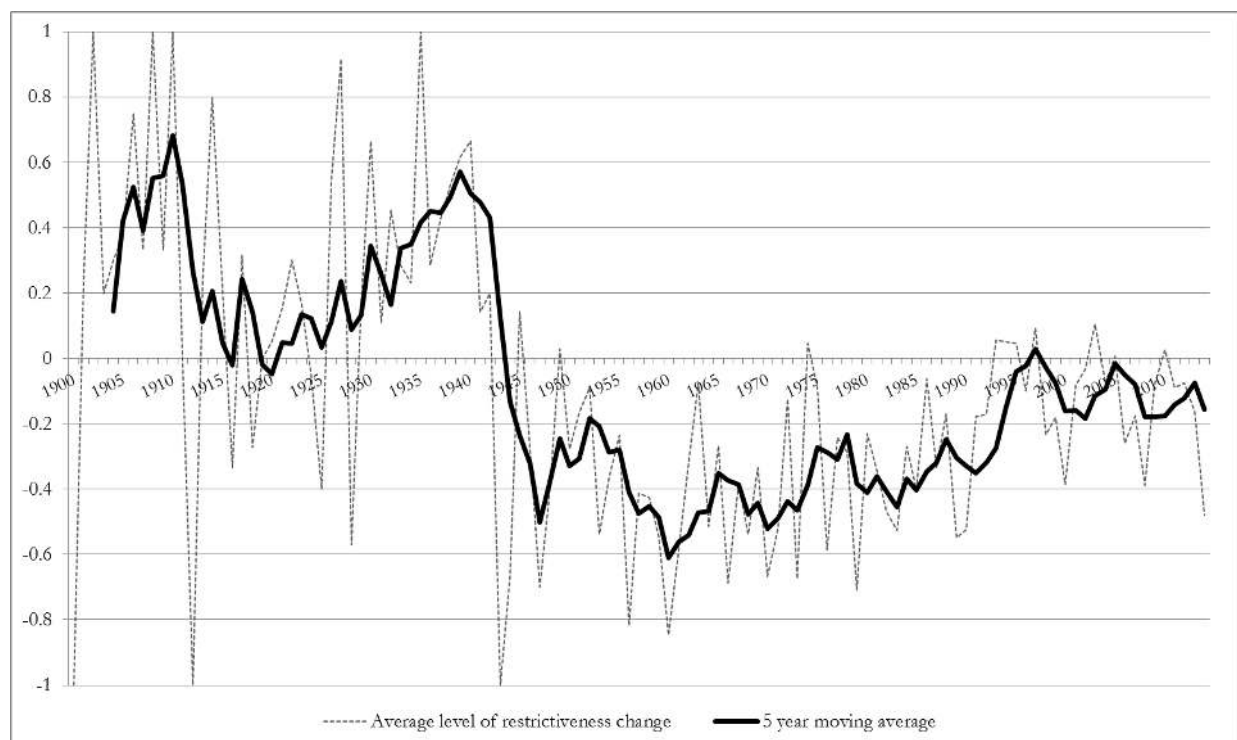
Figure 1 shows that while migration regimes in the first half of the twentieth century were dominated by restrictive changes, *since 1945 migration policies have consistently become less restrictive*. Although the relatively lower number of entries for the pre-WWII period (with around 450 policy measures recorded in the 1900-1945 period, equal to 6.5% of all entries in DEMIG POLICY) partly explains the more erratic patterns shown in the figure, the trend towards more restrictiveness between WWI and WWII, and particularly in the late 1920s and 1930s, seems rather robust. This is consistent with the general turn towards protectionism and nationalism which affected Europe and North America following the 1929 stock market crash and the ensuing Great Depression, as well as mounting international tensions under influence of the rise of communism, fascism and Nazism. This period also coincided with the introduction of modern passport systems (Torpey 2000) and an increasing focus on migration policies, which replaced the previous preoccupation on exit policies (Zolberg 2007).

Since WWII however, average yearly changes in migration policy restrictiveness have been consistently below 0: within this 70 year period, only 10 years (1945, 1949, 1974, 1993, 1994, 1995, 1997, 2003, 2005 and 2010) had positive scores and all scores remained below an average of 0.2. Also, 54 percent of the policy changes recorded over this period introduced a change towards less restriction, while only 36 percent of the changes went in a more restrictive direction. The remaining 10 percent of recorded policy changes did not introduce any change in restrictiveness. This evolution of migration policy restrictiveness has, however, not been linear over time and uniform across different policy fields.

Changes recorded in DEMIG POLICY were grouped according to four policy areas.[2] Figure 2 reveals that restrictive policy changes heavily concentrate on border control and more recently on exit measures, while integration and perhaps surprisingly entry rules have become consistently less restrictive since 1945. Indeed, policies with regards to legal entry and stay have been clearly dominated by less restrictive changes over the entire post-WWII period, which contradicts the common assumption of growing restrictiveness and reflects the creation of multiple entry channels for low and high-skilled workers, family members, students and entrepreneurs. These patterns also point to a development in which governments have opened more regular channels for 'desired' migrants over recent decades, while border surveillance has been increased in an apparent attempt to prevent the entry of 'non-desired' categories. Figure 7 in the Annex shows the robustness of this pattern across world regions.

Figure 2 Average change in migration policy restrictiveness by policy area, 1945-2014
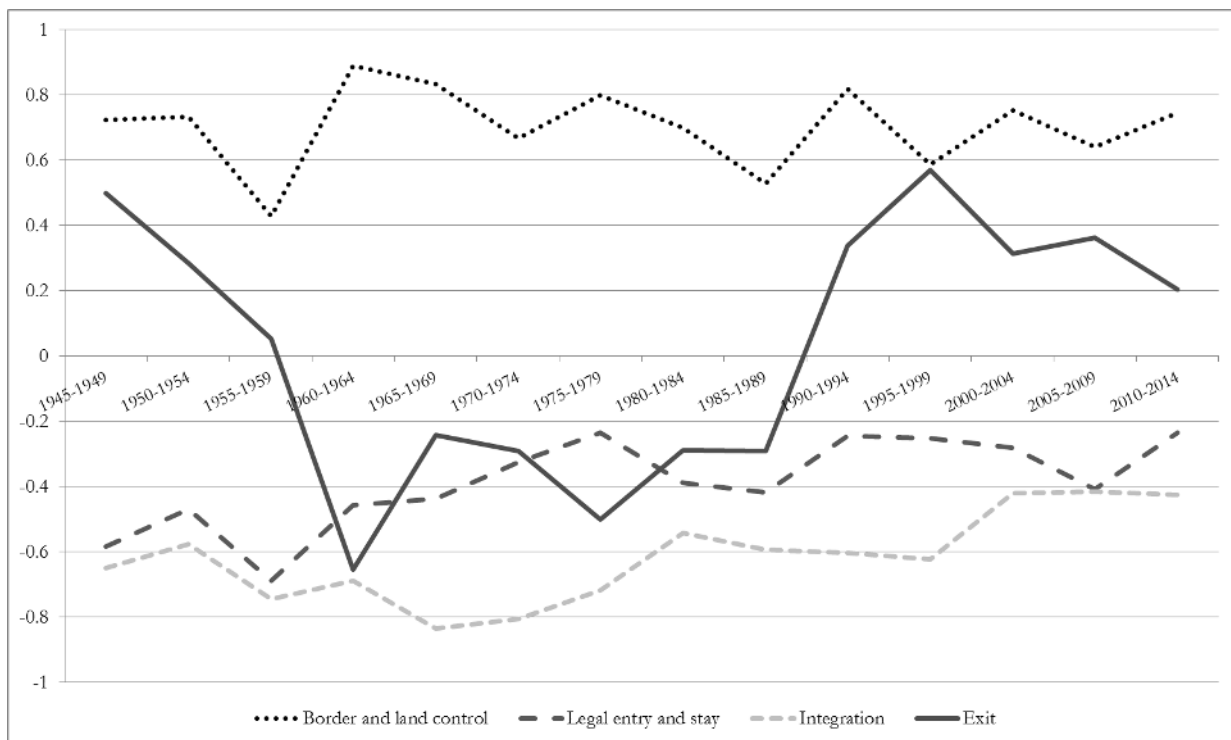
DEMIG POLICY thus provides empirical evidence to classify post-WWII migration policies into three periods:

(1) The period between the mid-1940s and the mid-1970s is characterised by a strong dominance of less restrictive changes. This seems related to the post-WWII reconstruction efforts which led to a boom of

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[2] Around 50 percent of all changes recorded are concerned with legal entry and stay of migrants, around 25 percent deal with integration and post-entry rights, 15 percent regulate the exit of citizens and migrants and around 10 percent pertain to border and land control.

worker recruitment in Europe and beyond. The decrease in nationalism, as well as the growing importance of international organisation such as the United Nations (UN) and the European Union (EU) also led to the progressive enshrining of international human rights into national legislation. The liberalisation of migration regimes after WWII reached a peak in the 1960s and the early 1970s. The outliers in that period are exit measures, whose restrictive average reflects the introduction of strict exit requirements for citizens of Eastern Bloc countries.

(2) Between the mid-1970s and the mid-1990s, the relative proportion of restrictive changes increases. This seems to coincide with a period of economic stagnation and higher unemployment following the 1973 Oil Crisis and the 1980s recessions, which led to an official halt of recruitment policies. Nevertheless, also in this period less restrictive policy changes clearly continued to outnumber more restrictive policy changes. This was particularly driven by the expansion of entry channels for family members and refugees, as well as the continuous widening of socio-economic and political rights for foreigners. For instance, Germany in 1974 enshrined the generic right to family reunification into law, Sweden in 1975 granted foreigners the active and passive right to vote in municipal and provincial elections after three years of stay and Belgium and the Netherlands in 1985 granted access to citizenship to children born in the country. At the same time, this period sees the emergence of reintegration and voluntary return programmes which created new channels (and rights) for migrants to return home. For instance, France in 1975 introduced a free-of-charge repatriation for foreign unemployed workers, which was supplemented with financial assistance from 1977 onwards and in 1979, both Germany and Switzerland started courses for Spanish workers intending to return. The expansion of integration measures however is also due to the increasing engagement of origin states with their migrant communities abroad, by granting them political rights and facilitated access to enter and work in the country, but also by providing cultural services abroad and support for the transfer of remittances.

(3) Only in the mid-1990s did the average direction of migration policy change (all policy areas and migrant groups taken together) start to approach 0. This means that the proportion of more and less restrictive policy changes has become more balanced in recent decades. Although the number of less restrictive changes still prevailed even over this period, the relative increase in the number of more restrictive policy changes seems to reflect a political climate in which political discourses increasingly associated migration to socio-economic problems and security issues (cf. Massey 1999). This is echoed in exit measures, which shifted towards coercive (rights-depriving) measures focused on expulsion and readmission of irregular migrants. This period is also characterized by an absolute and relative (compared to other policy changes) increase in the number of new surveillance and border control measures: While in the pre-1989 period on average only 8.5 percent of the policy changes dealt with border and land control (150 changes recorded), since then this proportion rose to 14.5 percent (over 600 policy changes recorded). This development is not confined to countries in Europe and North America and reflects a world-wide introduction of measures such as sanctions on transporting and hiring undocumented migrants, technological identification techniques and border patrolling, as well as the increased use of migrant detention and expulsion.

The trend towards less restrictiveness between the 1950s and the 1990s becomes even starker if we weight the changes in restrictiveness by the relative magnitude of the policy changes (Figure 8, Annex).[3] This is due to the interaction of two developments: on the one hand, the proportion of 'major'

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[3] For Figure 7 in the Annex, we weighted the scores on the change of direction in restrictiveness with the scores on the ordinal variable assessing the magnitude of change. This meant that policy measures were not coded -1, 0 or 1, but on a scale from -4 to 4. For instance, a policy measure which enacted a major change into a more restrictive direction would now be coded 4, whereas a minor change into a less restrictive direction would now be coded -2. Despite the fact that this is an ordinal scale

and 'mid-level' policy changes has decreased over time, while the proportion of 'fine-tuning' policy changes increased (Figure 9, Annex). This may be due to the better tracking of smaller policy changes in recent decades, but it also seems to reflect a real trend in which the first decades after WWII were characterised by the introduction of new migration regimes and major reform packages (such as the introduction of the modern refugee regime or the right to family reunification), while recent years are dominated by an increasing sophistication of policies. This is due to the fact that in order to secure support within both public and policy circles, migration policy changes today are increasingly about incremental adaptation through frequent fine-tuning rather than about overhauls. This confirms the findings of the literature on the evolution of migration policy making (Lindblom 1959; Papademetriou and Heppel 1996).

On the other hand, major and mid-level reform packages overwhelmingly tended into a less restrictive direction until the 1990s, while more restrictive changes dominate the 'minor' and 'fine-tuning' measures in recent decades (Figure 10, Annex). Until the 1990s, migration policy making was thus dominated by the introduction of 'major' and 'mid-level' policy reforms in a less restrictive direction, which explains the strong trend towards liberalisation in that period. The higher prevalence of restrictive fine-tuning and minor changes in turn explains the more balanced picture since the 1990s. To exemplify this, one can for instance think about the major policy changes in the 1970s which introduced and consolidated the generic right to family reunification (cf. Bonjour 2011). When large-scale family immigration started to be increasingly seen as a problem in public debates in the 1990s and 2000s, this was followed by the subsequent introduction of smaller 'backtracking' measures which tried to curtail this right by raising income requirements, length of residence or age criteria or by introducing language or cultural knowledge tests. Yet these policy changes did not reverse the fundamental right to family reunification that had been introduced in earlier decades.

Finally, the fact that *less* restrictive changes have dominated migration policies in 41 out of the 45 countries included in DEMIG POLICY since 1945 corroborates that the trends towards liberalisation is robust (Figures 11 and 12, Annex). We should emphasise however that this statistic does not compare the absolute level of restrictiveness across countries, but assesses the average change in migration policy restrictiveness within each country. For instance, the fact that the United Kingdom is one of the few countries where more restrictive measures have dominated policy making in the post-War period does not necessarily mean that British immigration policies are more restrictive compared to other countries. An alternative hypothesis is that British immigration policies were initially more liberal compared to most other countries given that the British Nationality Act of 1948 guaranteed the right of Commonwealth citizens (including those of newly independent countries like India) to migrate and settle in the United Kingdom. From the 1960s onwards however, these free migration rights of (current and former) colonial subjects were progressively eroded (Somerville, Sriskandarajah and Latorre 2009). By analysing the evolution of migration policy restrictiveness for different groups of countries, the following section will further explore the robustness of these trends.

4 Regional trends?

Different patterns of migration policy changes can be identified when we group the 45 countries into six geographical clusters: EU15 and EFTA countries, traditional immigration countries of European settlement, Latin American countries, Asian countries, Eastern Bloc countries and African and Middle

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and despite the imperfections and subjectivities involved in coding, we believe it provides a useful way to further check the robustness of the results.

Eastern countries (Table 3, Annex). Particularly the Latin American, Asian, African and Middle Eastern clusters contain a low number of countries and should therefore not be seen as 'representative' of these regions. Nonetheless, this regional disaggregation allows detecting some possible regional deviations and Figures 3 and 4 suggest that the long-term trend of less restrictive policies is robust across world regions.

Figure 3 Average change in migration policy restrictiveness for European and traditional immigration countries, 1940-2014
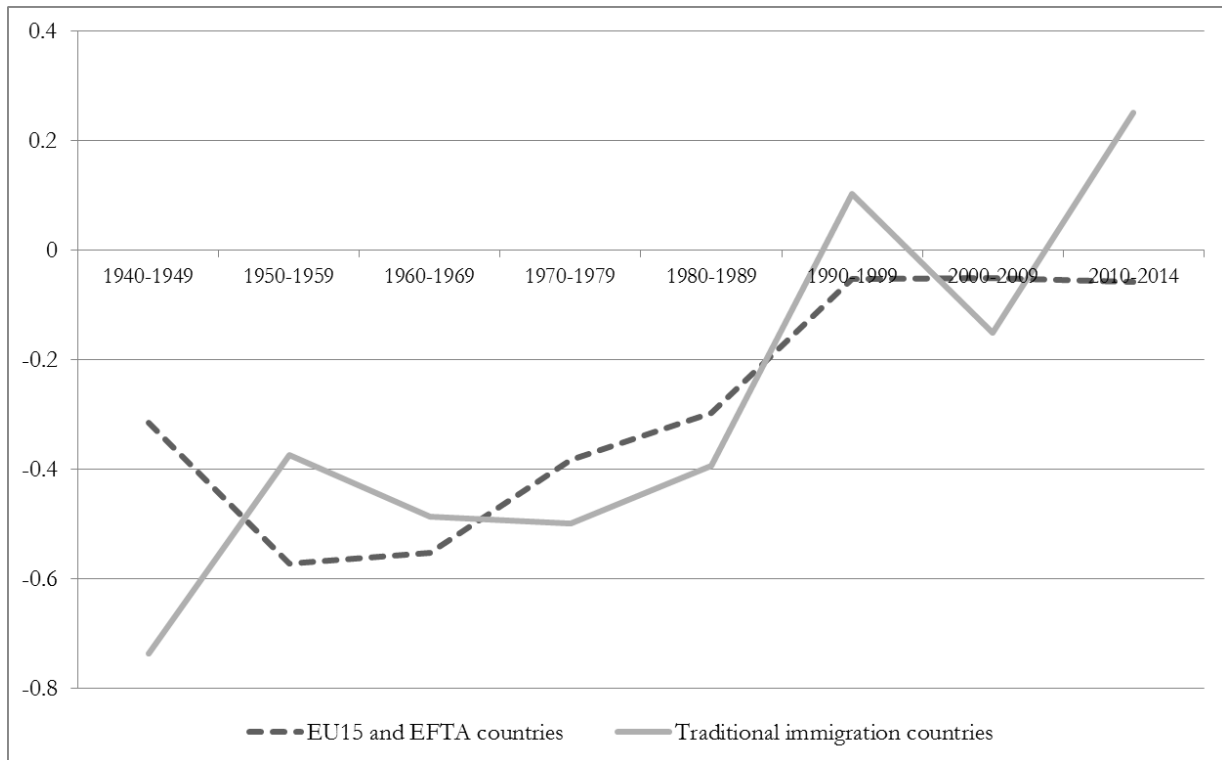

Figure 3 portrays the average direction of change in migration policy restrictiveness for European and traditional immigration countries. It shows that from the 1940s until the 1970s, migration policies of European countries have consistently tended into a less restrictive direction. This reflects post-WWII reconstruction efforts and the numerous recruitment agreements between Western European destination countries (principally Germany, France, Belgium, the Netherlands and Austria) and Mediterranean countries (initially Italy, Portugal, Greece, and Yugoslavia, but later also Turkey, Morocco and Tunisia). In Northern Europe, the Nordic Common Labour Market was launched in 1954, allowing migrants from Norway, Denmark, Sweden, Iceland and Finland (a major source of immigrants to Sweden) to freely move and work in those countries. This period was also characterized by the establishment of a ground-breaking refugee protection system and by the general welcoming of refugees from the Eastern Bloc in Western Europe – which is visible in the acceptance of large numbers of asylum seekers after the 1956 Hungarian uprising or the 1968 Prague Spring.

In the aftermath of the 1973 Oil Crisis, most European governments stopped active recruitment and tried to encourage return by giving financial premiums or other return assistance, rather than by repressive measures such as expulsion which have become more popular in recent years. For instance, France in 1977 launched the 'aid for return' program, targeting the return of 100,000 foreign unemployed workers per year. Spanish, Portuguese, Yugoslav and Turkish workers were thus entitled to FR 10,000 and a travel allowance. At the same time, southern European countries started

institutionalising relations with their citizens residing abroad. Simultaneously, Western European countries also introduced measures to facilitate immigrant integration, particularly through the expansion of workers' political and socio-economic rights, the right to family reunification and the acquisition of citizenship. Thus, Belgium in 1971 abolished the requirement of Belgium nationality to be elected to the Works Council and in 1981 made racism and xenophobia punishable by law. In 1985, the Netherlands also granted automatic citizenship to third generation 'migrants' and allowed second generation migrants to opt for Dutch citizenship after the age of majority. Although the post-1973 recruitment stop and other measures to limit the migration of low-skilled workers may have created an impression of 'Europe shutting its door', the long-term direction of *de facto* migration policies has indeed been 'expansionary' as other researchers have argued (cf. Freeman 1995).

Yet, since the 1990s, more and less restrictive changes start to level each other out in Europe, even if the average of policy changes has remained at levels just below zero. Two concurrent developments can explain this: while Southern European countries transformed into immigration countries during that period, creating first immigration laws often including regularisation instruments,[4] Northern and Western European countries consolidated their migration policy frameworks and started to partially restrict established rights through minor modifications of existing policies. The changes in restrictiveness however vary according to migrant groups: For instance, this period is characterised by a turn towards restrictive policy changes on family migration. This is exemplified by the Dutch introduction of a pre-entry test for family members or the criminalization of marriages of convenience. Many other restrictive measures target irregular migrants, such as the introduction of employer and carrier sanctions in nearly all European countries.

On the contrary, policies on workers *across all skill levels* have consistently been dominated by *less restrictive* changes. This finding defies political discourses and common assumption that 'the West' has closed its borders to low-skilled migrants. For instance, bilateral labour migration agreements are still a very popular tool of European states and continue to offer particular entry channels for low-skilled workers. Also, Sweden's 2008 Immigration Act openly liberalised immigration rules by allowing employers to recruit foreign workers without numerical limit, occupational restriction or educational minimum. It also grants immediate family reunification to labour migrants and access to the labour market to them. The most surprising finding is however that, according to our data, even refugee policies have tended into a less restrictive direction in Europe since 1989 (the years of the 'European refugee crisis'). This is mainly driven by the Europe-wide introduction of temporary protection for asylum seekers in the 1990s and early 2000s, which grants individuals who are denied refugee status a right to stay in the country (deportation ban) as long as their return to the country of origin constitutes a danger. Although this appears as additional protection mechanism on paper, temporary protection can also be interpreted as an overall decline in Europe's commitment towards permanent acceptance of refugees. In addition, the increase in asylum rejection rates in recent years points towards the fact that growing restrictiveness towards asylum seekers mainly pertains to the more restrictive implementation of policies and not to changes in formal policies.

Traditional immigration countries portray a similar evolution, with a strong dominance of less restrictive changes until the 1980s. In Australia and New-Zealand, the 1950s and 1960s were characterised by a policy of assisted migration for migrants from Europe, through which Australia even aimed at increasing the country's population by one percent every year. At the beginning of the 1970s, the end of the 'White Australia' policy completely reformed the country's migration policy, as the

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[4] Portugal introduced its first immigration law in 1981, Spain in 1985, Italy in 1986 and Greece in 1991.

criteria of national origin was removed from the migration selection process and replaced by an assessment of migrants' skills. Since 1973, the Trans-Tasman Travel Arrangement also allows citizens from New Zealand and Australia to move freely among the two countries, and reside and work without any permit.[5] In North America, Canada introduced a very open refugee policy in the post-WWII period and in 1967 established a points-based system facilitated entry for skilled migrants world-wide. Finally, in 1965 the United States replaced the former national-origins quota system that favoured northern and western European immigration by a more liberal regime that prioritised family reunification. At the same time it imposed a quota on immigration from the Western Hemisphere, coinciding with the termination of the Bracero programme in 1964, which had allowed the recruitment of Mexican workers since 1942. So, this general liberalisation of immigration regimes coincided with increasing immigration restrictions for Latin American immigrants.

Since the 1990s however, more restrictive changes started to dominate in traditional immigration countries. This largely reflects heavy investments in border control such as by the United States at the Mexican border or by Australia in relation to their policies targeting irregular migrants and 'boat people'. Also, the United States passed several measures targeting foreigners in reaction to the 9/11 terrorist attacks, such as the 2001 Patriot Act, the 2002 Enhanced Border Security and Visa Entry Reform Act or the 2005 Real ID Act. Finally, migration policy makers in North America and Australia have also attempted to reduce the quotas allocated for (both skilled and low-skilled) workers, family members and refugees over the past two decades.

Figure 4 portrays the average changes in migration policy restrictiveness across other world regions. Although the picture is erratic because of a lower caseload in early decades, we can tentatively observe some patterns: From the 1950s to the 1980s, there was an increasing prevalence of less restrictive changes in the Asian, Eastern Bloc and African or Middle Eastern countries included in DEMIG POLICY. As for the rest of Europe and traditional immigration countries, however, these three regions also show a recent increase in the proportion of more restrictive policy changes, although the average direction of change remains below zero. Finally, the Latin-American countries included in DEMIG POLICY portray an atypical pattern, with an increasing importance of restrictions in the 1970s and 1980s and an opening-up of their migration regimes since then.

For Eastern Bloc countries, the years after WWII were marked by the resettlement of large populations across new borders. For instance, 73,000 Slovaks left Hungary for Czechoslovakia and 113,000 ethnic Hungarians were resettled from Czechoslovakia to Hungary in 1946. In the following years, most of the countries in the region however introduced strict exit requirements for their citizens. In the 1960s and 1970s, recruitment practices spread among those countries, first involving Yugoslavia but then also Eastern Bloc and allied communist states around the world, such as in the 1978 agreement between East Germany and Cuba and the 1980 agreement between Czechoslovakia and Vietnam. The peak in less restrictive measures in the 1980s seems to reflect the lifting of exit policies and generic liberalisation of border and migration policies around 1989. DEMIG POLICY data thus confirms that the fall of the Iron Curtain led to the rapid dismantlement of both migration and emigration controls in the newly independent states of the former Eastern Bloc.

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[5] The complete freedom of movement was partly restricted by Australia in 1994 through the introduction of the special category visa (SCV) for New Zealand citizens. However, this measure was more a formality, as all New Zealand citizens presenting a valid passport and passenger card at entry were considered to have applied for the SCV. The measure did however increase control on entering and exiting New Zealanders.

Figure 4 Average change in migration policy restrictiveness for Latin American, Asian, Eastern Bloc and African and Middle Eastern countries, 1940-2014
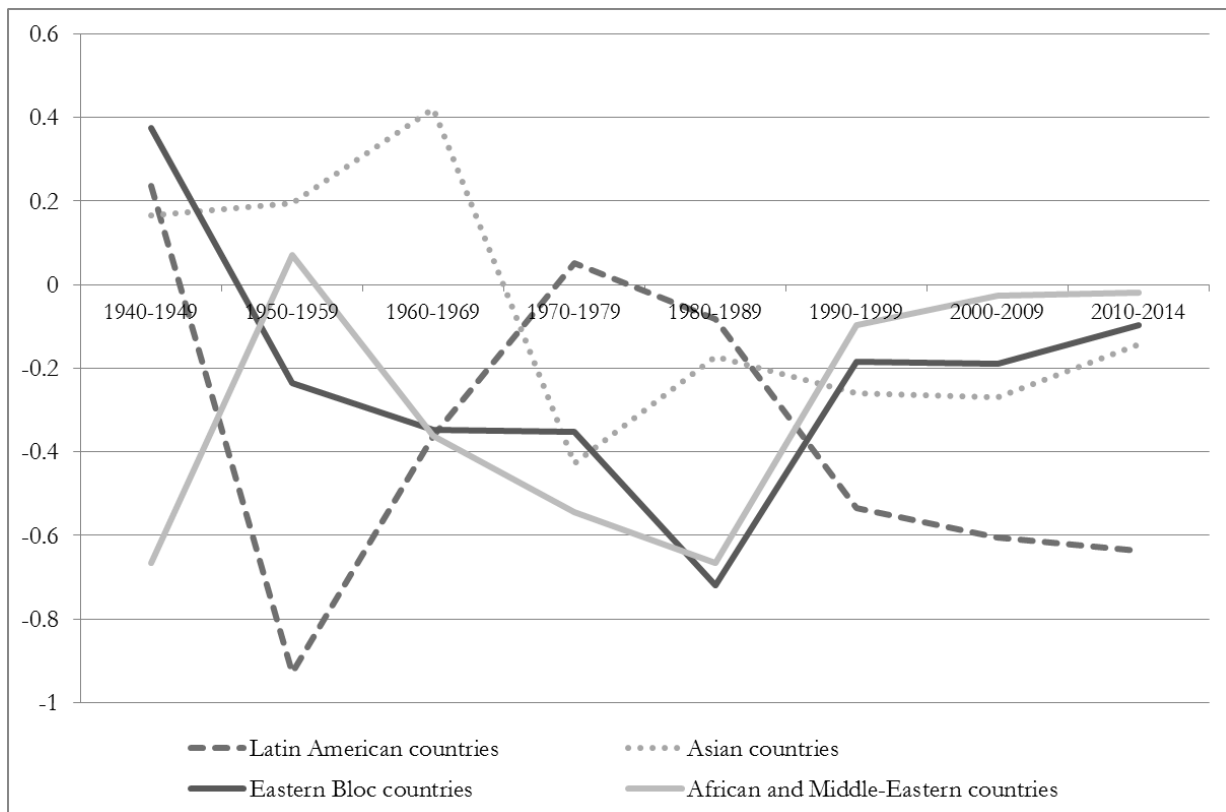
While the early 1990s in this region were still dominated by a granting of broad rights to refugees and foreigners more generally, the proportion of restrictive policy changes has increased since then to become almost equal to the number of less restrictive changes. This can be associated with two developments: First, major reform packages introduced rules on entry, stay and access to the labour market. Because no rules had existed directly after independence, this meant a general restriction. At the same time, these countries introduced very open laws on entry and access to citizenship for their citizens and 'co-ethnics' living abroad. For instance, the Polish Repatriation Act of 2000 grants 'repatriates' (ethnic Poles returning from the former Soviet Union) Polish citizenship upon entering the country and the Hungarian Status Law of 2001 created a certificate for ethnic Hungarians living in Slovakia, Romania, Ukraine, Slovenia, Serbia-Montenegro and Croatia, which entitled them to simpler procedures to obtain the right to enter, work or study in Hungary. Second, growing migration to several of these countries and the prospect of their accession into the EU further strengthened the trend towards increasingly fine-grained border control and entry and stay policies. This particularly pertains to the restriction of refugee rights through the adoption of the 'safe country' principle, the proliferation of readmission agreements, as well as stepping up of border controls. Also, cooperation among Russia and former Eastern Bloc states on irregular migration control and trafficking in human beings has increased in the past decade. This can explain the more balanced picture of changes in restrictiveness since the end of the 1990s.

For some of the Asian countries included in the dataset, the 1950s and 1960s were dominated by restrictive changes due to the establishment of entry and stay rules, which in some instances were associated with policy formation after their independence from European or Asian colonial powers (i.e. India, Indonesia and South Korea), as well as the enactment of strong exit regulations for their own citizens. The 1970s and 1980s however, were characterised by those countries' growing integration into

the world economy and the end of the isolationist policies pursued after WWII, which coincided with increasing demand for foreign workers. Japan's restrictive policy towards Koreans and Taiwanese was slowly lifted and emergency laws passed to deal with Indochinese refugees. In Korea, emigration controls were lifted in the 1980s and in China, the launch of the 1978 'open door' policy contributed to a relative removal of barriers for citizens' internal migration and emigration, as well as a new approach to Chinese living abroad, whereby the former disregard of overseas Chinese was replaced by their active inclusion into economic development plans. In Indonesia, the 1970s can be identified as the beginning of state-sponsored labour export policies which continue until today.

The decades since the 1990s are characterised by two trends. First, Asian governments elaborated policies to facilitate the entry, access to citizenship and socio-economic rights to their citizens residing abroad, including their descendants. For instance, India launched several 'diaspora bonds' in the 1990s to raise investment into India by Indian citizens and their descendants living abroad and in 1999, India created the Person of Indian Origin Card (PIO Card) that grants access to socio-economic rights to foreign passport holders of Indian origin. Second, more sophisticated laws were adopted to control migration. On the one hand, these opened new possibilities for regular migration of foreigners: For instance, Japan and Korea launched extensive programs to recruit 'trainees' in 1993 (the Industrial and Technical Training Programme in Korea and the Technical Internship Training Programme in Japan) and China in 2008 created the Recruitment Program of Global Experts to attract talent from abroad. On the other hand, as in Europe and the classical immigration countries, these developments went along with increasingly restrictive policies towards irregular migrants and the stepping-up of border control through the introduction of carrier and employer sanctions, detention and expulsion mechanisms.

A few African and Middle Eastern countries have also been included in DEMIG POLICY. Morocco and Turkey followed similar developments when they were integrated in European recruitment systems in the 1960s, during which their governments encouraged their citizens to work abroad. The 1970s and 1980s were dominated by the creation of reintegration measures for returnees, but also by the continuation of recruitment of Turks and Moroccans – this time by Middle Eastern governments. South Africa in the 1950s started its racial segregation policy and participated in the recruitment boom by actively recruiting white Europeans in the 1960s, as well as temporary low-skilled workers from the Southern African region in the 1970s. Finally, Israel's active Jewish settlement and integration policy after 1948 also contributed to the dominance of less restrictive measures throughout this whole period. The increasing proportion of restrictive changes in African and Middle Eastern countries since the 1990s can be traced back to two trends: First, the consolidation of Israel and South Africa into main destinations for refugees and low-skilled workers from their respective regions, which has led to the adoption of conventional policy tools to strengthen border control and sanctions for irregular migration. Israel's development of an extensive detention and expulsion policy towards 'infiltrators' (undocumented migrants) is particularly striking in this regard. Second, the pressure put on Morocco and Turkey by the European Union to introduce more restrictive migration policies has led to the development of rules on border control and the signature of multiple readmission agreements with European, African and Asian countries.

Finally, the Latin-American countries included in DEMIG POLICY portray a rather atypical pattern: while in the 1970s and 1980s most policy changes tended in a more restrictive direction, since the 1990s policies have become less restrictive. The peak in restrictive measures in the 1970s and 1980s occurred in a period of military coup d'états and the establishment of autocratic regimes, lasting in Argentina from 1976 to 1983, in Brazil from 1964 to 1985 and in Chile from 1973 to 1990. Throughout

these periods, immigration regimes tended to become more restrictive. The Chilean 1975 Immigration Act for instance established a very detailed sanctions regime for irregular entry and stay and required owners of hotels, houses and flats to check the residency status of foreigners. Since the 1990s however, Latin-American migration policies have opened-up through the expansion of refugee protection and the granting of socio-economic and family reunification rights to migrants. For instance, Mexico's 2011 Migration Act guarantees equal treatment of foreigners regardless of their status, including the right to access education and health services. In this period, several Latin American states also embarked upon policies to expand right to emigrant communities for instance through allowing double citizenship, extending voting rights and establishing return schemes. Also, regional integration after the 2002 Agreement on the Southern Common Market (MERCOSUR) has played an important role in introducing regularizations of irregular migrants and the partial abolishment of borders and migration restrictions among member countries.

This tendency towards more liberal immigration policies seems strongly linked to democratization process and an increasing consideration for human rights in migration policy making. Argentina even established a 'right to migrate' in art.4 of Law 25.871 passed in December 2003.[6] This exemplifies the close association between migration policy change and regime types, with autocratic regimes being often more protectionist and nationalist, going along with the attribution of fewer rights to immigrants and emigrants. Following this assessment of changes in restrictiveness across world regions, the next section will focus on the differentiation of trends across migrant categories and origins in order to specify how patterns of selection have changed over time.

5 Changing selection?

The analysis of DEMIG POLICY reveals that the essence of migration policies since WWII is thus not a growing restriction, but an increasing sophistication of policy instruments, as well as an emphasis on skills as an instrument of migrant selection. Earlier immigration policies of classic immigration countries characteristically singled out specific nationalities. This often went hand in hand with the banning of people from other countries or entire groups such as 'Asians'. For instance, the US Migration Act of 1917 prohibited the entry of all immigrants from the 'Asiatic barred zone'. Although the late nineteenth and early twentieth century is often seen as a period of 'free' migration to the US (cf. Hatton and Williamson 1998), it is important to emphasize that this mainly pertained to European migrants. Also the Canadian Chinese Migration Act of 1923 introduced extremely restrictive entry criteria for Chinese citizens. As a result, only 15 Chinese regularly entered Canada between 1923 and 1947 when the rule was repealed. In Australia, the 1901 Migration Restriction Act was the cornerstone of the 'White Australia' policy, excluding all non-white people from migrating. It was officially repealed only in 1973 when policy instructions were sent to overseas administration posts to disregard race as a factor in the selection of migrants. European recruitment policies in the 1950s and 1960s also targeted migrants from certain nationalities, often through the signature of bilateral recruitment agreements. Examples include Turkish and Yugoslav workers recruited for the German labour market or Moroccan and Italian workers recruited for the French labour market.

Since the 1980s however, national origin has lost its relative importance in migration policy making, as policies increasingly target 'all foreign nationalities' instead of 'specific nationalities' (Figure 13, Annex). At the same time, while policies targeting 'specific nationalities' strongly tend into

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[6] Art. 4 stipulates that 'The right to migrate is essential and inalienable to all persons and the Republic of Argentina shall guarantee it based on principles of equality and universality.'

a less restrictive direction, generic migration policies affecting all nationalities are characterized by a balance between more and less restrictive changes (Figure 14, Annex). Thus, the nationality criteria today is used not anymore as a policy tool to deny entry altogether, which would be considered discriminatory, but as an instrument to grant privileged access. Indeed, national origin is being used as an exemption mechanism, such as in the case of regional free mobility among EU or MERCOSUR countries, bilateral labour migration agreements on seasonal workers, trainees or specific professional occupations, as well as humanitarian schemes for refugees of specific nationalities in distress. This also implies however, that for people coming from countries not targeted by such preferential policies, access to regular migration options may have become more difficult. This for instance applies to nationals of most African countries, which have become targets of visa and other immigration restrictions imposed by European states (Flahaux 2014; Flahaux and de Haas 2014).

In parallel to this development regarding national origin, selection criteria such as skills, wealth and other class markers have gained weight in migration policy making. Today, nearly 75 percent of the recorded policy changes target particular groups, principally low- and high-skilled labour migrants, refugees and irregular migrants, while in the past, the proportion of generic policies targeting 'all migrants' was around 40 percent (Figure 15, Annex). Although better and more precise recording of recent policies might have led to a certain overestimation of such targeted policies, the analysis seems to corroborate that migration policies are increasingly about selection. Thus, nationality and skills are used today as simultaneous selection mechanism, which results in complex interactions. For instance, while regular migration to OECD countries may have become easier for highly skilled and wealthy Africans as a result of the abolishment of 'racial' immigration criteria and diffusion of points-based immigration rules, regular migration of low-skilled Africans may have become more difficult. Patterns of migrant selection have thus changed over time through an increased sophistication of migration policies and a growing complementary between the nationality and skills criteria.

Figures 5 and 6 show the extent to which changes in migration policy restrictiveness vary across different migrant categories and thus allow nuancing the increased importance of skills and other criteria in selecting migrants. The results indicate that the post-1990 trend towards a balance between more and less restrictive policies largely reflects an increasing proportion of restrictive policy changes towards the categories of 'all migrants', family migrants and refugees and asylum seekers. Figure 16 in the Annex shows that these trends and patterns are robust across world regions.

Interestingly, policies towards low-skilled workers and labour migrants in general have consistently moved into a less restrictive direction. Indeed, entry for low-skilled workers has been expanded in three aspects over the past decades: First, many governments have facilitated the entry of seasonal workers. For instance, in 2002 Austria prolonged the employment period of seasonal workers to one year and allowed up to 8,000 additional workers annually to enter Austria if working outside of agriculture and tourism. In the same vein, France in 2004 created a temporary residence permit for seasonal workers for up to three years, but required workers to not reside and work in France for more than six consecutive months per year. Second, many governments have facilitates the entry of specific professional categories such as care-givers or domestic workers. For example, the Canadian 'Live-in Caregiver Programme' of 1991 was created to tackle domestic shortages of care and domestic workers through granting those selected the right to apply for permanent residency after two years. In the UK, a domestic workers' visa was also introduced in 1998.

Figure 5 Average change in migration policy restrictiveness for all migrants, all migrant workers, low-skilled workers and high-skilled, students and investors, 1940-2014

Figure 6 Average change in migration policy restrictiveness for family migrants, refugees and asylum seekers and irregular migrants, 1940-2014
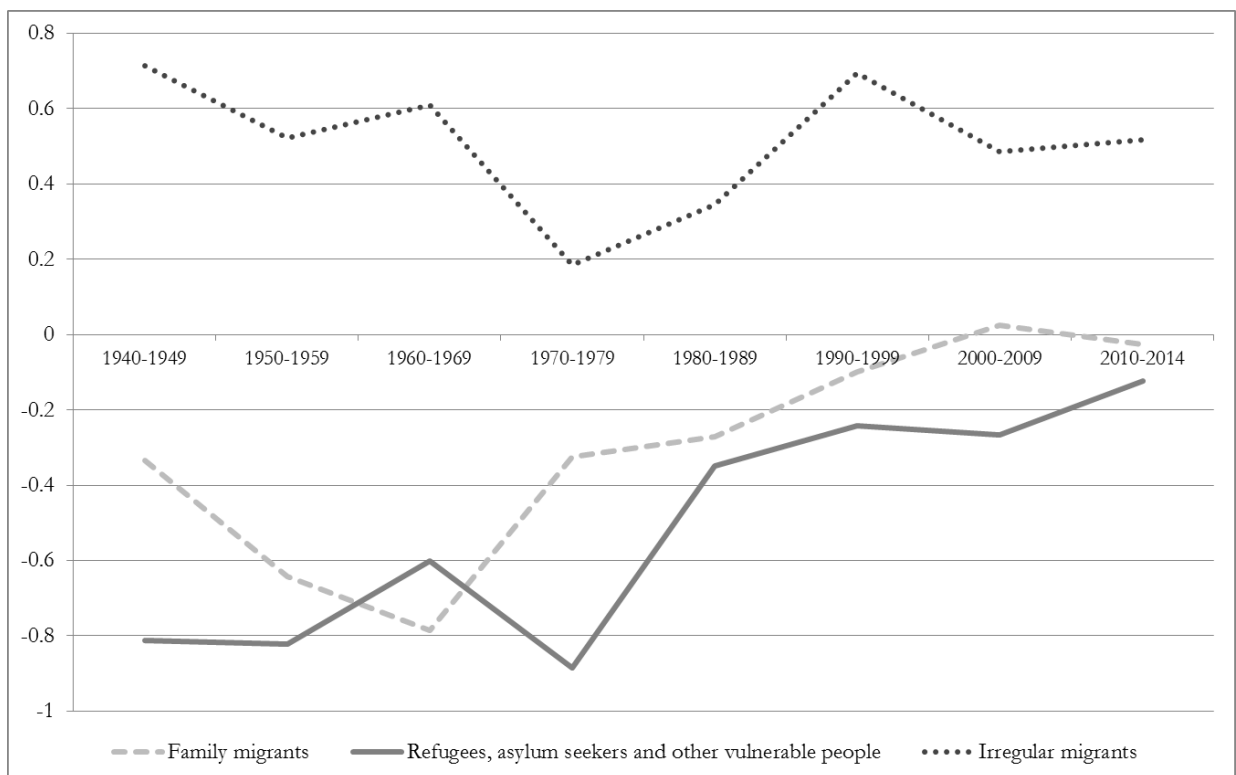
Finally, governments have signed numerous bilateral or multilateral agreements that give preferential entry and stay rights to migrant workers from specific countries, often in the immediate geographical neighbourhood. Although recruitment is often associated with the Europe of the 1950s

and 1960s, DEMIG POLICY shows the continued popularity of bilateral labour agreements in Europe, but also in other world regions. For instance, Greece in 2001 created a seasonal work permit for a maximum duration of six months for workers from countries which had signed bilateral agreements with Greece, such as Albania in 1997 and Bulgaria in 1996. Also, Australia and New Zealand have significantly expanded their Working Holiday Maker Schemes, under which young people from a range of countries are allowed to travel and work in Australia and New Zealand, especially in harvesting and agriculture. Finally, Japan has launched in 2008 the Economic Partnership Agreements (EPA) signed with the Philippines in 2006 and with Indonesia in 2007, which allows Indonesian and Filipino nurse and care workers to be recruited by Japanese employers. Although these programmes give limited rights to low-skilled workers, this somehow contradicts the widely spread idea that low-skilled workers are not granted regular migration opportunities anymore.

Policies targeting skilled migrants have become increasingly popular in the past decades and gained particular strength in the 2000s where they represented more than 10 percent of all policy changes. This particularly pertains to the use of points-based systems, which many governments have come to see as a successful tool to select immigrants on their economic potential for the national labour market in terms of their education, age, income, language skills and professional experience. Classical migration countries played a pioneering role in developing point-based systems. Canada's points-based system was introduced in September 1967 and became the prototype for policies that aimed to match labour market demand and migrant skills. Australia introduced its points-based system, the Numerical Multi-Factor Assessment Scheme (NUMAS), in 1979 and New Zealand followed in 1991. As part of an increasing belief that European countries failed to attract enough skilled migrants, several European countries adopted points-based systems in the 2000s and 2010s.

In 2003 for instance, the Czech Republic introduced its Programme of Active Selection of a Qualified Foreign Labour Force (the programme was terminated in 2010) and in 2006, the UK introduced a comprehensive five-tier points-based system to regulate the entry of high skilled, skilled with job offer, low skilled, students, and others[7]. In April 2007, the Danish Green Card Scheme was created, granting a six-month job search residence permit to those passing a points system and in January 2008, the Netherlands implemented a scoring system for the admission of self-employed persons who are seen to contribute to innovation, employment creation or investment. One year later, the Dutch government introduced the Admission Scheme for Highly Educated Migrants, granting a one-year job search permit to migrants with at least a Master's degree from an internationally recognized university. In July 2011, Austria followed this trend by introducing the 'red-white-red card' for highly qualified persons or skilled workers in shortage professions, as well as international students in search for a job.

Points-based systems for skilled migrants have also spread to Asia. In 2006 China introduced its Quality Migrant Admission Scheme and in 2010, South Korea introduced a points-based system to speed up access to permanent residency for highly skilled workers already living in South Korea for a year. In 2012 Japan also opened a preferential migration channel to grant entry and accelerated access to permanent residence to academics, doctors and corporate executives. This exemplifies that certain migration policies may rapidly diffuse across states, not only because they are perceived as effective, but also because countries may fear that not adopting them may have a negative effect. Points-based

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[7] The new system was gradually launched between 2008 and 2009, but the route for low-skilled migrants (Tier 3) was never implemented and recent amendments have drastically cut access to both high-skilled migrants (Tier 1) and skilled migrants with a job offer (Tier 2).

systems seem a particular case in point: With more and more governments adopting such policies, this incites other governments to follow suit of fear of not being able to attract the 'best and brightest' (Cornelius et al. 2004; Gilardi 2014; Simmons and Elkins 2004).

But policy diffusion may also happen for more restrictive policies. Figure 6 shows that while until the 1980s, states were rapidly expanding the right to family reunification, the relative proportion of restrictive changes has increased since 2000. This reflects the introduction of higher age and income thresholds for family reunification. Also the policy practice of requiring family members to pass specific language and culture tests has spread over the past few years. The Netherlands was the forerunner in this development with its 2006 Law on Integration Abroad. Before entry into the Netherlands, family migrants from specific countries were required to pass a civic integration exam and demonstrate a basic command of the Dutch language. In 2011, the language requirement was raised. Following the Dutch, in 2007 France also introduced a mandatory test for family reunification to be taken in the country of origin. In 2010, Denmark introduced a test verifying Danish language skills and knowledge about Danish society, but this test can be taken in Denmark. In all three instances, applicants have to cover the fees for the preparation and passing of the test.

Irregular migrants are the only category for which policies have consistently moved into a more restrictive direction over the entire post-WII period. This primarily reflects government efforts to strengthen border control and to implement carrier and employer sanctions. However, this overall trend conceals the spread of regularisation practices in European and Latin American countries as a policy response to irregular migration. While throughout the twentieth century many countries have occasionally implemented regularisation campaigns, such as Austria, Belgium, Chile, Hungary or Sweden, they are a recurrent and 'regular' practice in some countries. For instance, eight countries (France, Germany, the Netherlands, Italy, Portugal, Spain, Mexico and Argentina) account for half of all the regularisations recorded in the DEMIG POLICY database. While in France, the Netherlands and Argentina regularisation programmes are a long-standing practice, Germany's and Mexico's regularisation programmes initially responded to refugee immigration and have subsequently been expanded to include irregular migrants more generally. In Argentina, regularisation has also become increasingly popular in parallel to the implementation of free mobility within the MERCOSUR region, in which irregular migrants from MERCOSUR already living in Argentina were granted regular status.

In Southern European countries, regularisations have become a common policy reaction to large-scale irregular migration following their transformation into net immigration countries. The seven big Italian regularisation programs, so-called *sanatoria* (1986, 1990, 1995, 1998, 2002, 2009 and 2012) granted regular status to over 1.75 million foreign citizens while in Spain more than 1.4 million migrants have been regularised since the mid-1980s, two thirds of them since 2001 (campaigns were launched in 1985, 1991, 1996, 2000, 2001, 2005 and 2006). Also non-European countries have tacitly implemented regularisation programmes in the past ten years. South Korea introduced a series of amnesties for irregular unskilled workers in 1992 and again in 2004 in parallel to the implementation of the new Employment Permit System. South Africa granted regular status to more than 680,000 nationals of neighbouring countries through regularisation programs in 1996, 1999 and 2010. The most recent example of regularisation practices can be found in Morocco's 2014 exceptional regularisation campaign for irregular migrants, which is expected to regularise up to 25,000 irregular migrants staying in Morocco.

Perhaps surprisingly, policies towards refugees and asylum seekers have, on average, tended into a less restrictive direction. Although the proportion of restrictive changes has clearly increased

since the 1980s, the average direction of change has stayed below 0. While the immediate post-WWII period witnessed the enshrining of international legal norms in the treatment of refugees through powerful instruments such as the 1949 Geneva Convention or its 1967 Protocol, recent asylum policies have taken a comparatively more restrictive turn, such as through an increasing use of detention, expulsion and the adoption of the 'safe country of origin' principle. The latter principle emerged at the end of the 1980s and allows countries to restrict access to the national asylum system to people originating from a countries designated as 'safe' and/or to all people arriving via countries regarded as 'safe'.

One of the first countries introducing this rule was Denmark in 1986, allowing border guards to refuse spontaneous asylum seekers at the border when arriving from a 'safe' country. In 1990, Switzerland introduced a safe country list and in 1991 Austria. In 1992, Germany introduced this principle as a reaction to the peak in asylum applicants (1.1 million asylum seekers applied for refugee status in Germany between 1988 and 1992). In 1993, Finland followed the trend, in 1994 the Netherlands and in 1996, the UK and Luxembourg. This made it possible for European countries to refuse nearly all refugees coming overland from neighbouring countries. Interestingly, although first a response to asylum entries from the Eastern Bloc, countries in that region also started introducing safe country rules: Poland and Russia in 1997, Slovenia and the Czech Republic in 2000 and Slovakia in 2002. This was also in anticipation of some of these countries' entry into the European Union in 2004. More recently, countries outside of Europe have also adopted this rule, such as for instance South Africa in 2000 and Japan in 2003.

The diffusion of the safe third country principle illustrates how policies can quickly spread among countries in response to similar events, such as the fall of the Iron Curtain, or because countries are adapting to regional directives in the framework of regional bodies such as the EU (Cornelius et al. 2004; Gilardi 2014; Simmons and Elkins 2004). Also, if neighbouring countries adopt more stringent policies towards asylum seekers, this may create a fear of 'spatial substitution' (de Haas 2011) by deflecting migration to countries which have not adopted such policies. Irregular migrants and refugees have become an especially important target of policy changes starting in the 1980s and peaking in the 1990s, when more than 13 percent of all measures enacted targeted irregular migrants and nearly 23 percent targeted refugees and asylum seekers. The concurrent growth of measures towards irregular migrants and refugees may reflect how these two populations have largely been confounded, as asylum seekers are often perceived as irregular economic migrants, while irregular immigrants regularly include groups of asylum seekers. The perception in public discourse that these two groups are entangled might have fuelled the impression of parallel restrictive policy making targeting both groups.

6 Conclusion

Drawing on the new DEMIG POLICY database, comprising over 6,500 migration policy changes in 45 countries, this paper has demonstrated that since 1945, migration policies have been consistently dominated by *less* restrictive changes. This finding challenges common assumptions that migration policies have become increasingly restrictive. Although this trend is robust across a large number of countries and regions, it has not been linear and differs across different types of policy and migrant categories: The 1955–1985 period was characterised by an accelerated liberalisation of entry and post-entry rights for most migrant categories as part of major overhauls of national migration regimes. This trend decelerated after 1990 when the number of more restrictive policy changes started to approach the number of less restrictive policy changes. Besides restrictive measures in the area of border controls,

expulsion and irregular migration, this pertained to efforts by governments to gradually restrict the immigration of family migrants of low-skilled workers, as well as asylum seekers in certain countries.

On the one hand, this may seem to challenge the argument that the curtailment of migrants rights are hindered by international and national legal obligations (cf. Hollifield 1992). On the other hand, there are clear legal constraints with regards to the extent to which the rights of family migrants and asylum seekers can be curtailed, as is clear from the fact that restrictive policy decisions are regularly overturned by national and European courts (Joppke 2001). For instance, while several governments have attempted to restrict the right to family reunification, they have not entailed a reversal or abolishment of the general right to family reunification introduced in the 1950s and 1960s. The impact of such 'backtracking' has therefore been limited. In the same period, many governments have also facilitated the migration of family members of skilled migrants for instance. This explains why the average direction of change of family reunification policies has hovered around zero since 2000. Overall, it is also important to emphasise that the period after 1990 was characterised by a deceleration of liberalisation, not by a reversal towards more restrictive policies, as less restrictive changes have continued to outnumber more restrictive changes, particularly with regards to rights to legal entry and stay as well as post-entry rights.

The analysis in this paper has also exemplified the limited methodological value of a one-sided focus on 'overall restrictiveness', which conceals the significant underlying structural changes that migration policies have undergone over the past decades. These structural changes pertain to an increasing sophistication of migration policy regimes, which are more and more aimed at affecting the selection – rather than the volumes – of migration. In other words, notwithstanding political rhetoric focusing on limiting the numbers of migrants coming in, the real aim of migration policies is to increase the ability of states to control *who* is allowed to immigrate regularly and who is not. The paper suggests that a new layer of selection, based on criteria such as skill, wealth or family characteristics of migrants, has been superimposed on national or ethnic origin criteria which dominated earlier policy making. While generic nationality or 'racial' bans have been abolished, nationality is still a selection tool today and has been complemented by mechanisms which regulate access of non-desired nationalities through skill, wealth and other criteria.

This may provide evidence for the idea that migrants have been increasingly 'commodified' as part of the framing of migration within utilitarian discourse focusing on the purported economic 'value' of migrants. Indeed, the growing sophistication of migration policies has been driven by the development of increasingly specific and differentiated policy instruments targeting particular immigrant groups. The paper also finds that this emphasis on selection happens across countries included in DEMIG POLICY. This corroborates the idea put forward by Cornelius et al. (2004) that there is a certain convergence of migration policies across Western countries. Our analysis suggests also that this trend now includes increasing numbers of countries from the 'global south', who have adopted ever more sophisticated migration policies focusing on selection. This is illustrated by the worldwide adoption of policy instruments such as recruitment policies, point-based systems, carrier and employer sanctions and an increasing emphasis on border controls.

One of the most surprising results was that not only immigration policies towards categories such as the skilled, family migrants and students, but also policies towards low-skilled labour migrants have consistently moved into a *less* restrictive direction. This questions policy and scholarly narrative according to which the high-skilled are increasingly welcomed while low-skilled workers are more and more shunned. While entry rules have become less restrictive for most migrant categories, restrictive measures world-wide have increasingly focused on (highly visible) border control, surveillance and

coercive expulsion policies. This points to a significant discursive gap (see Czaika and de Haas 2013) between the 'tough talk' of politicians aiming to attenuate public fears about immigration and the actual policies on paper, which are often responsive to powerful business and trade lobbies who push for more flexibility in immigration regimes (cf. Facchini, Mayda and Mishra 2011).

This discursive gap seems to support the hypothesis that migration policies are often primarily about giving the *appearance* of control (Massey et al. 1998: 288), as the increase in control policies such as border patrolling, the erection of walls and fences, immigrant detention and expulsion are not paralleled by a decrease in the actual entry and stay *rights* attributed to migrants, with the only exception of irregular migrants. The recent increase in the number of new surveillance and border control measures may confirm the idea that migration policies have a strong 'performative' dimension and the greater exposure of the public to restrictive policies can be interpreted as ways to 'advertise' governmental efforts to control migration, creating a the desired, but flawed, impression that policies have become increasingly restrictive.

Such nuances, however, do not contradict the more general idea that migration policies have increasingly favoured the entry of the already privileged from around the world. While states may have a limited ability and also willingness to prevent the entry of less advantaged immigrant groups such as low-skilled workers, their family members and asylum seekers, they have often attempted to curtail their rights as far as legal constraints allow, such as through introducing travel visa, raising eligibility criteria and more stringent implementation practice. While such measures have limited effects on the number of immigrants, they have made these groups often even more vulnerable, for instance by pushing asylum seekers into situations of irregularity (cf. Czaika and Hobolth 2014) or increasing the exploitation of irregular migrants on labour markets and their dependence on informal, and increasingly criminal, networks and institutions (cf. Broeders and Engbersen 2007).

This leads to a final word of caution on the limitations of analysing policies on paper (as we did) because they do not assess how such policies are implemented. Implementation is not only dependent on resources, but also on perceptions, interpretations, morals, values and routines of state and non-state workers involved the day-to-day carrying out of policy measures (cf. Infantino 2013). This implies that implementation can both be more stringent or more relaxed than the policies on paper suggest, and this may vary over time, particularly depending on political incentives. For instance, in times of high economic growth and low unemployment there is often political pressure to turn a blind eye towards entrepreneurs employing irregular workers. In the same vein, asylum recognition rates can vary hugely across countries and over time as there is huge room for discretion. However, this observation does not undermine the central observation of this paper that, since 1945 immigration policies have, overall, become consistently *less* restrictive, which challenges policy and scholarly discourses suggesting the contrary.

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Annex

Table 1: Time coverage of countries' migration policies recorded in DEMIG POLICY

Before or since 1850	Since 1900	Since 1918	Since 1945	Since 1990
Argentina, Canada, Chile, France, Mexico, New Zealand, United States	Australia, Brazil, South Africa, United Kingdom	Austria, Belgium, Czechoslovakia (until 1990), Finland, Germany, Greece, Iceland, Italy, Russia, Spain, Sweden, Switzerland, Turkey, Yugoslavia (until 1990)	China, Denmark, German Democratic Republic (until 1990), Hungary, India, Indonesia, Ireland, Israel, Japan, Luxembourg, Morocco, Netherlands, Norway, Poland, Portugal, South Korea	Czech Republic, Slovak Republic, Slovenia, Ukraine

Table 2: Number of migration policy changes per country recorded in DEMIG POLICY

Under 100	Between 100 and 150	Between 150 and 200	Over 200
Chile, China, Czechoslovakia, German Democratic Republic, Iceland, India, Indonesia, Israel, Ukraine, Yugoslavia	Brazil, Czech Republic, Denmark, Finland, Greece, Hungary, Ireland, Japan, Luxembourg, Morocco, Poland, Russia, Slovak Republic, Slovenia, South Korea, Turkey	Argentina, Austria, Belgium, Italy, Mexico, New Zealand, Norway, Portugal, South Africa, Sweden, Switzerland, United Kingdom	Australia, Canada, France, Germany, Netherlands, Spain, United States

Table 3: Geographical clustering of countries recorded in DEMIG POLICY

EU15 and EFTA countries	Traditional immigration countries	Latin American countries	Asian countries	Eastern Bloc countries	African and Middle Eastern countries
Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom	Australia, Canada, New Zealand, United States of America	Argentina, Brazil, Chile, Mexico	China, India, Indonesia, Japan, South Korea	Czech Republic, Czechoslovakia, German Democratic Republic, Hungary, Poland, Russia, Slovak Republic, Slovenia, Ukraine, Yugoslavia	Israel, Morocco, South Africa, Turkey

Figure 7: Average change in migration policy of restrictiveness change by policy area across regions since 1945
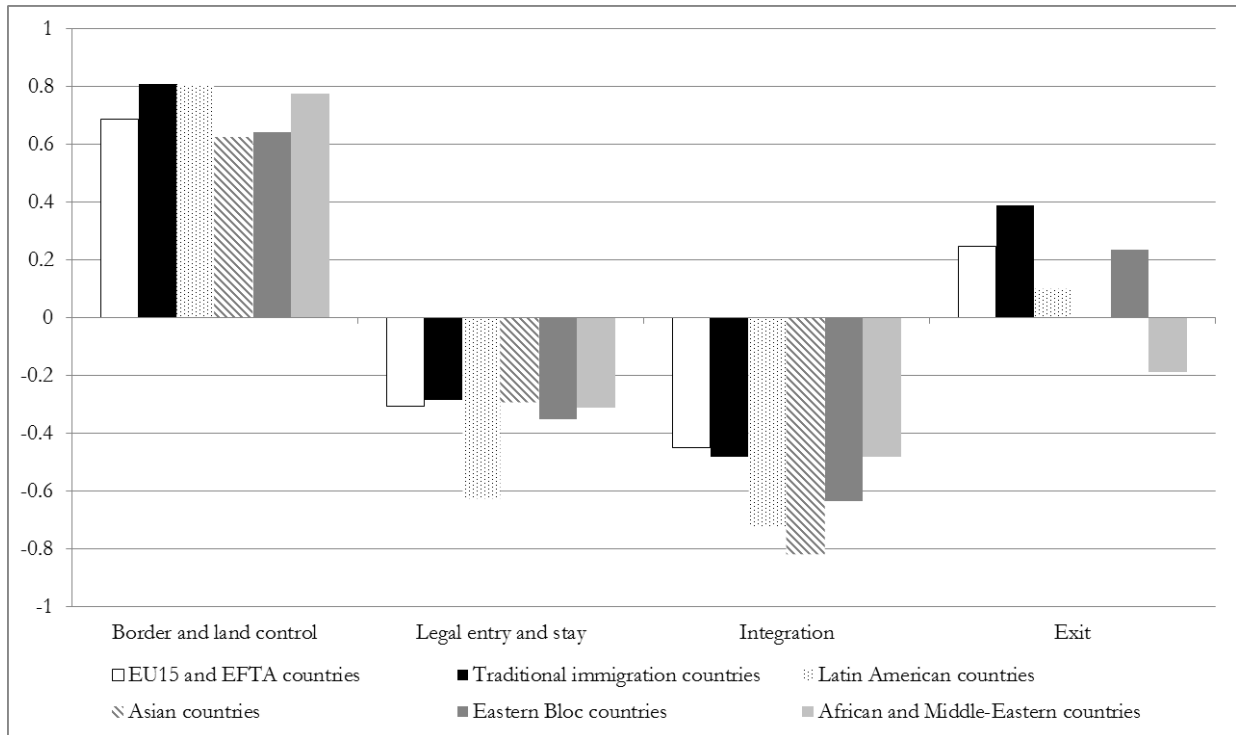

Figure 8: Average change in migration policy restrictiveness, simple average and average weighted according to the magnitude of changes, 1945-2014
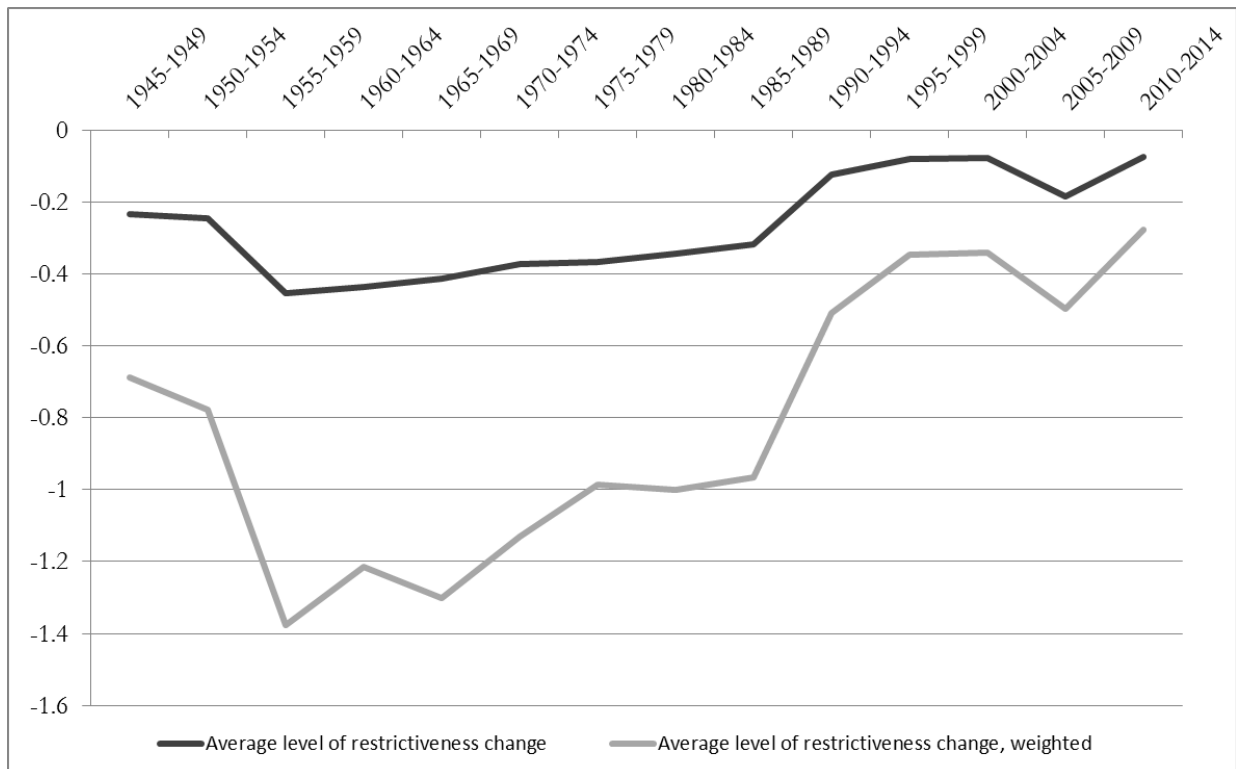
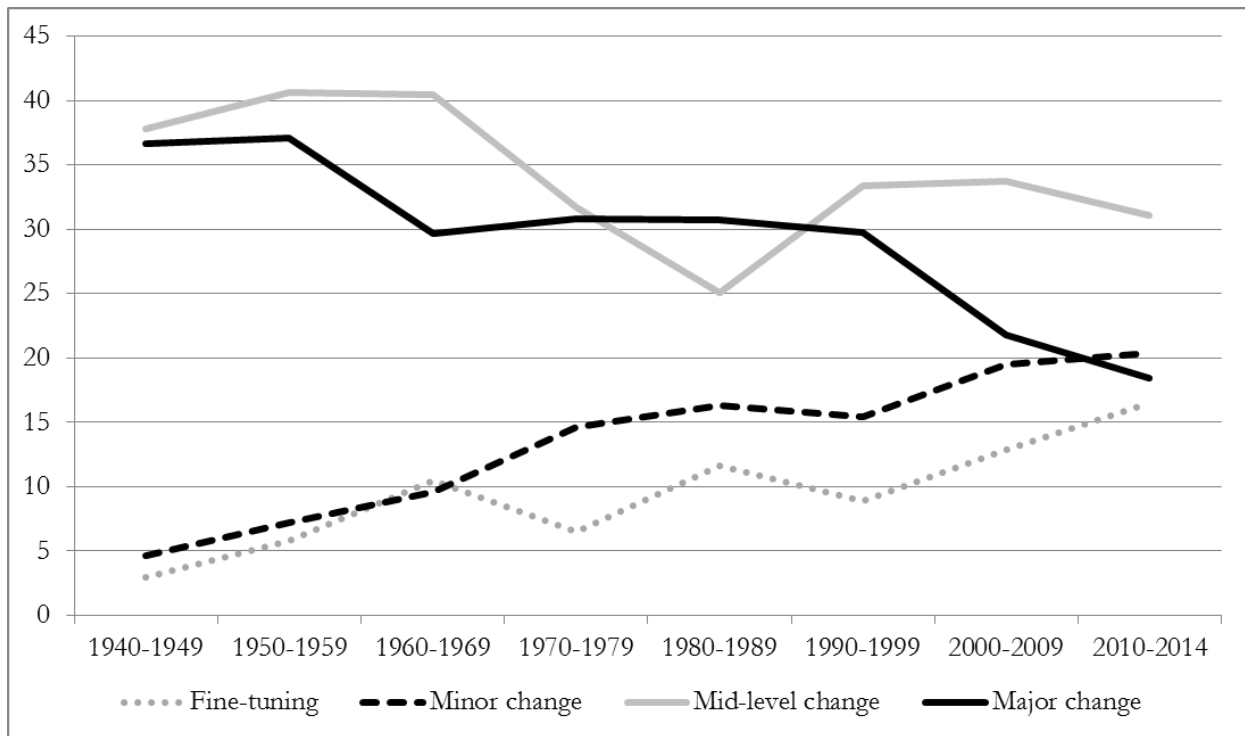**Figure 9: Prevalence of magnitude in migration policy changes, 1945-2014**

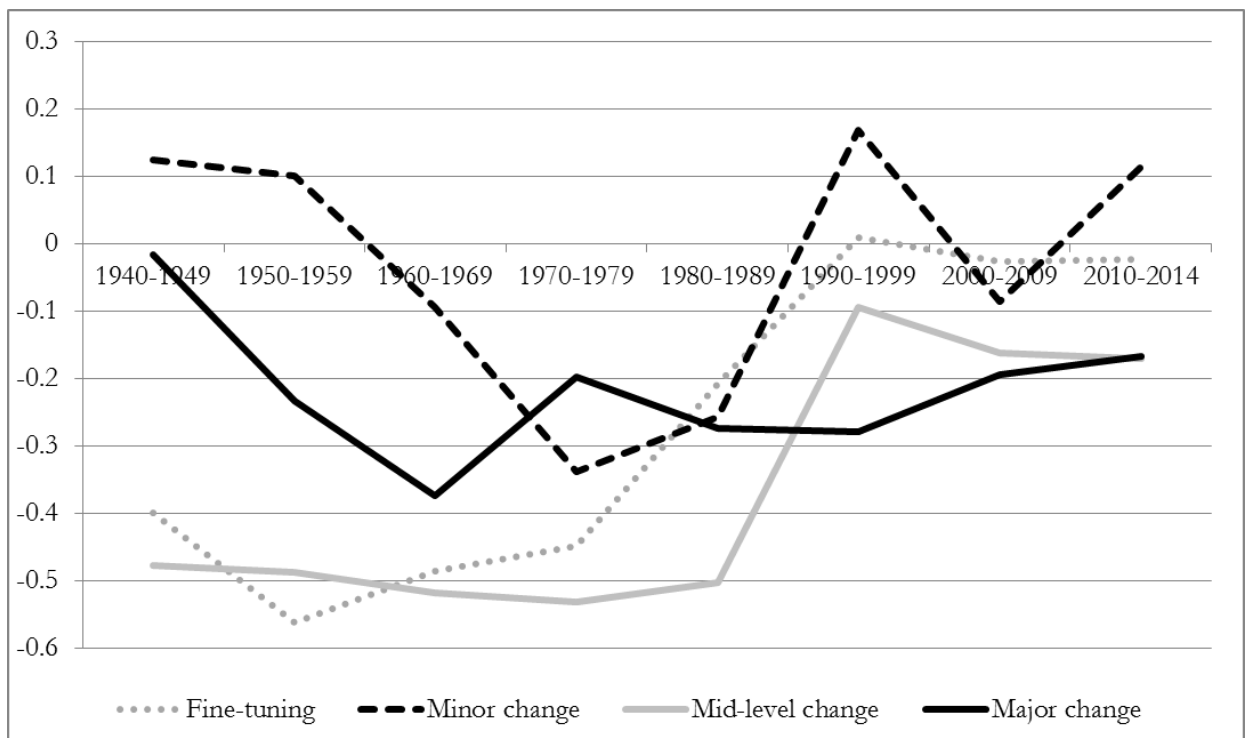**Figure 10: Average change in migration policy restrictiveness by magnitude of policy change, 1945-2014**

Figure 11: Average change in migration policy restrictiveness by countries since 1945, not weighted
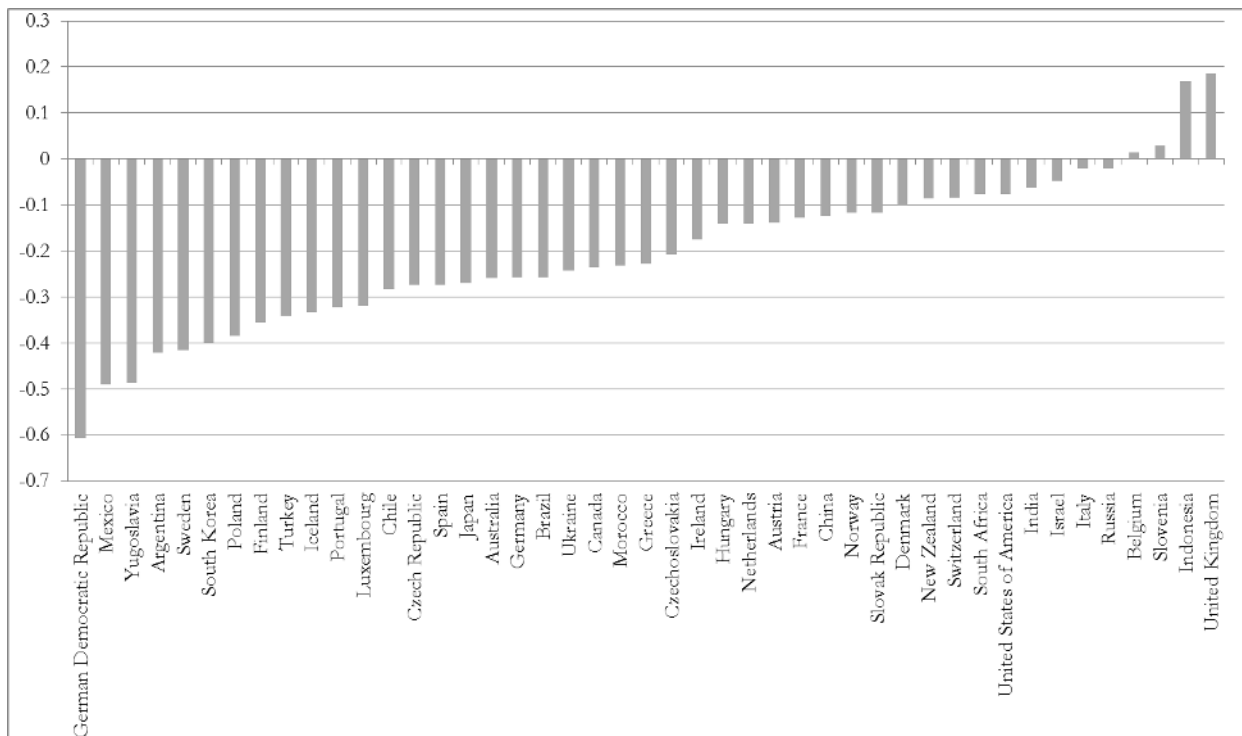

Figure 12: Average change in migration policy restrictiveness by countries since 1945, weighted according to magnitude of policy change
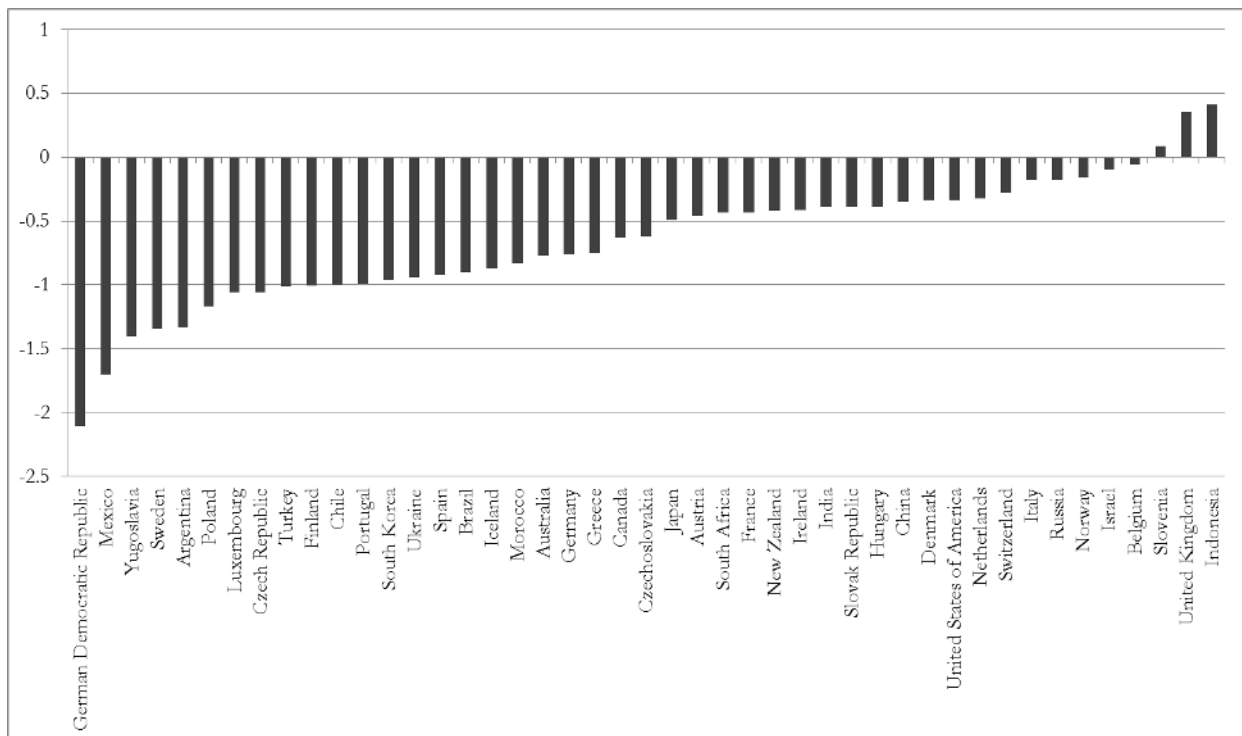
Figure 13 Relative importance of national origin in new migration policies, 1945-2014
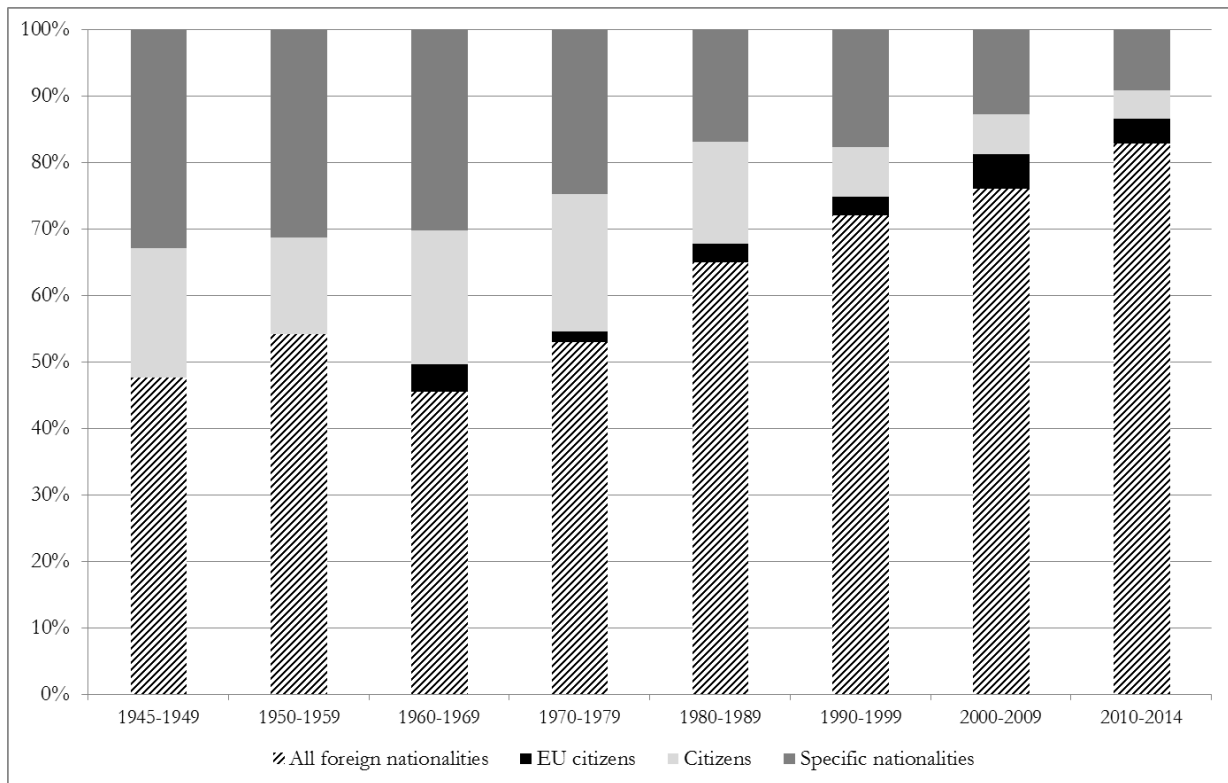

Figure 14 Average change in migration policy restrictiveness for policies targeting 'all foreign nationalities' and 'specific nationalities', 1940-2014
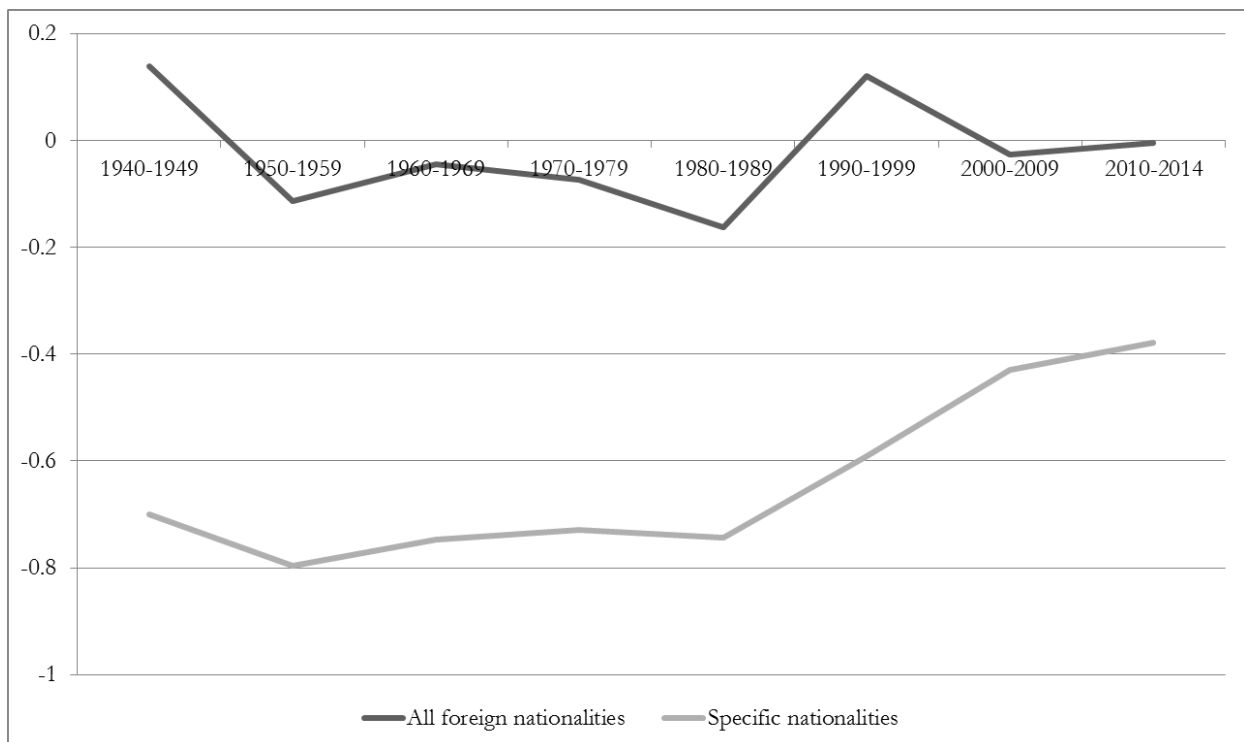
Figure 15 Relative importance of target groups in migration policies, 1945-2014

- ■ All migrants
- ■ Low-skilled workers
- ▒ Family migrants
- ▨ All migrant workers
- ▧ High-skilled, students, investors and their families
- ■ Irregular migrants
- ∴ Refugees, asylum seekers and other vulnerable people and their families
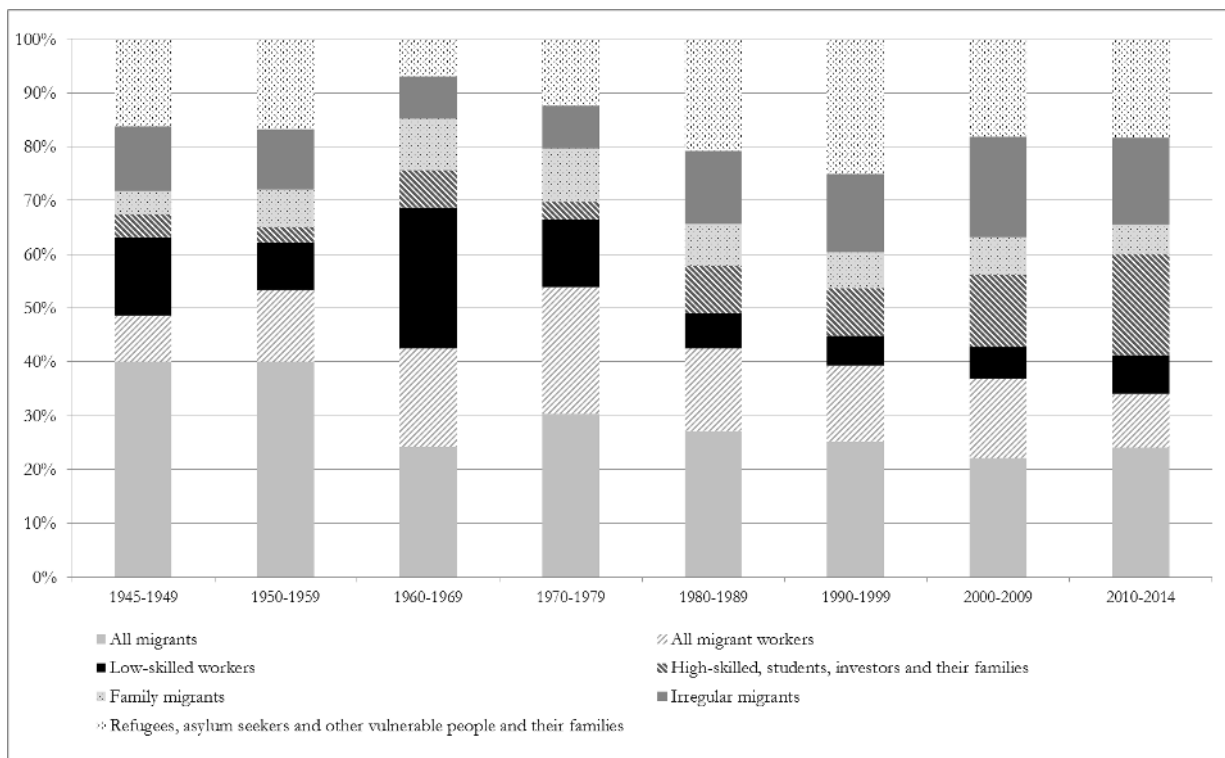
Figure 16 Average change in migration policy restrictiveness by target group across regions since 1945

- □ EU15 and EFTA countries
- ■ Traditional immigration countries
- ▒ Latin American countries
- ▨ Asian countries
- ■ Eastern Bloc countries
- ▨ African and Middle-Eastern countries