

## Chapter 3

# Irregular Migration Theories



While in Chap. 2 a general and introductory overview of the main research lines on irregular migration was presented, in this chapter the focus will centre on the theoretical accounts that have been proposed to explain irregular migration. The aim is to analyse how the main research question of this book – how can irregular migration be explained? – has been addressed and what have been the main theoretical hypotheses proposed so far. The chapter will be divided into four parts. In the first part, the so-called gap hypothesis and the debate that has surrounded it will be discussed. This debate is particularly relevant for the discussion because the arguments and positions that have emerged in that context have strongly influenced the theoretical treatment of irregular migration. Since irregular migration was one of the main indicators of the existence of a gap between policy goals and outcomes, the explanations for the latter became an immediate way to understand the former. Irregular migration, from this perspective, was interpreted as the result of whether policy failure or policy choice. As the debate evolved, interpretations become more varied and the two phenomena were more clearly distinguished. Nevertheless, the gap logic remained the dominant framework behind most theories of irregular migration. Accordingly, almost all these theories, although in different ways, have followed one of two basic arguments that have been offered to explain the gap hypothesis. In the second part of the chapter, those theories that have followed the first argument, i.e. the idea of irregular migration as the result of states' diminished control capacities will be presented. In the third part, the theories influenced by the second argument, i.e. irregular migration intended as the outcome of states' implicit or explicit choices will be discussed. Finally, in the last part, there will be a critical discussion of the strengths and weaknesses discernible in the current theoretical understanding of irregular migration.

### 3.1 The Gap Hypothesis Debate

In their 1994 book *The ambivalent quest for immigration control*, Cornelius, Martin and Hollifield (Cornelius, Martin and Hollifield, 1994), after having comparatively analysed the immigration policy and policy outcomes in nine industrialized democracies, proposed two interrelated theses. On the one hand, they suggested a “convergence hypothesis”. This stated that a growing similarity was observable among the states they had analysed, in particular concerning: the policy instruments adopted to control immigration; the results of immigration control measures; social integration policies; the public opinion reaction to immigration flows and governments efficacy. On the other hand, they suggested a “gap hypothesis”: “the gap between *goals* of national immigration policy (laws, regulation, executives actions, etc.) and the actual results of policies in this areas (policy *outcomes*)”, they wrote, “is wide and growing wider in all major industrialized democracies, thus provoking greater public hostility towards immigrants in general (regardless of legal status) and putting intense pressure on political parties and government official to adopt more restrictive policies” (Cornelius et al., 1994, p. 3). Irregular migration, from their perspective, was the result of “the administrative, political and economic difficulties that hinder the enforcement of laws and regulations against it in open and pluralistic societies” (Cornelius et al., 1994, p. 4). These difficulties responded to various factors, but two seemed crucial: the strength of push and pull forces that strongly encouraged migrations, and the rise of rights-based politics that severely limited states’ capacities.

The book was not the first to address these issues. Especially in the US, there had already been many contributions on irregular migration and control policies (Bean, Edmonston, & Passel, 1990; Chavez, 1991; Chiswick, 1988; Cornelius, 1982; Espenshade, 1995; Hollifield, 1992; Massey, 1987; Passel, 1986; Piore, 1980; Portes, 1978; Portes & Bach, 1985). However, Cornelius, Martin and Hollifield’s work was able to reframe the debate around its theses and to orient much of the debate in the years that followed. As a demonstration of this, there exists a large number of books and articles that have explicitly referred to the gap hypothesis, either contesting it, supporting it or developing it (Castles, 2004; Cornelius & Rosenblum, 2005; Cornelius & Tsuda, 2004; Czaika & de Haas, 2011; Freeman, 1995; Guiraudon & Joppke, 2001; Guiraudon & Lahav, 2000; Joppke, 1998a, 1998c; Lahav & Guiraudon, 2006; Sassen, 1996; Zolberg, 2000). In particular, two issues have animated this debate: firstly, the actual existence and the possible “size” of the gap; secondly, the nature and origin of the gap.

#### 3.1.1 *Is There a Gap?*

Many contradictory positions have emerged regarding this question. A number of scholars have been critical of the very concept of a “gap hypothesis”. Joppke, for instance, has argued that the notion of an emergent gap between policy goals and

policy outcomes may suggest that there has been a moment in which these two coincided. In particular, regarding migration, it may be that, at a certain point in history, states, on the basis of their absolute sovereign power, had been perfectly able to control the movements of populations. This notion, however, “is premised on a simplistic and static notion of sovereignty, thus denying its historical variability and chronic imperfection” (Joppke, 1998c, p. 267). Building on this critique, Joppke suggested that the gap is an inevitable fact, and that what needs to be hypothesized is not its existence, but rather its magnitude and causes. Since sovereignty has rarely been absolute, the attention should centre on the degree to which states are able to implement rules and on the reasons that strengthen or weaken that capacity.

The bulk of the debate has focused on the real extent to which states may or may not be losing control over migrations (for a review of this debate see: Czaika & de Haas, 2011; Schinkel, 2009). In this respect, two main positions have developed. On the one hand, there are those who believe that states have lost much of their power to control migrations and that policies have become largely ineffective (Castles & Miller, 1993; Cornelius et al., 1994; Cornelius & Tsuda, 2004; Jacobson, 1996; Sassen, 1996, 1998). These positions have resonated with the broader idea, developed by globalization theorists, that states are slowly losing their prerogatives and becoming a “zombie-category” (Schinkel, 2009). On the other hand, there are those who contest this hypotheses and believe, instead, that the power of states and their efficacy have actually increased (Brochmann & Hammar, 1999; Freeman, 1995; Guiraudon & Lahav, 2000; Joppke, 1998c). From this perspective, the gap between goals and outcomes in migration management has not to do with a diminished capacity, but with states’ choices or states’ self-limitation.

In a recent article, Czaika and de Haas have extensively analysed how this debate has evolved through the 2000s (Czaika & de Haas, 2011). Whereas the two positions had initially been mainly theoretical, as time passed, the arguments have been strengthened on the basis of empirical researches. The increased availability of data and of case studies, however, has not been sufficient to solve the dispute. In fact, the divide has expanded as the results obtained through quantitative analysis (policies are effective) and those obtained through qualitative ones (policies are not effective) have delivered contrasting responses. “How” then “can we explain that various migration policy instruments turn out to be significantly effective, and that, nevertheless, migration policies are often perceived as not reaching their stated and intended objectives?” ask Czaika and de Haas (2011, p. 4). In the authors’ opinion, this seemingly unsolvable incongruence has to do with the conceptual confusion and the lack of precision that have generally characterized the theoretical debate. In particular, the authors have underlined three critical aspects. Firstly, they have argued that there has been ambiguity behind the concept of policy effectiveness. Does it refer to, and does it have to be measured in relation to, the desired effect or to the actual effect of policies? Secondly, there has been little attention paid to distinguishing the different time-scales and levels of aggregation within which policies act. “The empirical literature on policy effects generally focuses on the effects of *specific* measures on *specific* (primarily legally defined) categories of migration over relatively limited time periods, the qualitative literature on migration policy

effects tends to address the effects of *overall* levels of policy restrictiveness on *overall* (gross) and long-term volumes, trends and patterns of international migration” (Czaika & de Haas, 2011, p. 4). Finally, there has been a problem regarding the difference between what is stated in policy discourses or even in laws and what is effectively implemented.

### 3.1.2 What Gaps?

The points proposed by Czaika and de Haas, actually resume a line of criticism that emerged after the gap hypothesis was proposed. Many scholars, in fact, departing from marked evidence that policy discourses could not be taken as policy enactments, started to analyse the different dimensions that the gap hypothesis included within its main idea. Not only was it possible to recognize a gap between policy goals and policy outcomes, but one could also be observed between policy discourses and policy implementation. Along this path of enquiry, a number of other gaps have been identified which have been particularly interesting in relation to the interpretation of irregular migration (Cornelius & Tsuda, 2004; De Genova, 2004; Lahav & Guiraudon, 2006). The main gaps that have been identified will be discussed, following the threefold scheme proposed by Czaika and de Haas (Czaika & de Haas, 2011, pp. 18–23), and a fourth gap will be added, which they have not considered.

The first gap is the so-called discursive gap. This gap deals with the distance that is always discernible, in all political contexts, between what is stated in political discourses and what is then actually put into effect in laws, measures and regulations. Accordingly, it would be a mistake to measure policy effectiveness in relation to policy discourses. A much more accountable benchmark for a realistic evaluation would be to consider what is actually written in the executive dispositions. This issue, as many scholars have underlined, has become particularly relevant since the migration crisis of the 1990s. In fact, the widespread anxieties about migration and the strong politicization that followed in many countries determined an escalation of the anti-immigrant rhetoric by both politicians and administrators. While this has certainly implied a change in the discourses and the promise of many and widely-publicized super-restrictive initiatives, a closer analysis of the actual decisions may suggest a milder reality. As a matter of fact, an objective evaluation of policies has become increasingly difficult. Within this context, moreover, various scholars have detected the spread of what has been called “symbolic policies”, i.e., policies focused more on publically suggesting severity rather than on actually achieving it (Andreas, 1998; Castles, 2004; De Genova, 2004; Freeman, 1995; Massey et al., 1998). A number of factors have been put forward in relation to the discursive gap: the existence of hidden agendas; the role of populist politics; the diversified social interests; the complexity of the policy-bargaining once television cameras are switched off; the various political, legal, economic domestic and international constraints; the fact that migration discourses are general and migration policies are specific (Castles, 2004; Cornelius & Tsuda, 2004; Czaika & de Haas, 2011).

The second gap is the so-called implementation gap. Here the problem is related to the distance existing between what is written in the papers regarding laws, measures and regulations, and what is actually implemented by the administrations at their various levels. From this perspective, it would be equally misleading to evaluate policy effectiveness in relation to what is stated in the official documents. In fact, a crucial and decisive element regarding migration policies concerns how they are effectively implemented. Also in this case, various causes may determine a greater or smaller implementation gap: the peculiar national regulatory styles and traditions; the organizational culture of bureaucracies and the degree of discretionality; the grade of insulation of bureaucracies from external pressures; possible intra-administration conflicts or scarce coordination; the social attitude towards and toleration of informality; budgetary constraints; corruption (Cornelius & Tsuda, 2004; Czaika & de Haas, 2011; Guiraudon & Lahav, 2000; Jordan, Str ath & Triandafyllidou, 2003; Lahav & Guiraudon, 2006; Van Der Leun, 2003). The implementation gap not only poses conceptual difficulties but also methodological ones. It is self-evident that researching on the daily work of thousands of street-level bureaucrats or quantitatively measuring implementation could prove to be a prohibitive task.

Czaika and De Haas have referred to the third gap as the efficacy gap, meaning: “the extent to which a change in an effectively implemented policy has the capacity to produce an effect” (Czaika & de Haas, 2011, p. 22). The point here is that even a meticulously written, grounded and implemented policy may reach different results from those expected. The measurement of the efficacy gap may vary from complete failure to a very close attainment of the desired effects. The variables that intervene at this level have to do with the fact that policies do not act in a social void; on the contrary, they interact with a complex and dynamic web of actors and forces that have their own goals and strategies. In this regard, a number of possible limitations to policy effectiveness need to be considered: unintended consequences; implementation failure; unexpected interactions with other policies; counterstrategies on the part of migrants. Moreover, a temporal factor needs to be taken into account. Whereas the effects of a policy may appear satisfactory in the short run, in the medium, long run they could become ineffective or even counterproductive. With respect to this, Freeman (1995) has explicitly talked about the “temporal illusion” of migration policy: “the effects of migration tend to be lagged; the short-term benefits oversold and the long-term costs denied or hidden to show up clearly only in the outyears” (Freeman, 1995).

A fourth gap, very much related to the third, could be referred to as the knowledge or epistemological gap. This gap is concerned with the limits inherent to all processes of knowledge production that are the necessary preceding step for policy design and implementation (Bommes & Kolb, 2002; Engbersen & Broeders, 2009; Freeman, 1995; Scott, 1998). The simplest example of this gap may be found in the impossibility to precisely count irregular migrants. How could a policy be effective if it is directed towards a phenomenon that is not even possible to quantify? Yet, limiting to the counting problem risks understating the magnitude of the issue. In fact, the problem lies not only in having to deal with the impossibility of using statistical tools or producing rigorous numerical figures, but it also lies in the

complexity of social interactions and the impossibility of producing accurate, all-embracing descriptions of it. The “illusion of control”, that the discussed gaps have evidenced, has perhaps primarily to do with the “illusion of knowledge”. The knowledge gap calls attention to this point: every perspective is a partial, imperfect and inevitably biased viewpoint on reality. It, therefore, affects those who deliver policy discourses, those who write laws, regulations and measures, those who produce white papers, those who implement policies and, of course, those who study the effects of those policies.

Considering the logic behind the four types of gaps, it seems possible to clearly distinguish two main explanations. The efficacy and knowledge gap explains the mismatch between policy goals and outcomes as the result of state failure, despite its efforts. The discursive and implementation gap, on the contrary, suggests a certain degree of complicity on the part of the state, and the mismatch as a somewhat intentional outcome. Although the theories advanced to explain irregular migration have offered a great variety of explanations, they all seem to generally follow one of these two rationalities. For this reason, as the attention will now shift to these theories, two main groups will be distinguished (Table 3.1).

### 3.2 Irregular Migration as States’ Failure

The focus of the discussion will now move to the theories and hypotheses that, implicitly or explicitly, have proposed an explanation for irregular migration. Rather than presenting the different approaches following the theses of single scholars, disciplinary distinctions, or chronological accounts, the choice has been to try to identify the main, broad explanatory lines that have emerged in literature. Obviously, this choice is arbitrary and offers both advantages and problems. The advantages of this strategy are that they not only allow one to overview an extensive literature in a limited space but it consents one to remain focused on the theoretical arguments, which are the main issue of this discussion. The problems are that this approach certainly implies the use of certain simplifications that cannot reflect the integrity of some arguments. To make explicit this strategy and its intentions may not solve the related problems, but it can draw attention to them and to the inherent limits of this approach. Then, if it is true that each of the theories that will be presented has a logical independence, and for this reason they will all be discussed separately, in many cases, they have been presented in various combinations.

The group of theoretical explanations that will be discussed in this section shares a common perspective: the idea that irregular migration is the result of states’

**Table 3.1** The gaps

Discursive gap	<b>Irregular migration as states’ choice</b>
Implementation gap	
Efficacy gap	<b>Irregular migration as states’ failure</b>
Knowledge gap	

increasing inability to control international migrations. While this general idea is common to all of them, different positions have emerged regarding its extent. The most radical accounts have certified that states have lost control over their populations; in contrast, more nuanced ones have considered states to be still in control but in the process of weakening. There have been three main explanatory hypotheses as regards irregular migration being the result of states' ineffectiveness. A first approach has explained irregular migration as the result of the intrinsic and inevitable limitations of state mechanisms and policies. A second approach has focused on the role of those actors, forces and processes that, acting from outside the state, have been slowly eroding its prerogatives and control capacities. Finally, a third approach has concentrated on those actors, forces and processes that, acting from inside the state, have diminished its ability to manage migrant populations.

### ***3.2.1 Intrinsic Limitations of States and Policies***

Various scholars have explained irregular migration as the result of the internal, inescapable limitations that states experience concerning their control abilities. These interpretations have focused on the concrete difficulties found by states in developing effective mechanisms, systems and procedures to control a complex social phenomenon like migration. While the self-narrative built by modern states had envisaged the myth of absolute control over the population, in reality, even the most powerful and pervasive states have reached, at maximum, a high degree of control, but never total (Broeders, 2009; Van Meeteren, 2010).

As argued by Torpey: "in order to extract resources and implement policies, states must be in a position to locate and lay claim to people and goods" (Torpey, 1998, p. 244). In order to do that, states need not only to penetrate societies but also to "embrace" them. This latter metaphor that Torpey uses, highlights the complexity of the task; indeed, it is not only a question of setting up a bureaucracy or monopolizing the legitimate means of violence, but it is a matter of successfully registering all members of society and the main transactions that take place. As was discussed in Chap. 1, this effort by states to "enhance their grip on societies" (Broeders, 2009) has taken place in a very uneven way and has produced different results across history and geography. In this respect, Schrover and her colleagues have suggested that differences must be related to the particular processes of state formation in each case (Schrover, Van Der Leun, Lucassen, & Quispel, 2008). Other scholars have suggested that differences in the ability to control must be related to the different functioning and liberalness of the political system. However, in one of the first comparative analyses of irregular migration that includes non-western, non-liberal countries, Garcés-Mascareñas has concluded that also non-democratic administrations face important practical limitations to controlling their populations (Garcés-Mascareñas, 2012). As a matter of fact, if down through the twentieth century, states increasingly believed in their ability, "time showed that governments misunderstood the mechanisms that govern migration and overesti-

mated the extent to which they were able to influence it” (Doomernik & Jandl, 2008, p. 20). Even after the migration crisis of the 1990s and the prioritization of migration control in the policy agendas, certain limitations have proved resilient. As a confirmation of this, the work of Broeders, for instance, after analysing the recent efforts made by Germany and the Netherlands, two among the most advanced and committed countries in the fight against irregular migration, concluded that those countries have not been “without setbacks and limitations” (Broeders, 2009, p. 193). Notwithstanding the huge investments, the implementation of the latest technologies and the diversification of policies (external and internal controls), in both cases it is still possible to identify what Broeders calls “white spots”. This metaphor refers to those sectors of society and the economy that states, despite their efforts, cannot chart (Broeders, 2009, p. 194).

A number of specific reasons have been indicated to explain these limitations. Firstly, there are problems related to knowledge production and policy design; these imply a limited predictive ability, administrative loopholes, unintended consequences and policy failure (Bommers & Kolb, 2002; Freeman, 1995; Scott, 1998, 2008). Secondly, there are problems related to policy implementation, administrative competence and budgetary constraints (Broeders, 2009; Doomernik & Jandl, 2008; Massey, 1999; Scott, 1998; Van Der Leun, 2003). Just to give one example of this capacity problem, in the Netherlands, to reach the target of 10% of companies checked by labour inspectors to avoid irregular work, would require an increase in staff from the current 180 to 930 inspectors (Ministerie van Buitenlandse Zaken 2007 in Broeders, 2009).

From the perspective of these theories, irregular migration must be understood as an inevitable “fact of life” (Van Meeteren, 2010, p. 1), “a corollary of large-scale movements of people across national borders and governments’ [imperfect] attempts to regulate migration” (Van Der Leun, 2003, p. 9). The merit of these approaches has been to relativize the myth of full control that characterized modern-state ideology and to show the limitation of state policies. They also called for a detailed and differentiated analysis of the administrative culture, methodologies and capacities of each state.

Although these are crucial aspects for the understanding of irregular migration, on their own, they have a limited explicative capacity. In particular, two issues remain beyond their grasp. Firstly, there exists the problem of policy intentionality: to acknowledge that control policies are imperfect and often fail, does not problematize the real aim of those policies or the possible conflict with other policies. It can be, for instance, that a certain degree of control failure and, thus, of irregular migration is the desired result or an acceptable compromise among multiple objectives. Secondly, the approach overstates the capacity of policies and does not consider other factors. For instance, policy limitations can help to explain why, under heavy migratory pressures, controls may fail, but they do not say much about the reasons for, and the variability of, those pressures; the same state with identical control policies in a certain historical moment may experience high levels of irregular migration and in others very low levels.

### ***3.2.2 External Constraints of States and Irregular Migration***

The theoretical arguments that will be discussed in this section concentrate on a number of factors and processes, mainly external to states, which have contributed to the erosion of their ability to control populations. These have been interpreted as the main cause of irregular migration.

#### **The Effects of Globalization: Economy, Politics and Society**

An extensive literature has linked the increased relevance of irregular migration with the effects of globalization. In particular, many interpretations have found in the complex and multileveled transformations brought by globalization the reason for states' increasing weakness and ineffectiveness in controlling international migration. The argument here has been that the particular characteristics of the current age are undermining states' capacities and that irregular migration is only but one of the signs of this process. The use of the concept of globalization and the problem of a definition could open a way to a very interesting, but probably endless, debate. As for this discussion, a very broad and general definition will be used: "globalization can be defined as the intensification of worldwide social relations which link distant localities in such a way that local happenings are shaped by events occurring many miles away and vice-versa" (Giddens, 1990, p. 64). While in literature it is possible to find many different approaches that correlate irregular migration and globalization, three main general arguments seem distinguishable.

#### **Economic Globalization and Irregular Migration**

Many scholars have linked the current trend of irregular migrations to the far-reaching economic transformations that have affected both migration-sending societies and receiving ones in the last decades. These transformations would appear to have determined a sharp increase in the number of potential migrants in the former case and a substantial rise of the demand for migrant labour in the latter one. The combination of these two circumstances, in other words the simultaneous intensification of push and pull factors, would seem to have determined a powerful support for international migration. Overwhelmed by the dynamics of these economic forces, states' attempts to limit migrations have proved ineffective: when they tried to close regular entry channels, migrants shifted to the irregular ones.

Research on these processes has followed two key lines. A first group of scholars has focused on the systemic, international transformation of the global economy. Different approaches and theories, with various degrees of politicization, have emerged on this. The general argument has been that the rapid and worldwide diffusion of the free market principles has determined a sharp transformation in the functioning of the economy. Whereas, up until the 1970s, states, using monetary,

commercial and other regulatory policies had been able to control and govern the main economic transactions, since then, an increasingly more integrated and autonomous global market has been developing. Various concepts and historical labels have been used to describe this process, for instance, deregulation, flexibilization, Washington consensus, neoliberal globalization, etc. The impact of these wide-ranging transformations has been twofold: on the one hand, the rapid dismantling of traditional economies in non-industrialized countries; on the other, the restructuring of the Fordist economy and social model in industrialized ones. The joint effect has been an enormous increase of global interdependence and a continuous rise in the exchange of goods, capital and information. The leading force is now the law of demand and supply and the means of production has had to follow profit opportunities rather than states' desires or plans. This process of deregulation and increasing economic interconnectedness has had an inevitable corollary, a strong reinforcement of population movements (Broeders & Engbersen, 2007; Castles, 2010a; Cornelius et al., 1994; Massey, 1999; Massey et al., 1998; Sassen, 1998; Schierup, Hansen & Castles, 2006). From a purely economic point of view, in fact, labour is a means of production, just like capital, raw materials or machinery; if globalization implies the free movement of capital, raw materials and machinery in search of the most profitable production conditions, the same must work also for labour. The conditions for irregular migration to emerge as a structural phenomenon of globalization would be located in the paradoxical fact that, while states have largely accepted economic interconnection and the free flow of other means of production, they have fiercely opposed the free flow of workers (Cornelius et al., 1994; Cornelius & Tsuda, 2004; Guiraudon & Joppke, 2001; Hollifield, 1992, 2004). In a context of growing interdependence, powerful mobility forces, but limited regulatory capacities, states find it increasingly difficult to maintain their control stance and to avoid irregular entries.

A second group of scholars has focused more on the effects of globalization in the receiving-country economies. In particular, they have stressed that the process of economic restructuring that followed the economic crisis of the 1970s has radically transformed both the production structures and the labour conditions in industrialized countries. While up until then, a largely protected economy was the basis for a unified labour market, widespread labour rights and stable, unionized employment relations, the erosion of the Fordist model and the opening up of the national economy to international fluxes had a disrupting effect. A number of processes have been analysed: the development of dual-labour markets (Piore, 1980; Portes, 1978; Sassen, 1998); the flexibilization, deregulation and informalization of many sectors of the economy (Castles & Miller, 1993; Sassen, 1998; Schierup et al., 2006); the decline of many industries and the process of delocalization (Portes, 1978; Sassen, 1998; Schierup et al., 2006); the drop in unionized labour (Castles, 2004); the development of subcontracting (Baldwin-Edwards & Kraler, 2009; Broeders & Engbersen, 2007; Martin & Miller, 2000); the rise of specific urban informal economies (Sassen, 1998; Van Der Leun, 2003). On the whole, these processes have determined an increasing demand for a cheap, unqualified and flexible work force. Since native workers have generally not been willing to accept the new working

conditions, this demand turned to migrant workers. As discussed above, the combination of a high demand for migrants and a political reluctance to accept them, made irregular migration a somehow “natural” solution to the mismatch. Moreover, as many scholars have underlined, irregular migrants, because of their precarious conditions, have fulfilled in an optimal way the demand of many sectors of the economy. They are a cheap, hyper-flexible, unprotected and extremely mobile resource (Castles, 2010a; Sassen, 1998). As stated by Hanson: “illegal immigration is a persistent phenomenon [...] because it has a strong economic rationale” (Hanson, 2007, p. 32).

### Political/Legal Globalization and Irregular Migration

Another strand of research has concentrated on the political effects of globalization that have affected states' capacity to control and deter international migration. Here the lines of research have followed two main paths. On the one hand, from a more theoretical point of view, it has been stressed how “globalization transcends the territorial borders of states and, as a consequence, profoundly affects the nature and functions of state of governance in the world political economy, including of course, the governance of migration” (İçduygu, 2007, p. 145). Many different processes have been studied: the increasing international anomie (İçduygu, 2007); the fluidity and openness of contemporary societies (Urry, 2007); the process of de-territorialisation that implies a weakening of state borders and sovereignty (Friede & Mezzadra, 2010); the interconnectedness and interdependence of the world system (Wallerstein, 2004). From this perspective, irregular migration is one of the phenomena that indicates more clearly how globalization is determining the erosion of states' prerogatives and, in particular, their sovereignty. What is at stake is not only the economic functioning of the international order, but the political one. While states and borders had been the cornerstone of the Westphalian system, the uncontrolled global fluxes of the contemporary era are the concrete evidence of its decline.

On the other hand, many scholars have discussed how the development of an international human-rights regime (Cornelius et al., 1994; Guiraudon & Lahav, 2000; Jacobson, 1996; Sassen, 1998; Soysal, 1994) and of an international framework of institutions (Cornelius & Tsuda, 2004; Geddes, 2001) have strongly limited, from the outside, the ability of states to control and govern their populations. From this perspective, the obligation for states to compel to a number of international agreements and treaties that protect the rights of migrants both as they move across borders and once they arrive inside hosting societies, has greatly constrained states' restrictive power. Moreover, the increasing importance and influence of international institutions and the development of agencies specifically focused on migration, like IOM and UNHCR, have also concurred on the limitation of states' arbitrariness and on the creation of a shared system of safeguards for migrants. Within this context, the ability of the latter to bypass, circumvent and evade state controls has grown enormously. For instance, the widespread guarantee of asylum rights, the *non-refoulement* principle, the right to appeal asylum rejection and

expulsion orders, the possibility for origin countries to refuse the re-admission of non-identified migrants, not only have empowered migrants vis-à-vis states but, through their misuse, have offered a number of opportunities for irregular migration.

### Social Globalization and Irregular Migration

Finally, a number of scholars have focused on the social implications of globalization and their impact on migration trends and on state control capacities. These analyses have highlighted how globalization has concurred to strengthen the social dynamics of migration. As pointed out by Castles, globalization has offered the technological and cultural basis for mobility to increase and involve all regions of the planet (Castles, 2010a). Although networks, cumulative causation, social capital, and chain theories have always had an important role in explaining migrations (Castles & Miller, 1993; Massey et al., 1998), in the context of globalization, these approaches gained particular relevance. The improvements in communication and transport systems, from this perspective, have greatly reinforced the self-perpetuating characteristics of migration and, therefore, one of the crucial elements particularly of irregular migration (Castles, 2004; López Sala, 2005; Massey, Goldring, & Durand, 1994). As discussed by López Sala, the impossibility for irregular migrants to count on formal channels and the increased difficulty of their migratory process make their reliance on networks and social capital an indispensable asset for their success (López Sala, 2005). From this viewpoint, the transformations brought about by globalization have offered migrants new and more sophisticated tools that enable them to share information, develop strategies and effectively contrast state controls.

A similar argument, but with a stronger theoretical ambition, has been developed, especially since the mid-1990s, through studies on migrant transnationalism (Faist, 2000; Glick-Schiller, Basch, & Blanc-Szanton, 1992; Glick-Schiller, Basch, & Szanton-Blanc, 1995; Portes, 2001, 2003; Portes, Guarnizo, & Landolt, 1999). The idea is that the development of migrant networks in the context of globalization is not merely easing migration processes, but is actually leading to the development of real transnational communities. These, in their turn, are increasingly capable of transcending state borders and challenging principles, such as, membership, citizenship, and sovereignty (Castles, 2004). Within this context, irregular migration appears as a correlated phenomenon that clearly exemplifies the contradiction between the old statist organization of space and populations, and the new, emergent, transnational one.

The main virtue of all these theoretical explanations has been to pinpoint those broad and far-reaching transformations brought about by globalization that are affecting states' capacity to control international migration. From this viewpoint, irregular migration is essentially the result of a structural conflict between global forces pushing for an ever-greater interconnection and flux of information, goods, capital and people, and states. While these theories offer a framework to understand the current general trends of irregular migration, when it comes to the interpretation of specific irregular fluxes and populations they are less useful. How can they

explain the highly differentiated picture? This difficulty is probably related to the fact that they have too easily dismissed the role of states. As a matter of fact, while it is true that irregular migration has become a widespread phenomenon, important disparities exist between different national contexts. In this sense, the question to be answered would be: how are globalization processes interacting with the different social, political and economic contexts and how do different forms of irregular migration emerge from these particular interactions?

### **The Irregular Migration Industry**

A number of scholars have linked the increased inefficiency of state policies and the increasing prominence of irregular migration to the emergence of the so-called "migration industry" (Andersson, 2014, 2016; Castles, 2004, 2010a; Castles & Miller, 1993; Koser, 2010; Kyle & Koslowski, 2011; Zolberg, 2006). As put by Castles and Miller, the term: "embraces the many people who earn their livelihood by organizing migratory movements" (Castles & Miller, 1993, p. 114). These "people" include a wide variety of actors that range from migrant community members, to small informal entrepreneurs, to actual criminals often connected to international mafias (Kyle & Koslowski, 2011). They support, back up and often exploit migrants along their journey in exchange for money. The services provided include for instance: lawyers who advise on how to circumvent laws and controls, human smugglers that help migrants to cross the borders, false document providers, labour and housing providers, credit providers and usurers, etc.

From this perspective, the services offered by this background support network have become crucial to circumvent controls and thus to make irregular migration possible. This has become especially true since control efforts by states dramatically increased in the aftermath of the so-called migration crisis of the 1990s. Whereas in the previous phase, many relatively easy entry channels existed for irregular migrants and the use of personal networks was often enough for success, the efforts made by states to enforce borders and close the main legal loopholes changed the scenario. In the new context, spontaneous irregular migration turned increasingly ineffective and the recurrence to "professional" services became indispensable. This, in turn, created a whole new range of entrepreneurial opportunities and raised the related profit margins, generating the development of a truly global "migration industry" (Andersson, 2014). Today, the enormous economic interests involved and the extension and relevance of this industry can hardly be underestimated and it certainly provides a powerful explanation for the difficulties experienced by states in controlling migratory movements. As expressed by Harris, this has become "a vast unseen international network underpinning a global labour market; a horde of termites... boring the national fortification against migration, and changing whole societies" (in Castles & Miller, 1993, p. 115).

The uncovering of the importance of the migration industry has provided another important explanation of irregular migration. The difficulties experienced by states in effectively controlling their borders and curtailing irregular fluxes has depended

not only upon the individual efforts made by migrants, or upon their turning to networks and personal contacts, but also, and increasingly so, upon a powerful industry that has supported and encouraged migrants' efforts. While this claim is unquestionably important and has been supported by relevant evidence, two critical aspects may be raised. To begin with, caution must be used regarding the arrival at conclusions derived from it. While it is true that states have had difficulties in controlling irregular migration and this can be related to the migration industry, the fact that the phenomenon is, nevertheless, limited shows that states have not lost control. Furthermore, while the role of the migration industry is an important piece of the irregular migration puzzle, on its own, it does not provide much explanation. The dissimilar social and numerical relevance of the irregular migration phenomenon in different countries shows that the effects of the migration industry are not the same. Why is this happening? Why, for instance, are certain states more effective than others against human smugglers? Or why does the same country experience different levels of irregular entries at different times? These critiques seem to point to the fact that the migration industry plays a crucial role as a catalyst for irregular migration fluxes once they have started.

### ***3.2.3 Internal Constraints of States and Irregular Migration***

In this section, the theoretical arguments that have concentrated on those factors and processes, acting mainly inside state territories, that have contributed to incrementing the demand for migrants, to the erosion of state capacities to control population movements and, hence, to the development of irregular migration will be discussed.

#### **The Role of the Informal Economy**

Though a number of links between the current economic trends and irregular migration have already been addressed, the relevance given in literature to the role of the informal economy demands for a separate discussion. In this section, the focus will be placed on those approaches that understand the informal economy as a sign of current erosion of state prerogatives. Irregular migration, from this perspective, would then be a consequence of those forces that, from the inside, limit the regulatory capacities of states.

Throughout the 1980s and 1990s, the idea that the world's economies were on an ineluctable path to "modernization" and, thus, to "formalization" appeared increasingly questionable. Even in the most advanced countries, where for some decades the "formalization thesis" (Williams & Windebank, 1998) seemed to apply, signs of an opposite movement were increasing. "What is new in the current context is that the informal sector grows, even in highly institutionalized economies, at the expense of already formalized relationships" (Castell and Portes 1989, p.13 in Samers, 2004, p. 2003). This development was linked to various factors: the necessity for employers to reduce costs and increase flexibility; the "care deficit" created by native

female employment; the transformation of urban economies and the emergence of ethnically-specialized sectors (Samers, 2004). More in general, as argued by Sassen, informalization must be seen in the context of the economic restructuring that has contributed to the decline of the manufacturing-dominated industrial complex of the post-war era and the rise of a new, service-dominated economic complex (Sassen, 1998). Many scholars have pointed to this process of informalization as an explanation of the rising significance of irregular migration in receiving countries. From this standpoint, the informal economy works as a magnet for irregular migrants, as it offers them the possibility to find employment (Baldwin-Edwards, 2008; Düvell, 2006; Quassoli, 1999; Reyneri, 1998, 2004). As pointed out by Sassen (1998), immigrants “may be in a favourable position to seize the opportunities presented by informalization, [...] but they do not necessarily create such opportunities. Instead, the opportunities may well be a structured outcome of the composition of advanced economies” (Sassen, 1998, p. 154).

The theories that have focused on the role of the informal economy have offered a convincing argument to explain the demand for irregular migration. The main advantage of this approach has been that it directly links the phenomenon to the particular social and economic configuration of each national context. In this sense, it calls for a differentiated analysis of the structural conditions that may favour irregular migration or not. This perspective, nevertheless, has not been free from flaws. On the one hand, the relation between irregular migration and the informal economy cannot be linearly interpreted and does not necessarily indicate state failure. In many countries the informal economy had been an internal characteristic long before the arrival of migrants. Moreover, a number of national studies have shown that states do not always put all their efforts into controlling the informal economy but display, instead, tolerant attitudes (Jordan et al., 2003; Reyneri, 1998; Triandafyllidou, 2009). In this sense, the informal economy alone cannot explain irregular migration and it does not necessarily imply the erosion of state prerogatives. On the other hand, studies in many countries have shown that irregular migrants do not necessarily rely on the informal economy. A notable case concerns the US that has one of the smallest informal economies in the world (Schneider, Buehn, & Montenegro, 2010), but a sizable number of irregular migrants (Passel, Cohn, & Gonzalez-Barrera, 2013). This is possible because there is a limited enforcement of labour controls and, therefore, a tacit tolerance of the regular work of irregular migrants. These examples show that, given the great variety around the world of economic arrangements, ways and degrees of law enforcement, and levels of toleration of informality, the explanation of irregular migration requires differentiated and customized analysis.

### **The Role of Migrants' Agency**

Departing from a critique of the structuralist explanations of irregular migration, an important line of research has focused on the role of migrants' agency. From this perspective, the excessive emphasis laid on state policies or on the economic dynamics has neglected the crucial importance of migrants' actions and strategies. Migrants

are not passive recipients of policy measures or victims of capitalist logics; on the contrary, they are active players who are perfectly capable of analysing the opportunity structure they encounter, of developing strategies and of circumventing restrictions. From this viewpoint, irregular migration has been explained as the result of these capacities and of the ability of migrants to exploit the loopholes and weaknesses that characterize state controls.

The theoretical explanations that have centred their attention on the role of migrants have provided different accounts on the extent to which they are able to confront and challenge social structures. For some scholars, migrants' agency has mainly a reactive and, on the whole, a limited capacity to defy structural forces. The attention has focused on the concrete strategies that enable an irregular migrant to "survive" within a very limited range of possibilities. For other scholars, migrants' agency is a much more powerful force that is able to transgress, contest and even modify social structures. Here, importance has been given to the strategies developed by irregular migrants, to their political activism, and to the social and political transformations they are backing.

Focusing on the first group, there have been many approaches and findings. Espenshade has suggested that irregular migrants see policy barriers as one of the obstacles of the equation they face once they decide to migrate (Espenshade, 1995). In this sense, they have a very pragmatic approach: they estimate difficulties, consider alternative options, share information and take decisions. To do so, they extensively count on the use of formal and informal networks, which in their case play a fundamental role (Broeders & Engbersen, 2007; Engbersen, 2001; Engbersen & Broeders, 2009; Portes, 1978, 1996). Paradoxically, it may happen that irregularity is an advantage over regular migration (Bommes & Sciortino, 2011; Schrover et al., 2008). Indeed, in certain contexts, being irregular offers better economic opportunities or more flexibility and the possibility to elude state controls (Garcés-Masareñas, 2012). As regards the specific strategies developed by irregular migrants, a diversified picture has been sketched. Engbersen has identified six strategies: the mobilization of social capital, bogus marriages, manipulation of identity, strategic operations in the public space, legal action, and crime (Engbersen, 2001). As for the manipulation of identity, there are three main tactics: false identity adoption, destruction of documents, and concealment of irregular status (Engbersen, 2001). Vasta has concentrated on the functioning of the paper market. She has shown how irregular migrants engage in a dialectic process with the structures and control mechanisms of receiving societies. Buying, renting, or borrowing someone else's papers is part of a productive process by which migrants permanently construct and re-construct their subjectivity (Vasta, 2011). Van der Leun, working on the Dutch case, has shown how irregular migrants are able to find and actively exploit the loopholes that characterize the legislation and the implementation of control policies (Van Der Leun, 2003). On the one hand, the complexity of legislation, the different dimensions and sectors of application, and the existence of various and often uncoordinated levels of governance determine the presence of legal ambiguities, contradictions and voids. On the other, irregular migrants and their networks, often with the help of lawyers, NGOs and even street-level bureaucrats, successfully learn to take

advantage of these pitfalls. Another type of strategy is to resort to sectorial shifts or even to criminality to avoid labour enforcement (Engbersen & Van Der Leun, 2001). De Haas (2011) has identified four main substitution effects that limit the effectiveness of restrictions: spatial substitution (moving to other regions or other countries in search of better opportunities); categorical substitution (reorientation towards other legal or illegal sectors to avoid controls); inter-temporal substitution (modifying the timing and length of migration); reverse flow substitution (the adoption of return migration when restrictions decrease) (de Haas, 2011).

Regarding the second group of studies, a number of concepts have been proposed to capture the broader social significance of irregular migrants' networks and strategies. The intention of these approaches has been to underline the social and processual character of irregular migration (Castles, 2010a). Hughes, for instance, has proposed the notion of "bastard institutions" (Hughes 1951/1994 in Leerkes, 2009), and Mahler that of a "parallel institution" (Mahler, 1995). More recently, Bommès and his colleagues have used the concept of "foggy social structures" to indicate those "social structures that emerge from efforts by individuals and organizations to avoid the production of knowledge about their activities by making them either unobservable or indeterminable" (Bommès & Kolb, 2002, p. 5; Bommès & Sciortino, 2011; Engbersen & Broeders, 2009, p. 868).

Following this orientation, in a recent work, Van Meeteren has enquired into how the different aspirations of individual irregular migrants determine differentiated patterns of insertion in the host societies (Van Meeteren, 2010). From her perspective, the concrete experience of irregular migrants cannot be understood only on the basis of the structural conditions they encounter. Indeed, she states: "contexts do not mechanically constrain or construct irregular migrants' actions. Instead, they take advantage and react to the window of opportunity in different ways" (Van Meeteren, 2010, p. 31). To fully grasp their experience, it is necessary to include in the analysis migrants' agency and, in particular, the role of aspirations. Researching on the case of irregular migrants of different nationalities in Belgium and the Netherlands, she identified three main types of aspirations: settlement (the goal is to settle in the host society), investment (the goal is to save money in order to return to the origin country), and legalization (the goal is to regularize the status in order to start a new life). The different aspirations not only translate into diverse strategies and ways of interaction with the host society on the part of migrants, but also into very different outcomes in terms of living standards, degrees of incorporation and social relations. The study shows how, within the same structural context, the three different types of aspiration transform into clearly distinguishable forms of incorporation both in its functional (housing, work, sources of income) and its social dimension (leisure time and social contacts). "Investment migrants" concentrate on working hard, saving money and planning the return home. Accordingly, they: work as much as they can, accepting bad jobs rejected by natives since they see them as temporary; are usually alone and spend as little money as possible, living in bad conditions and in degraded districts; do not value leisure time and when not on duty, stay at home; have very small networks of social contacts and maintain many connections with the origin country. "Settlement migrants", instead, assume that the

receiving society is their new home. Hence, they: prefer stable, non-seasonal work with free time often in native households; have families with them and are willing to spend more on better housing in residential suburbs; travel around, spend on leisure and maintain an intense social life; have large social networks in the host country and limited contacts back home. Finally, “legalization migrants”, whose main objective is to regularize their status, lead a very particular life. They: work as little as possible due to the risks of compromising their aspirations; rely on natives and organizations rather than on their communities to get support, since they do not work; have a lot of free time that they spend elaborating their strategies to legalize their situation (marriage strategy, legalization strategy); have limited contacts with their origin countries and do not remit. This analysis leads Van Meeteren to conclude that “overemphasizing structure in the analysis obscures understanding of how migrants act differently under similar circumstances because they have different aspirations” (Van Meeteren, 2010, p. 135).

Another interesting standpoint within this line of enquiry has been advanced by a number of scholars who, in recent years, have developed the “autonomy of migration” perspective (Mezzadra, 2011; Papadopoulos, Stephenson, & Tsianos, 2008; Papadopoulos & Tsianos, 2007). Their approach does not consider migration in isolation from social, cultural and economic structures; in fact, they consider that “the opposite is true: migration is understood as a creative force within these structures” (Papadopoulos et al., 2008, p. 202). The main objective of these scholars, as pointed out by Mezzadra, has been that of: “..looking at migratory movements and conflicts in terms that prioritize the subjective practices, the desires, the expectations, and the behaviours of migrants themselves. [...] It allows for an analysis of the production of irregularity not as a unilateral process of exclusion and domination managed by state and law, but as a tense and conflict-driven process, in which subjective movements and struggles of migration are an active and fundamental factor. [...] The autonomy of migration looks at the fact that some migrants, both regular and irregular, act as citizens and insist that they are already citizens (Mezzadra, 2011, p. 121). For these authors, the agency of irregular migrants does not simply allow them to solve their basic problems or to cross borders. Instead it should be read as a force that is able to challenge the legal frameworks and institutions built by states and, in so doing, concurs with their transformation. In this regard, particular attention has been given to the relationship between irregularity and citizenship. Whereas the latter has been usually interpreted as a unilateral concession by the state and, thus, as a tool of domination and control from above, the autonomy of migration perspective, recalling the work of scholars, like Balibar, Isin or Honig, has proposed a more dynamic and dialectic understanding of it. Citizenship must be considered as an ‘institution in flux’ (Isin, 2009), as a political/legal arrangement that is permanently contested and modified by the interplay of old and newly-emergent social forces (Balibar, 2001; Honig, 2009; Isin, 2009; Mezzadra, 2011).

The main contribution of the theories presented in this section has been the shift of focus away from the structural contexts to illuminate the crucial role of migrants’ agency. In particular, the theories have warned against the tendency to uncritically accept the narratives that postulate the state as the main and undisputed actor within

society, and migrants as passive victims of its dispositions. Irregular migration, from this perspective, is precisely one of those phenomena that reveal the limits of politics in deciding and controlling social life. The different accounts have shown how the individual and cooperative actions of migrants have been able to challenge state decisions, barriers and goals. The extent to which this has been made possible was interpreted in different ways, ranging from those authors who acknowledged a limited, mainly adaptive capacity to those who described a significant and potentially transformative one. Though the contribution of these approaches has been crucial to obtaining a more comprehensive understanding of irregular migration, a number of critical points can be identified. On the one hand, there has been a problem with the emphasis given to the agency argument. The necessity to amend the excessive attention given in literature to structural explanations has often turned into excess in the opposite direction. The focus on migrants' strategies, networks and aspirations in many cases has led to downplaying the role of structures, especially of politics and economics. In particular, the accounts that have ascribed a wide-ranging transformative ability to irregular migration and have described the state as a zombie category appeared to be unrealistic (Schinkel, 2009). If it is indeed true that irregular migration reveals the limits of controls and the relevance of individuals' choices and actions, this cannot be linearly interpreted as the failure or the irrelevance of politics. Both the confined character of the phenomenon and the generally harsh conditions that irregular migrants experience indicate that the role of the state is far from marginal. Moreover, as will be shown, the hypothesis of states' fierce antagonism towards irregular migration cannot be uncritically accepted, since state ambiguities have been widely documented. On the other hand, the tendency to detach the analysis from the structural contexts has frequently generated broad conceptualizations of irregular migration as a general and undifferentiated phenomenon. The empirical research, however, has consistently shown that irregular migration assumes different shapes and characteristics within the different contexts. Moreover, even within a single context, a change in the structural conditions has been shown to determine changes in the strategies enacted by migrants or even in their aspirations (Van Meeteren, 2010). These examples show that only a dynamic and interactive understanding of the relationship between structures and agency can offer an adequate framework to conceptualize irregular migration.

### **Internal Social Constraints**

Finally, another important line of reasoning has emphasized how a variety of actions, decisions and initiatives taken by actors internal to the hosting society have concurred to the ineffectiveness of control policies and, therefore, to the irregular migration phenomenon.

A number of scholars have focused on the ways in which the policies are actually implemented at the lowest levels of the administration (A. Ellermann, 2010; Jordan et al., 2003; Lahav & Guiraudon, 2006; Scott, 1998; Van Der Leun, 2003). Their researches have enquired into the activity of police officers, public service

employees, social workers, healthcare and education workers, etc. Their analyses have generally revealed the existence of important margins of discretion in the application of written laws and of “a pluralistic and multi-layered system of actors who have their own deliberations and professional considerations” (Van Der Leun, 2003, p. 173). Many reasons have been proposed to explain this phenomenon. Van der Leun, writing on the behaviour of street-level bureaucrats vis-à-vis irregular migrants in the Dutch case, has evidenced five: (A) the professional morale and degree of discretion (for instance, doctors may give priority to saving a life rather than to the application of a restrictive law); (B) the degree of face-to-face contacts with clients (a more personal contact generally leads to higher degrees of lenience); (C) the availability of alternatives on the market (in the sector of social housing and adult education for instance, irregular migrants can easily be referred to private landlords or to community centres); (D) the costs (the higher the costs of the services provided will probably mean more restrictive decisions); (E) the interference with other policies and duties (for instance, a police officer may have to prioritize arresting criminals rather than irregular migrants) (Van Der Leun, 2003). Jordan, Stråth and Triandafyllidou have shown how different organizational cultures may determine a different mediation between the top-down pressures from politics and the bottom-up pressures from migrants themselves, local employers and communities, and from non-government organizations (Jordan et al., 2003). In a similar vein, Cornelius and Tsuda have stressed the importance of the national political culture in determining different efficiency standards in policy implementation (Cornelius & Tsuda, 2004). All these contribution have highlighted the importance of the local social context in determining the conditions and opportunities for irregular migration to exist. As stated by Van der Leun: “the very reason that illegal immigrants can circumvent or bypass legal limits, is that loopholes come into existence when local actors have, at least partly, different considerations than proponents of full exclusion or restriction” (Van Der Leun, 2003, p. 174).

Enquiring into the internal limitation to migration controls, another strand of research has focused on the different types of support that irregular migrants find within the host society. Considering what has been referred to as “the ecology of illegal residence” (Leerkes, 2009), two main types of support seem to be clearly distinguishable. On the one hand, there are the services provided on a lucrative basis by what can be considered the internal counterpart of the migration industry. On the other hand, there are the services provided on a free basis by civil society institutions, NGOs, charity organizations, etc. In the first group, research has focused not only on the role of informal employers, as was discussed regarding the role of the informal economy, but also on a whole galaxy of actors that offer their services to irregular migrants in exchange for money. These include: fake document suppliers, housing providers, doctors, teachers, lawyers, bogus marriage arrangers, etc. Within this group, criminal networks may also play a part. As shown by Engbersen and his colleagues, when the other channels and opportunities are closed, irregular migrants may be forced to turn to criminality in order to find the means to survive (Broeders & Engbersen, 2007; Engbersen, 2001; Engbersen & Broeders, 2009; Engbersen & Van Der Leun, 2001; Leerkes, Van Der Leun, & Engbersen, 2012). Within the other

group, research has likewise evidenced the existence of a great variety of actors and institution within the so-called civil society that help irregular migrants in many ways. Within these, some have been more concerned with offering material support like shelter, food, legal assistance, etc.; others have adopted a more political stance, focusing on helping irregular migrants to organize protests, present instances, claim their rights, etc. In this respect, however, it has been underlined that the attitudes towards irregular migration, and therefore the support, may sharply differ from one social context to the other. Not only may this be the case, but, as stressed by Düvell, within each society it is possible to find members that support, tolerate or ignore the irregulars. In this sense, one should consider that often “the moral of the community differs from the law” (Düvell, 2011, p. 63). Both these types of support have concurred, though in different ways, to make the residence of irregular migrants possible in their hosting societies, especially where highly restrictive and excluding policies have been enacted.

The discussion on the internal constraints to migration control has underlined how a number of factors determine a state’s impossibility to fully and thoroughly control all social transactions. This has been the result of both the difficulties and inconsistencies of policy implementation, and the independence and unconformity of many social actors from the legal and moral stances of states. For irregular migrants, this has transformed into a number of opportunities and sources to rely on, for making a living even within very restrictive contexts. The main contribution of these approaches to the theoretical understanding of irregular migration has been twofold. It has evidenced the complex functioning of the political processes and the fragmented, multi-levelled character of the state. From this perspective, an adequate understanding of irregular migration requires going beyond a legalistic approach and demands for an analysis of the actual implementation of the laws. It has also emphasized the social character of the phenomenon, which implies that policies do not act within an empty space, but within a complex web of actors, institutions and interactions that display contrasting interests. The way in which the irregular migration phenomenon configures is not the straightforward result of policies, but, instead, of the interaction of them with the rest of society. The critical aspects of these arguments concern the extent to which they are used to sustain the idea of states’ diminished capacity to control migrations. Although both the main arguments presented certainly raise attention to the difficulties experienced by states in making their goals effective, this does not mean they are powerless or have lost control over their populations.

### **3.3 Irregular Migration as Choice of States**

The second group of theories that will be discussed departs from a reverse evaluation of policy efficacy and state capacity to control international migration. Policies are effective and states are really capable of governing migration fluxes and populations (Brochmann & Hammar, 1999; Caplan & Torpey, 2001; Freeman, 1995;

Guiraudon & Lahav, 2000; Joppke, 1998c). While this position was central, especially in Marxist interpretations of irregular migration since the 1970s, it re-emerged with new strength in the second half of the 1990s to contrast the chorus of voices that had sentenced the state to death too early. Rather than losing control or being a zombie category, states have been perceived as successfully adapting to internal and external pressures through the development of new strategies and increasingly-effective control mechanisms. If irregular migration exists, this does not indicate a failure on the part of the state but, rather, an explicit or implicit choice in this direction. In this interpretation, the whole conceptualization of irregular migration radically shifts: the question is no longer why migration control fails but, why states decide to allow or not to allow certain levels of irregular migration.

A variety of theoretical explanations and have emerged. Among these, it seems possible to identify two very different perspectives. The first has understood irregular migration as a by-product of the particular configuration and functioning of modern states. The focus has been placed on the analysis of the different functional imperatives of the state and on the ways these are fulfilled. The second group, instead, considering the state mainly as a broker, has concentrated on the different interests connected to irregular migration present in society and on the ways they are articulated to become relevant for politics. Irregular migration, from this point of view, is “produced” or “allowed” by the state, depending on the viewpoint, in order to respond to the ever-changing equilibrium among the different social demands.

### ***3.3.1 State Imperatives and Irregular Migration***

The interest in the internal structures and functioning of states and in the way these have an influence on irregular migration has followed a number of different paths. In particular, there have been three main arguments proposed in literature. The first has centred on the analysis of the concept and functioning of sovereignty and has found in this fundamental institution of modern states the main explanation of irregular migration. The second has directed its attention towards the relationship between the state and populations and the different techniques developed by the former in order to control the latter. The third has focused on the particular institutional configuration and functioning of liberal-democracies and has explained irregular migration in relation to the self-restraint of the state as regards control policies.

#### **State Sovereignty and Irregular Migration**

The relation between sovereignty and control of populations has always been a central issue both in migration and political-theory literature. However, the topic received renewed interest in connection with the debates around globalization and the migration crisis of the 1990s.

The works of Agamben have offered a particular interpretation of this relation that proved to be particularly influential in the subsequent decade (Biswas & Nair, 2009; Broeders, 2009; De Genova, 2002, 2010; A. Ellermann, 2010; Antje Ellermann, 2014; Schinkel, 2009, 2010). His starting point was precisely that of contesting the widespread idea that modern states had a naturally-granted and unproblematic authority to control their territories and populations. Rather than an intrinsic and inalienable property or a transcendently-derived authority, Agamben sees sovereignty as a power that must always be reaffirmed and which is, then, always at risk (Agamben, 1998, 2003). Reflecting on the work of Carl Schmitt, who defined the sovereign as the actor “who decides on the exception” (Schmitt, 2008), Agamben identifies in the “state of exception” the fulcrum on which the whole structure of sovereignty, and thus of state power, is built. Accordingly, if sovereign power is the ability to establish what is exceptional to an order, sovereignty is the logic by which such an order comes into being (Biswas & Nair, 2009, p. 5). However, instead of understanding these concepts in an abstract, juridical perspective, Agamben argues that it is possible to observe the logic of sovereignty at work in multiple sites at any time. In his works, he has scrutinized history in search of paradigmatic cases of “states of exception”. In his view, the Nazi camps or the Guantanamo prison are perfect examples of the sovereign power deciding to suspend the common order in order to reaffirm its power (Baldwin-Edwards, 2008; Balibar, 2010; Caplan & Torpey, 2001; Cornelius et al., 1994; Torpey, 1998).

In *Homo Sacer. Sovereign power and bare life*, his attention focuses on the distinction made in ancient Greek between the concepts of *zoe* and *bios*. Though both terms generally mean *life*, the former refers to it as the basic, biologic, “bare” existence shared by all living creatures, while the latter refers to the politically-qualified, characteristic existence of a specific people within a certain order. For Agamben, the production of *bios* and its distinction from *zoe* is the “original activity of sovereignty”. Only the banning and the exclusion of *zoe* from the political community enables the distinction from *bios* and, therefore, justifies the existence of the sovereign. Yet, since the sovereign power is constituted by the exclusion of *zoe*, the complete alienation of this would eliminate the reason for being of such power. That is why *zoe*, in order for the sovereign power to hold its significance, must be included in the sovereign realm as excluded “bare life”. In this sense, “the banishment of bare life by sovereign power, which excludes it from all political life and denies it any juridical validity”, still implicates “a continuous relationship” (Agamben, 1998; De Genova, 2010, p. 37). The irregular migrant is the figure that best incarnates the concept of *zoe* as opposed to the one of *bios*, the citizen. He or she represents the “bare life” whose exclusion enables the existence of the citizen, and so legitimizes the role of the state. In the words of Agamben: “It is the exclusion of bare life on which the *polis* rests” (Agamben, 1998: 13). The detention centres for migrants are proof that “the camp” is not a historical anomaly, but the “hidden matrix of our time”, “the *nomos* of the political space in which we still live” (Agamben, 1998). If every migrant would in-*mediately* (hence, without mediation) become a citizen and hold the same rights as a citizen, the very power that “mediates” and gives meaning to the distinction would become powerless and, therefore,

meaningless. The irregular migrant is then the fundamental antagonist of sovereignty but, at the same time and for the same reason, its most necessary counterpart.

In a similar fashion, Schinkel has pointed out that “the so-called ‘problem of illegality’ is but one expression of a problem of self-maintenance of the society/nation-state dichotomy in times of globalization and system integration” (Schinkel, 2009, p. 790). In his view, the state, defied by the forces of globalization, and, in particular, by the declining relevance of space, is trying to redefine itself in order to survive. Recalling Agamben’s concept of *the camp*, Auge’s concept of *non-places* and Foucault’s concept of *heterotopia*, he emphasizes precisely the spatial component of this redefinition. Through the incarceration of irregular migrants in detention centres and their eventual expulsion, the state is able to reintroduce and re-legitimize a distinction between inside and outside, which for most of the other social transactions has lost any value. Hence, the traditional concept of the nation-state is reaffirmed and, through it, “a consistent self-definition of the state in times of globalization is forged” (Schinkel, 2009, p. 792). Schinkel, nevertheless, raises a crucial question: will this treatment of the problem of irregular migration prove effective, in the long run, in providing the state with new *raison d’être*? What remains clear is that “Nation-states will not easily allot cosmopolitan rights (Habermas, 1993; Linklater, 1998), post-national (Soysal, 1994) or global citizenship (Dower, 2000) to irregular migrants, since precisely the creation of universal citizenship would entail providing the normative dimension of universal human rights with a legal dimension that necessarily compromises the traditional notion of the state” (Schinkel, 2009, p. 800).

The interdependence between the legal and the illegal, the regular and the irregular has been emphasized also in the works of Coutin. In her ethnography on Salvadorian irregular migrants, she has described their experience in terms of a permanent contradiction between presence and absence (Coutin, 2005a). Indeed, they are legally absent, since the authorities do not recognize them, yet, at the same time, they are physically present. In this sense, they perfectly embody Ngai’s concept of “impossible subjects” (Ngai, 2014). As pointed out by Coutin: “although they ‘cannot be’, migrants continue to occupy the physical space. Their bodies therefore become a sort of absent space or vacancy, surrounded by law. The vacancies created by illegal presence make it possible for jurisdictions to remain whole” (Coutin, 2005a, p. 199). While the most common approaches explain irregular migration as a result of ineffective and powerless law, this perspective suggests an opposite understanding. “The law is not a force that bars illegal entry and sojourn; rather it is a process that defines who and what is illegal” (Coutin, 1996, p. 11; Garcés-Masareñas, 2012, p. 31). In this sense, the construction of illegality is understood as a way for the state to establish and maintain the legal space against the illegal and “the regular nation”, against “the irregular people”.

These analyses offer indubitably interesting theoretical and conceptual understandings of irregular migration. The structural relationship between sovereignty and the exception that is proposed by Agamben sheds light on a similar interdependence between the state and the irregular migrant. To be sovereign, the state needs to decide on the exception, on what and who is inside or outside of the order that it

creates. The irregular migrant is indeed the exception, the “bare life” against which the “political life” of the citizen acquires its significance. In this sense, her/his existence is vital to the existence of the very state. As put by Schinkel: “In the case of irregular migrants and their detention as ‘illegal aliens’ [...] the state tries to preserve a precarious balance between inclusion and exclusion, between *bios* and *zoe*” (Schinkel, 2009, p. 787). Nevertheless, while these conceptualizations can be helpful to understand the logic of sovereignty and its relation to the irregular migrant in abstract terms, it offers little explanation of the phenomenon in its concrete, sociological terms. On the one hand, the characterization of the irregular migrant as “bare life” or as an “impossible subject” and hence, as a completely excluded and subjugated victim of the state, is not matched by reality. Irregular migrants in many cases have rights and lead relatively normal lives. On the other, these interpretations do not offer clues to why the phenomenon assumes different forms and dimension within each national context.

### Governmentality Techniques and Irregular Migration

An important strand of research, often inspired by the works of Michel Foucault, has interpreted irregular migration as a result of governmentality techniques enacted by states to better control their populations. From this perspective, the toleration of a certain degree of irregular migration, or the deliberate production of it by the state cannot be interpreted simply as a sovereignty imperative; instead, it needs to be considered as a “technology of power”, as a legal and political construct aimed at effectively disciplining and managing populations (see for instance: Broeders, 2009; Chauvin & Garcés-Mascreñas, 2012; Chavez, 2007; Coutin, 2005a, 2005b; De Genova, 2002; Engbersen, 2001; Garcés-Mascreñas, 2012; Inda, 2006; Mezzadra, 2011; Morris, 2002; Rose & Miller, 1992; Thomas & Galemba, 2013; Vasta, 2011).

Foucault’s concept of governmentality suggested a new understanding of power, one that surpassed the classic, top-down, coercive conception of it (Foucault, 1979, 2007, 2008). From his perspective, in order to be more effective, states have elaborated strategies to induce individuals to follow rules on the basis of their own will. This has been obtained through the development and use of a variety of new “technologies of power” that were meant to operate throughout the whole body of society. Schools, hospitals, psychiatric and penitentiary institutions, production sites and markets were the new sites where the state enacted its programmes and applied its strategies. The emergence of these new forms of power signalled exactly the switch from government to governmentality. The aim was no longer that of correcting single individuals through coercion, but of governing and disciplining the population as a whole through the induction of appropriate mentalities.

Within these new governmentality strategies, a crucial role was played by identification and surveillance technologies. In order for the modern states to apply their programmes, it was firstly necessary to build up administrative systems capable of identifying and classifying their populations. Yet, for Foucault, this step was not

simply a functional requirement to accomplish other goals, but it was already a fundamental instrument of the new strategy. In *Discipline and punish: the birth of the prison*, he used Bentham's Panopticon as a metaphor to describe the functioning of the surveillance technique. In the disciplinary institution imagined by the English philosopher, prisoners could be seen at all times by guards who were invisible to them. The idea of being permanently observed induced them to behave according to the rules without the necessity to directly coerce them into doing so. According to Foucault, the effect of the Panopticon was: "...to induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power. So to arrange things that the surveillance is permanent in its effects, even if it is discontinuous in its action; that the perfection of power should tend to render its actual exercise unnecessary; that this architectural apparatus should be a machine for creating and sustaining a power relation independent of the person who exercises it; in short, that the inmates should be caught up in a power situation of which they are themselves the bearers" (Foucault, 1979, p. 201). The extension of this strategy to the society as a whole was precisely the objective of the governmentality techniques: "on the whole, therefore, one can speak of the formation of a disciplinary society in this movement that stretches from the enclosed disciplines, a sort of social 'quarantine', to an indefinitely generalizable mechanism of 'panopticism'" (Foucault, 1979, p. 216).

It is within the context of this conception of society as a disciplinary system that the Foucauldian perspective has been related to management of migrant populations. The creation of different categories of migrants, to which different rights, duties, and limitations are assigned, would be a perfect example of a governmentality technique (Chavez, 2007; Inda, 2006; Vasta, 2011). The necessity to pass through the different categories and statuses before obtaining full citizenship would work as a "system of dams" (Mezzadra, 2011) that allows the selection of the appropriate candidates. The combination of this system of "civic stratification" (Morris, 2002) together with a powerful surveillance apparatus would induce migrants to enter a process of self-discipline, enabling power to work without having to exercise it. Each migrant knows that he/she is being observed, that by following the rules and fulfilling the requirements would take them ahead, while any fault or misconduct would take them back.

Within this system, the irregular migrant category plays a crucial role. Irregularity, rather than being a problem to be eliminated, has become for the state a fundamental component of the governmentality strategy. As put by Friese and Mezzadra: "Increasing mobility shapes the regimes of governmentality of the sovereign modern state and the ways in which power is distributed and enacted. Whereas historically state sovereignty was exercised through the control and surveillance of territory and subjects, governing no longer involves a delimited territory with spatially fixed and sedentary populations, but the control of highly mobile vagrant subjects and populations "menacing" the order and the security of states" (Friese & Mezzadra, 2010). Within this context: "The goal [...] is not that of hermetically sealing off the borders of 'rich countries', but that of establishing a system of dams, of ultimately producing 'an active process of inclusion of migrant labour through its illegalization' (De Genova, 2002, p. 439). This

entails a process of *differential inclusion* (Mezzadra & Neilson, 2010), in which irregularity emerges both as a produced condition and as a political stake in the politics of mobility” (Mezzadra, 2011, p. 229).

In a similar fashion, Garcés-Mascareñas has emphasized how the conception of irregular migration as an independent phenomenon from state policies and programmes is misleading: “While immigrant flows are indeed motivated by the importance of the structurally embedded demand for foreign workers in different receiving societies and of cross-national economic disparities and transnational economic, social and historical ties, these factors alone do not explain why a significant part of these flows take place illegally. The option (or the opportunity) to migrate legally or illegally cannot be understood without taking into account the obvious fact of the state and its migration policies. This is not only because it is the state that defines who may or may not enter, but because the state itself produces the migrants’ illegality” (Garcés-Mascareñas, 2012, p. 205). From her perspective, more effective policies do not mean less irregular migration but more differentiated categories of migrants. In this sense, illegality does not function as an absolute marker of illegitimacy, but rather as a handicap within a continuum of “probatory citizenship” (Chauvin & Garcés-Mascareñas, 2012). The goal is not to completely exclude migrants but to make their inclusion more difficult.

The understanding of irregular migration as part of governmentality techniques employed by the state has evidenced another of its fundamental imperatives, i.e. that of managing populations. The role played by the law in establishing the conditions for formal inclusion and the related power to differentially (and conditionally) incorporate migrants into the host society certainly throws light on important aspects of the irregular migration phenomenon. In particular, they highlight the crucial role of the state in constructing the very category of the irregular migrant and the possible use of this power as part of its strategies to govern. However, these theories present a number of critical aspects. Whereas the status of irregularity is indubitably produced by the state and its creation may be in a way functional to the fulfilment of its interests, the phenomenon of irregularity, as regards its sociological dimensions, cannot be understood as a state product. The magnitude, characteristics and significance of irregular migration within a society can only be partly influenced by the state. In this sense, the concept of “production” is misleading, because it implies the producer’s mastery over the process and the results that does not exist in this case. The distinction between the legal and sociological significance of a phenomenon becomes crucial. Even if the illegalization (or legalization) of a certain phenomenon is in the hands of the state, the social consequences of this are not. In this regard, the discussed theories tend to offer an image of the state, or more in general, of power, as rational, coherent, almighty forces that is not matched by reality. A state’s action is fragmented, multi-levelled, sometimes contradictory and does not develop in a social void. Hence, the heterogeneity of forms, dimensions and characteristics that the irregular migration phenomenon displays in the different contexts in which it develops, can hardly be explained only as a governmentality strategy or as a technique of power. These power forces certainly exist and are employed by states but within a complex scenario of social actors and interactions.

### **Self-Restraint of States and Irregular Migration**

As previously discussed, many scholars have interpreted irregular migration and the ineffectiveness of control policies as the result of a constraint over state capacities. This could be the result of external factors, as for instance, in the case of the effects of the international human rights regime, or of internal factors, as in the case of civil- society protests. Despite the different views on the causes of the constraints, these explanations have shared the idea of the state as a sort of “victim” or a passive recipient of them. In this section, the focus will move to the theories that have understood state limitations and, hence, phenomena such as irregular migration, not as the result of external restraints, but as the result of self-restraints.

The work of scholars, like Hollifield, Joppke and Guiraudon has focused on those internal characteristics of the contemporary states, and in particular, of the liberal-democratic ones, that determine a self-restraint in their ability to arbitrarily manage populations (Guiraudon, 2000; Guiraudon & Joppke, 2001; Guiraudon & Lahav, 2000; Hollifield, 1992, 2000, 2004; Joppke, 1998b, 1998c). For Hollifield, in order to fully comprehend the current difficulties of many states with regard to controlling migration, it is not enough to consider external economic, political or social factors. Instead, it is crucial to consider the role of endogenous political factors (Hollifield, 1992). In his analysis, the rise of rights-based politics in the US and Europe, after World War II, had a tremendous impact on state management of migration. This analysis did not underestimate the existence of a variety of influential actors and institutions demanding for more liberal policies towards migration, but argued that the extent and the ways in which their influence was possible depended on the inner structure and functioning of states. In liberal-democracies in particular, features such as constitutional charters, division of powers, judicial review of laws, and democratic representation were pinpointed as determinants in limiting the restrictive capacity of the system and in guaranteeing basic rights to everyone. The crucial point of the argument is that these features must not be considered as external and thus, somehow, as antagonists of the state. On the contrary, they should be considered as internal and thus consistent with the state’s purpose. In this regard, Joppke has clearly stated: “..constitutional politics better explain the generosity and expansiveness of Western states towards immigrants than the vague reference to a global economy and an international human rights regime. The sovereignty of states regarding immigration control is more internally than externally restricted” (Joppke, 1998b, p. 20).

In a similar fashion, Guiraudon and Lahav have underlined: “Rather than global processes constraining domestic action, what we observe in the case of aliens’ rights is a legally driven process of self-limited sovereignty. [...] This means that the state has self-limited its capacity to dispose of aliens at will, once they have been admitted” (Guiraudon & Lahav, 2000, p. 189).

These analyses have offered another plausible explanation for the development of irregular migration. The phenomenon would appear not to be the result of states’ failure or incapacity, but rather of states’ application of rights-based liberalism. This form of self-restraint would seem to have severely limited the capacity of states to

effectively deal with irregular migrants. For instance, practices, such as, mass expulsions, random identity checks or unjustified detention, just to mention the most important, that had been common features of migrant management, have become increasingly problematic. In addition, the existence of rights charters applicable to everyone and not just to citizens, and of an independent judiciary system has substantially empowered irregular migrants vis-à-vis states, allowing them to contest and, therefore, circumvent or delay the effects of their decisions and actions.

Two main critical considerations may be made about this claim. On the one hand, as shown for instance by Garcés-Mascareñas, also in non-democratic, non-liberal countries, where states have fewer limits to their restrictive capacities, irregular migration can be a sizable phenomenon (Garcés-Mascareñas, 2012). This fact evidences that, while internal political factors may certainly condition and make its development more difficult, irregular migration cannot be solely explained on the basis of these. In this respect, one may say that there are aspects of this phenomenon that escape political control (be they authoritarian or liberal), that exceed its capacities, and which are beyond its reach. On the other hand, this explanation seems to rely on the supposition that states are resolute in their opposition to irregular migration but that their internal functioning limits this determination. Many of the theories previously discussed have shown that this idea should at least be nuanced by considering that states may be interested in allowing certain levels of irregular migration.

### 3.3.2 *States and Social Demands*

An important set of theoretical explanations of irregular migration has departed from a very different concept of the role of states. Also in these approaches, it is the state that chooses to allow a certain level of irregular migration. The difference is that this choice does not respond to the state's own interests or imperatives, but to the demands coming from society.

#### **Economic Interests and Irregular Migration**

The explanation of irregular migration as a state product to fulfil the demands coming from the economic system has encountered enormous success in literature. The hypothesis is that “irregular migration serves to create and sustain a legally vulnerable, thus tractable and cheap, reserve of labour” (Garcés-Mascareñas, 2012, p. 29). This position has been developed in an impressive number of variants (Bach, 1978; Calavita, 1992; Castles, 2004; Castles & Kosack, 1973; Chavez, 1991, 2007; Cornelius & Rosenblum, 2005; Coutin, 2005a; De Genova, 2002, 2004, 2010; Goldring & Landolt, 2011; Köppe, 2003; Mezzadra, 2011; Piore, 1980; Portes, 1978; Portes & Bach, 1985; Samers, 2004; Sassen, 1988, 1996, 1998). Among these, it is possible to recognize different degrees of radicalism in the interpretation

of the role of the state. Some accounts describe the state as a sort of puppet of capital; others offer a more nuanced view. Given the extent of this literature, the following discussion will be limited to a number of representative interpretations.

Marxist and segmented labour market theories provided a first interpretation that pictured states' ambiguity towards irregular migration as a strategy to meet the demand for cheap labour in industrialized countries (Bach, 1978; Castles & Kosack, 1973; Piore, 1980; Portes, 1978). In this view, the deep transformations that affected industrial economies during the 1960s and 1970s shaped a process of increasing segmentation of the labour markets. While native-workers, attracted by high-skilled, well-paid jobs, filled the upper part of the market, the lower part, consisting of precarious, unskilled and low-paid jobs, faced endemic shortages. States, then, combining labour and migration policies, were able to provide a stream of irregular foreign-workers. Their precarious status signified a flexibility and exploitability that was functional to the demands of the market.

Sassen has argued that deregulation and other policies furthering economic globalization cannot simply be considered as an instance of a declining significance of the state. On the contrary, deregulation and flexibilization must be considered as channels through which a growing number of states are furthering economic globalization and guaranteeing the right to global capital. Within this context, they continue to play a crucial role in the production of legality around new forms of economic activity. Moreover, with regard to the workforce, states are still decisive in generating the conditions for it to be available in the places, numbers and conditions required by producers. In this regard, the management of migration as a tool to differentially and conditionally include foreign workers, has become fundamental. This strategy is no longer simply a way to provide a "reserve army to overcome the periodical crisis of capitalism" (Castles & Kosack, 1973; Sassen, 1988); in fact, it has become a permanent structural mechanism within the new configuration of capitalism. These dynamic forces are particularly visible in global cities where, not just by chance, a "great concentration of corporate power and large concentration of 'others'" are discernible (Sassen, 1998). In a similar vein, Schierup, Hansen and Castles have underlined that: "Socially marginal migrants is not an imported phenomenon but rather 'part and parcel' of advanced capitalist strategies of deregulation, for the enhancement of 'flexibility' in terms of a networked economy and society, and a fragmented labour market" (Schierup et al., 2006, p. 299).

Departing from an analysis of historical and contemporary migration from Mexico to the United States, the works of De Genova, have argued against the tendency to "naturalize" migrants' "illegality" (De Genova, 2002, 2004, 2009, 2010), to treat it "as a mere fact of life, the presumably transparent consequence of unauthorized border crossing or some other violation of immigration law" (De Genova, 2004, p. 161). In his perspective: "...migrant 'illegality' signals a specifically *spatialized* socio-political condition. 'Illegality' is lived through a palpable sense of deportability – the possibility of deportation, which is to say, the possibility of being removed from the space of the US nation-state. The legal production of "illegality" provides an apparatus for sustaining Mexican migrants' vulnerability and tractability – as workers – whose labour-power, inasmuch as it is deportable, becomes an

eminently disposable commodity. Deportability is decisive in the legal production of Mexican/migrant ‘illegality’ and the militarized policing of the US-Mexico border, however, only insofar as some are deported in order that most may ultimately remain (un-deported) – as workers, whose particular migrant status has been rendered ‘illegal’” (De Genova, 2004, p. 161). The idea of a legal production of irregular migration on the part of states, which was previously discussed as part of a governmentality strategy, acquires here a more economic orientation. Migrants’ vulnerability and tractability are created to provide the economic system with the docile and exploitable workforce it needs.

The main strength of these approaches has been to reveal the economic relevance of irregular migration in many contexts and to enquire into the political consequences of this. States, in these accounts, have been benevolent in according policies with the effect of generating important fluxes of irregular migrants, the kind of unskilled, flexible and exploitable workforce demanded by employers. While the question rose, namely the nexus between economy, politics and migration, is of great importance, the conclusion that states produce irregular migration to satisfy the demands of capital appears problematic. Firstly, this hypothesis does not explain why certain states are more resolute and efficient in fighting irregular migration than others (unless it is believed that in the first states capitalists have a higher morale), or why some decide to periodically regularize large numbers of migrants. More in general, it fails to account for the very differentiated picture of control policies and irregular migration realities, worldwide. Secondly, it presupposes that if states were not lenient to economic interests, they would be able to completely control irregular migration and this is quite unrealistic. Thirdly, it tends to downplay the existence of other interests, including those of the states themselves, which affect the formulation of policies. In this sense, the idea of the state as a weapon of capital is not convincing.

### **The State as a Broker of Social Demands: Pragmatic Solutions, Symbolic Policies**

While the theories presented in the previous section relied on the hypothesis of the state being sensitive almost exclusively to economic interests, here the focus will be on the approaches that understand the state as a broker between a much wider set of social actors and interests. From this perspective, the magnitude and treatment of irregular migration within a certain context can be understood as the result of the pragmatic and, not always, transparent balances found by states between the different social demands and instances.

A very influential version of this interpretation has been proposed in the works of Freeman (Freeman, 1994, 1995, 2004, 2006). His political-economy model of policy-making aimed at explaining why in liberal-democracies, notwithstanding the widespread restrictionist rhetoric against migrations, the actual policies had been “broadly expansionist and inclusive” (Freeman, 1995). While the analysis acknowledged important differences within the analysed countries, basically related to the

timing of their first experience of mass immigration and the extent to which migration policies are institutionalized, Freeman argued that the common tendency to expansive migration policies could be explained by the liberal and democratic characteristics of their political systems. The particular functioning of these systems implies that policies are the result of the interaction among three main players: (a) individual voters; (b) organized groups; (c) state actors. Nevertheless, when it comes to migration policies, what is Freeman's main argument is that the organized public dominates the bargaining. This is because immigration tends to produce concentrated benefits and diffuse costs, giving those who benefit from immigration greater incentives to organize than people who bear its costs. Hence, in this case, those who benefit, for instance, employers in labour-intensive industries and dependent on an unskilled workforce, businesses that profit from population growth (real estate, construction, etc.), and the family and ethnic relations of immigrants, have many more resources and capacities to make their voices heard than those who may be negatively affected by migration, namely the populations competing with immigrants for scarce jobs, housing, schools and government services. Since state actors are assumed to be vote-maximizers, they will respond to the organized pressure of groups favourable towards immigration, ignoring the widespread, but poorly articulated, opposition of the general public. The interactions will take place largely out of public view and with little outside interference. For these reasons, Freeman concludes that "[t]he typical mode of immigration politics is client politics" and client politics is strongly oriented towards expansive immigration policies. If this seems to be the general, long-term tendency, however, the politics of immigration in liberal democracies fluctuates and exhibits a tendency to go through predictable cycles. There is a 'good times/bad times' movement, in which migration is tolerated or encouraged during expansionary phases, but becomes the focus of anxieties when unemployment rises. While, in his works, Freeman has not explicitly intended irregular migration as a pragmatic solution to the conflict between the expansionary bias supported by organized groups, and the restrictive one supported at times by right-wing parties or portions of the public opinion, the idea has been undoubtedly suggested. For instance, in the conclusions of his article *Can Liberal States control Unwanted Migration?*, talking about how states deal with migration problems, he affirms that "states allow migration problems to accumulate and migration control policies to flounder until rising public pressure or some crisis makes action unavoidable" (Freeman, 1994, p. 30).

Zolberg has proposed the formula "wanted but not welcome" (Zolberg, 2000) to describe the existing tension in the majority of receiving societies: "...between two sets of concerns, represented as orthogonally related axes – the one representing economic interests, the other cultural and social interests, with a focus on 'identity'. Although migrants are highly prized on economic grounds, the massive internal migration or outright immigration of culturally distinct labour-market competitors triggers considerable uneasiness among the receivers on 'identitarian grounds'. [...] Because indigenous workers seldom have the power to prevent the immigration, it does take place; but the foreign workers are usually maintained in a state of segregation by way of an internal boundary. This facilitates their economic exploitation

while minimizing their cultural impact (Zolberg, 2006, p. 225). The internal boundary to which Zolberg refers has historically acquired many different forms and degrees of impermeability. During the colonial era, for instance, this was constructed on racial grounds and put into effect in the slavery system. In contemporary societies, the internal boundaries are constructed in more subtle ways through the use of citizenship and identity policies. The case of irregular migration is precisely one where wanted migrants are kept from crossing the boundary on political bases.

The necessity on the part of states to reconcile the contrasting demands from society and the resort to pragmatic, often contradictory, solutions has led scholars to propose concepts such as “non-policy as a policy” or “symbolic policies” (Andreas, 1998; Broeders & Engbersen, 2007; Castles, 2004; Castles & Miller, 1993; Cornelius, 2005; Cornelius & Rosenblum, 2005; De Genova, 2004; Guiraudon & Joppke, 2001; McNevin, 2009; Schrover et al., 2008; Triandafyllidou, 2012). From this perspective, the combination of restrictive rhetoric and highly visible, but largely ineffective, policies is a pragmatic solution that allows states to show toughness and resolution against irregular migration without defrauding employers.

Cornelius, discussing the United States’ migration policy, has spoken of a “manufactured” illegality. In his analysis, this results from a highly contradictory policy that combines border enforcing and legal-entry restrictions with weak internal controls. This “supply-side only” strategy cannot work. The “unrealistically low quotas for low-skilled foreign workers, quotas that are set so low for political rather than market-based reasons” (Cornelius, 2005, p. 789) implies a huge demand for irregular migrants. The enormous investments made by the government to reinforce the southern frontier, can only be interpreted as part of the “political calculus that heavy-handed, highly visible border enforcement remains useful in convincing the general public that politicians have not lost control over immigration” (Cornelius, 2005, p. 789).

Castles has explained the contradictions and apparent malfunctioning of migration policies, as the result of governments’ difficulties in openly favouring one interest group and ignoring another. Therefore, a possible solution is the adoption of hidden agendas, i.e. “policies which purport to follow certain objectives, while actually doing the opposite”. In particular, this regards migration policies, whose aim would be “to provide anti-immigration rhetoric while actually pursuing policies that lead to more immigration” (Castles, 2004, p. 214). Accordingly, Castles has underlined why it is important to consider that the declared objectives of states are often misleading, for instance, precisely regarding irregular migration: “Policies that claim to exclude undocumented workers may often really be about allowing them in through side doors and back doors, so that they can be more readily exploited. This, in turn, could be seen as an attempt to create a transnational working class, stratified not only by skill and ethnicity, but also by legal status” (Castles, 2004, p. 223). More recently, he has suggested that the contrast to irregular migration is a consensus instrument, vis-à-vis a tacit permissiveness (Castles, 2010a).

One of the strongest indications of the fictional character of the control efforts made by states has been found in their focalization on border controls. De Genova has spoken of the “border spectacle”: “the spectacle of the enforcement of law at

the border renders the racialized Mexican/migrant “illegality” visible, a “natural fact”, whereas hides the production of that illegality” (De Genova, 2004, p. 177). Triandafyllidou has pointed out how fencing policies on their own, used without gate-keeping policies, are not effective but only spectacular (Triandafyllidou, 2010a, 2010b). Moreover, as shown by many scholars, while governments spend millions trying to stop irregular migrants from crossing their borders, the vast majority of them enter the countries legally with visas issued by the countries themselves (Finotelli, 2009; Finotelli & Sciortino, 2013; Morawska, 2001; Schrover et al., 2008; Sciortino, 2004a). To assess the effective functioning of control policies it is, therefore, necessary to look beyond the façade. As highlighted by Finotelli, the use of different control policies that may produce “unwanted” phenomena, such as, irregular migration, circulatory migration systems or the misuse of refugee policy, can be in effect a way for states “to handle the paradox between state control, market demands and the embedded liberalism of modern nation states” (Finotelli, 2009, p. 899).

The analysis of the different interests and social demands related to migration in each context to which states respond with particular pragmatic solutions, has led to questioning the idea of migration management as an undifferentiated practice worldwide. In fact, to get a better understanding of phenomena like irregular migration, it is necessary to consider: the social and political contexts within which they emerge (Finotelli, 2006, 2009), the different implementation cultures (Jordan et al., 2003), the relevance of the welfare provisions offered by states (Bommes & Geddes, 2000b; Bommes & Sciortino, 2011; Castles, 2004; Esping-Andersen, 1990; Schierup et al., 2006; Sciortino, 2004b; Williams & Windebank, 1998), the existence of certain administrative traditions or path-dependent processes (Faist, Gerdes, & Rieple, 2004; Finotelli, 2006; Finotelli & Echeverría, 2011; Van Der Leun, 2003).

The two main strengths of the theoretical approaches discussed in this section have been: (a) to present a much more complex view of the interests and actors related to migration in society; (b) to offer a differentiated picture of states’ possible reactions to the social demands that may include pragmatic solutions, such as, the use of symbolic policies. Hence, the explanation of irregular migration becomes less straightforward than in other accounts and demands for a detailed analysis of the contexts and combinations of policies enacted by states. This approach opens up the path to a differentiated understanding of irregular migration, one that considers the diverse forms and dimensions the phenomenon acquires in each context, as well as the different relevance and significance it assumes. The critical points concern two aspects. On the one hand, there is a tendency in these perspectives to downplay states’ own interests and picture them as more or less neutral brokers of the social interests. This tends to exclude the importance of the functional imperatives, such as, sovereignty or the control of populations, but also that of the administrative structures and of the different powers within the state. On the other, concepts like hidden agendas, symbolic policies or pragmatic solutions, at least in certain interpretations, seem to overstate both state capacity and rationality in governing migrations.

### **3.4 Critical Discussion of the Main Theoretical Explanations of Irregular Migration**

The different works and approaches that have been analysed in this chapter have offered a wide number of different theoretical explanations of irregular migration. Each of them has added an important piece to the complex puzzle represented by contemporary migrations and, in particular, by the phenomenon of my concern. Nevertheless, each of them has also presented elements of criticism. In Table 3.2, all the approaches discussed, their logic, and the possible counterarguments, are summarized.

The conjunct analysis of these theories raises a striking problem. While, on their own, they provide persuasive elements to explain irregular migration, viewed together their claims are not always compatible and, in certain cases, are simply irreconcilable. Just to make one example, how can irregular migration be the result of a state strategy to control its population and, at the same time, the evidence that it has lost precisely that power? The problem, as many scholars have indicated, derives from a lack of theoretical ambition that has led to the production of case-specific, narrowly focused, unsystematic, hard to generalize explanations (Baldwin-Edwards, 2008; Bommès, 2012; Bommès & Sciortino, 2011; Cvajner & Sciortino, 2010). This has made the coexistence of contrasting hypotheses possible without the need to try to reconcile them. Therefore, the paradoxical situation of possessing a great number of theoretical explanations, each of which is able to illuminate a particular aspect of the phenomenon, but lacking a comprehensive theory capable of reconciling the many explanations and of offering a general interpretation was reached.

In this final section, an extensive discussion of the main critical aspects of the discussed theoretical explanations will be presented. This will lay the basis for the discussion of an alternative theoretical framework in Chap. 4.

#### ***3.4.1 Irregular Migration as an Undifferentiated, Mono-causal Phenomenon***

Within the discussion of the single theoretical explanations of irregular migration, a number of critical aspects and possible counterarguments were raised, but here the focus will be on two main, wide-reaching problems that somehow drawn from all the others.

Firstly, there has been a general tendency to theoretically treat irregular migration as an undifferentiated phenomenon. This has led to underestimating the several, important differences the phenomenon has displayed in the various contexts in which it appeared, for instance, regarding its magnitude, characteristics, implications, etc. Yet, and more problematically, it has led to miscalculating the different causes at work in each circumstance. The main consequence has been the incautious

**Table 3.2** Theoretical explanations of irregular migration

Explanation logic: irregular migration as the result of...				Counterarguments
State failure	Inherent limitations and weaknesses of states	Policy design	Knowledge production, policy design, predictive capacity limitations	States can be effective. If they are not it is because they do not want to.
		Policy implementation	Administrative, organizational and financial limitations	Irregular migration is not only a function of policies.
External constraints and limitations	External constraints and limitations	Economic globalization	The overwhelming force of the global economy	States have favoured globalization and its dynamics. Irregular migration is not a sign of their decline but of their choices.
		Political globalization	The role of: embedded liberalism; international legal and human rights' regimes; international institutions	States have the power to control; if they do not, this indicates possible collusions and self interests.
		Social globalization	Communications and transport technologies; information exchanges and cultural unification; transnational networks	Why do some countries control better than others?
		Migration industry (external part)	The activity of informal and criminal networks; human smuggling and human trafficking	Why differences between states? Why variation in the dynamics over time?
Internal constraints and limitations	The informal economy	The informal employment in many production sectors	The states do not want to control the informal economy.	
			No lineal relation informal economy – irregularity, the US case.	
			Informal economy before irregular migration	
	Migrants' agency	Individual strategies and counterstrategies to circumvent controls	Risk of overstating migrants' power and downplaying the role of structures. Why aspirations change?	
	Internal social constraints	Street-level bureaucrats and other agents' discretionality	Policies are often effective.	
The role of civil society			Differences between countries.	
Migration industry (internal)				

(continued)

**Table 3.2** (continued)

Explanation logic: irregular migration as the result of...				Counterarguments
State choice	Internal political factors	Sovereignty imperatives	State strategy to build its legitimacy and maintain sovereignty	Irregular migrants are not completely excluded. Sometimes they find it convenient to be irregular.
		Governmentality techniques	State strategy to control population	No differentiation.
		State self-restraint and rights-based liberalism	State self-constrained capacity to control populations	Irregular migration also exists in authoritarian states Irregular migration could be useful to states.
The state and social demands	The state and capital	States produce irregular migrants to fulfil the demand of the labour market	States are not omnipotent Why do some states regularize? No differentiation	
	The state as a broker between different social demands	Irregular migration as a pragmatic solution Controls as symbolic policies	States' own interests downplayed States' capacities and rationality overstated	

extension of the explicative logic that emerged for a specific case to other cases, or to “irregular migration” as an abstract concept. This problem, it was suggested, may have been related to a limited interchange between the empirical and the theoretical research on the field (Czaika & de Haas, 2011). While, since the 1990s, and especially down through the 2000s, a number of comparative analyses on irregular migration have increasingly evidenced the above-mentioned differentiated picture, their results rarely stimulated attempts to reconcile their implications and to produce a general theory.

Secondly, there has been a general inclination to offer mono-causal explanations. Not only was irregular migration explained as if it was the same phenomenon everywhere, but it was also described as if its causes could be reduced to one. Therefore, it was explained, for instance, as: the last bastion of sovereignty, a consequence of the informal economy, a by-product of Globalization, related to states’ self-restraint, or the result of migrants’ agency, just to mention a few. This tendency materialized in a paradigmatic manner in the dichotomy between the two main, broad, competing mono-causal explanations: that it was either the result of state failure or the result of state choices. Moreover, this approach has created the conditions for a limited debate about the different perspectives. If the dominant logic is the “either/or” one, the possibility for the “both/and” one is excluded.

These two problems can be related to a number of more specific and complex epistemological, conceptual and methodological ones. In the next sections some important critiques that have been advanced in the study of contemporary migrations more in general and that are significantly pertinent to our discussion will be examined.

### 3.4.2 *Epistemological Problems and Reductionisms*

The difficulties and contradictions that affect the interpretation of contemporary international migrations, which have become patent in our review, are probably an appendix to a more general difficulty in comprehending the epochal changes related to the so-called globalization. While these changes and the uncertainty they entail may be causing social concern, at least scientifically, they have favoured very interesting debates and critical analyses. In general, it may be stated that there has been a rising awareness of the complex challenges and questions posed by our time and of the necessity to improve our understanding. Many of these works offer important contributions to our discussion.

#### **The Double-Edged Heritage of Methodological Nationalism**

While the concept of “methodological nationalism” had been used before (Smith, 1983), it was successfully re-proposed within the globalization debate. Its success was probably related to the fact that it condensed into one concept the main critiques that had been moved to the so-called “mainstream literature”. Wimmer and Glick-Schiller defined it as “the assumption that the nation/state/society is the natural social and political form of the modern world” (Wimmer & Glick-Schiller, 2002, p. 302). For many scholars, this assumption was one of the most important limitations to an adequate understanding of contemporary migrations (see, for instance: Beck, 2003; Friese & Mezzadra, 2010; Isin, 2009; Mezzadra, 2011; Schinkel, 2010; Wimmer & Glick-Schiller, 2002, 2003). Their criticisms demanded for an epistemological, conceptual and methodological turn within migration research, one that reconsidered the role of the state vis-à-vis that of other actors and, in particular, of migrants themselves.

Wimmer and Glick-Schiller identified three main variants of methodological nationalism: “1) Ignoring or disregarding the fundamental importance of nationalism for modern societies; this is often combined with 2) naturalization, *i.e.*, taking for granted that the boundaries of the nation-state delimit and define the unit of analysis; 3) territorial limitation which confines the study of social processes to the political and geographic boundaries of a particular nation-state. The three variants may intersect and mutually reinforce each other, forming a coherent epistemic structure, a self-reinforcing way of looking at and describing the social world” (Wimmer & Glick-Schiller, 2003, pp. 577–578).

In the works of Beck, the concept has been further developed. He indicated seven main principles:

- (a) The subordination of society to state, which implies b) that there is no singular, but only the plural of societies, and (c) a territorial notion of societies with state-constructed boundaries, *i.e.*, the territorial state as a container of society. (d) There is a circular determination between state and society: the territorial nation-state is both the creator and guarantor of the individual citizenship rights and citizens organize themselves to influence and legitimate state actions. (e) Both states and societies are imagined and located within the dichotomy

of national and international, which so far has been the foundation of the dominant ontology of politics and political theory. (f) The state as the guarantor of the social order provides the instrument and units for the collection of statistics about social and economic processes required by empirical social science. The categories of the state census are the main operational categories of empirical social science. [...] (g) In membership and statistical representation, methodological nationalism operates on the either-or principle, excluding the possibility of both-and. But these oppositions – either “us” or “them”, either “in” or “out” – do not capture the reality of blurring boundaries between political, moral and social communities... (Beck, 2003, pp. 454–455)

This perspective had the merit of questioning many well-established assumptions and of revealing the importance of phenomena, such as, transnationalism, migrants’ activism or the emergence of new forms of citizenship. In particular, regarding the first aspect, the critique of methodological nationalism demanded for a return to the concept of society as the main conceptual tool for interpreting human relations. The state and the inventory of correlated concepts, such as, national population, national territory, sovereignty, citizenship must be considered as particular, historical constructs that permanently interact with others and constantly change.

As Wimmer and Glick-Schiller warned, however, an unbalanced criticism of methodological nationalism could entail its own risks: “...many who have attempted to escape the Charybdis of methodological nationalism are drifting towards the Scylla of methodological fluidism. It makes just as little sense to portray the immigrant as the marginal exception than it does to celebrate the transnational life of migrants as the prototype of human condition (Papastergiadis, 2000; Urry, 2000). Moreover, while it is important to push aside the blinders of methodological nationalism, it is just as important to remember the continued potency of nationalism” (Wimmer & Glick-Schiller, 2003, p. 600). This note of caution directly echoes back to our discussion of the already-mentioned problem of mono-causal explanations for irregular migration. While the critique of methodological nationalism has been crucial for revealing both state limitations and the key role of other actors at different levels, such as, migrants, global capitalism or international institutions, in many cases, this has led to a premature dismissal of any state relevance.

### **Reductionisms: The State and Society**

As social sciences “originated in a “culture medium”, politically and culturally framed by the nation state”, this has determined a number of reductionist problems (Castles, 2010b). By this, what is meant is a tendency to analyse complex phenomena with simple, sometimes prejudicial, frameworks (Boswell, 2007).

A number of scholars, with arguments that often echo those opposing methodological nationalism, have further criticized the dominant conception of *the state-society relation*. Bommes has discussed the idea of the state as a “control unit of society” (Bommes, 2012, p. 166). For him, recalling the works of Luhmann, this idea entails a “limited concept of social structure” (Bommes, 2012, p. 20) that derives from the self-description of the state. He proposed considering nation-states,

not as superposed, all-embracing containers of society, but as internal components of them. From this perspective, the analysis of irregular migration must, on the one hand, consider different capacities on the part of states, and on the other, their interaction with other actors within society. “Illegal migrations confront states with problems which draw attention to the necessities, possibilities and limitations of their migration policy... [...]. Nation-states cannot renounce their right to control access to and residence in their territories. This right is implemented very differently in different states” (Bommes, 2012, p. 166). In certain societies, “the intervention of the state is wide-ranging and penetrates numerous areas of society” (Bommes, 2012, p. 166), while in others, it is lighter and more limited.

Hayman and Smart have warned against confusing “the legal” state and the “empirical” one (Heyman & Smart, 1999). While the former, the one envisaged in laws and in ideologies, denotes a solid, coherent, stable and socially-undisputed idea of it, the latter, the one emergent from reality, suggests a fragmented, complex, dynamic, wrangled actuality of it. In their analysis, it is precisely “illegal practices” that offer a privileged angle to disentangle the state-society equation and consider the relation as processual and conflictive.

Broeders signalled a tendency to fully believe, even within social sciences, in clichés constructed from a statist perspective (Broeders, 2009). For instance, powerful ideas, such as that of fortress or panopticon can be misleading, if not critically analysed. They “draw our attention to the power of the state and the enormous capacity it has built up in the ‘fight against illegal immigration’” (Broeders, 2009, p. 37) but they may suggest that this power has become overwhelming or undisputed. While these ideas may well fulfil a social or political function or offer a clear, neat representation of social interactions, they may represent a problem for social sciences. Talking about surveillance and citing Bennett, Broeders pointed out: “Surveillance is, therefore, highly contingent. If social scientists are to get beyond totalizing metaphors and broad abstractions, it is absolutely necessary to understand these contingencies. Social and individual risk is governed by a complicated set of organizational, cultural, technological, political and legal factors” (Bennett, 2005, p. 133). Then he concludes by stating that, “This points to realities both inside and outside the power container of the state that are at odds with metaphoric clarity and lack of ambiguity” (Broeders, 2009, p. 37).

Another source of reductionism has regarded the internal conception of states. Many scholars have criticized the understanding of states as monolithic, coherent, and thoroughly rational actors (Boswell, 2007; Leerkes, 2009; Mezzadra, 2011; Van Der Leun, 2003). As expressed by Leerkes: “The state is not a monolithic whole either. Conflicts and different approaches and interests may emerge. There is a territorial division: municipal, provincial, national governments and supra-national level (EU). There is power division: executive, judicial, legislative powers” (Leerkes, 2009, p. 29).

Boswell has detected two main tendencies, both problematic, in current accounts of state functioning as regards migration management. In the first, states have been characterized essentially as brokers of the different social interests. “The state is assumed as passively reacting to different interests. Its role is confined to that of

finding a utility-maximizing compromise between organized interests” (Boswell, 2007, p. 79). In the second, states have been characterized as externally constrained in their ability to decide by: the other social actors, the liberal institution or the international society. From Boswell’s perspective, both these tendencies lack “some understanding of the state’s interests” and, in her opinion, the analysis of: “.its functional imperatives, must remain central to any political theory, especially one aiming to explain why under which conditions the state is constrained by liberal institutions. The state must remain central, since it continues to be the focus of expectation concerning the delivery of security, justice and prosperity” (Boswell, 2007, p. 88). She proposes four main, broad functional imperatives that characterize every state, in particular, they have to: (a) provide internal security for its subjects; (b) generate the condition for the accumulation of wealth; (c) provide a certain level of social “fairness”; (d) maintain institutional legitimacy. All these imperatives may be related to the migration phenomenon and are usually difficult to accomplish simultaneously. The crucial point in her analysis is that these are not considered predominant and disconnected from the rest of society; state actions and choices, constantly “resonate”, in a mutually influencing relationship, with the rest of society.

A final problem related to the conception of the state and the understanding of migration relates to the treatment of states as if they were undifferentiated units. Many scholars have underlined the necessity to consider not only: a) the particularities of each state as regards their historical, institutional and political configuration, but also b) the particular way in which they give shape to a state-society relation in each context. Concerning the first aspect, criticisms were made towards a simplistic distinction between liberal-democratic and authoritarian states that often led to dichotomous abstract conclusions. The relationship between the political regime and migration, from this perspective, needs to be problematized and differentially analysed. An attempt in this direction was proposed by Rush and Martin who suggested different degrees of openness towards migration in relation to what they see as a trade-off between numbers and rights. The fewer rights that are guaranteed to migrants, the more numbers will be accepted and vice-versa (Ruhs & Martin, 2008). Garcés-Mascreñas’s ground-breaking research was one of the first attempts to compare the management of migration by a liberal state with that of an authoritarian one. Her work pointed out that the relations between the political system and management of migration cannot be linearly interpreted (Garcés-Mascreñas, 2012). On the one hand, though it is certainly true that authoritarian states have fewer constraints in imposing their will over populations, this does not mean they are necessarily more effective in controlling migrant populations. On the other, the liberal-democratic character does not hold a state back from adopting ambiguous policies that, in many cases, more or less directly, entails the violation of its own constitutional principles. These results suggest the necessity for fully-fledged differential analyses that go beyond the labels and consider a number of factors, for instance: (a) the internal structure and functioning of each state; (b) the political culture and tradition; (c) the historical relation with migration; (d) the administrative and budgetary capacity of each state; (e) how policies are effectively implemented.

As for the second aspect, the state-society relations, an important strand of research raised attention on the necessity to differentiate the various forms and configurations of the welfare state (Bommes & Geddes, 2000b; Bommes & Sciortino, 2011; Esping-Andersen, 1990, 1996; Ferrera, 1996; Scharpf, 1996; Schierup et al., 2006; Sciortino, 2004b). Since the seminal work of Esping-Andersen, the study of the welfare state must not be intended as the simple distinction between the different rights and provisions offered by the administration to its citizens in each context (Esping-Andersen, 1990). Instead, his concept of welfare-state regimes pointed to the complex and dynamic interrelation between state activities, market characteristics and families' role in social provision. This approach led him to identify three main ideal-types of welfare regimes: the conservative/corporatist one, the liberal one and the social democratic one. Each regime implied the formation of a particular institutional framework and of a specific model of interaction with the other social structures. From this perspective, the role of the welfare-state regime becomes determinant in configuring, for instance, the employment structures and, thus, the new axes of social conflict and stratification.

The analysis proposed by Esping-Anderson set the conditions for a differentiated and more complex understanding of the relationship between welfare states and migrations. Bommes and Geddes departed from his work to reflect on this particular issue. For them, as they have clearly stated, "differentiation and specificity of argumentation is paramount": "Responses to immigration in national welfare states differed enormously with social inclusion and exclusion mediated by national historical, social and political contexts with a strong emphasis on territoriality and by diverse organizational and decisional infrastructures of different welfare state types. These are a major condition for the specific design of immigration and immigrant policies and have important consequences for the conditions of immigration, the status of migrants, and their social entitlements" (Bommes & Geddes, 2000c, p. 3). Therefore, they concluded that "it is the combination of specific national welfare types, their forms of inclusion and construction of the welfare community, their forms of immigration control and their ways of dealing with illegality" that finally shape the actual phenomenon of migration (Bommes & Geddes, 2000a, p. 253).

From a slightly different perspective, Devitt has underlined the necessity, in order to understand more fully contemporary migrations, to take into consideration the important differences existing among the "socio-economic regimes" in the receiving countries (Devitt, 2011). From her perspective, common explanations of migration determinants fail to account for the differentiated picture displayed, for instance, by European countries. Taking as a reference point, the attempts made in comparative capitalism literature (Deeg & Jackson, 2007; Jackson & Deeg, 2006) to cluster countries on the basis of the interlinking economic and industrial relations, employment, welfare, education and training regimes, she has proposed a "socio-economic institutional explanation for immigration variation in Europe". Her framework of analysis considers a number of variables and their direct or indirect effect on the demand for migrants. In particular, she has distinguished two main groups of variables, on the one hand, those specifically related to the job market: (a) the wage-skill of the economic regime; (b) the level of labour market regulation; (c)

the employment-standards monitoring and, on the other, those related to what she calls the “surrounding system”: (a) the welfare systems; (b) the education and training regimes; (c) the social services in relation to the demand for migrant careworkers (Devitt, 2011, pp. 587–591). In addition, Devitt highlights the need to consider the effects of the economic cycle, which may help to understand the intertemporal variation within a single regime.

### **Reductionisms: Social Interactions**

Another source of different forms of reductionism has come from the way in which social interactions have been (or have not been) understood. By social interactions, it is meant the way in which the different components of the social realm (actors, institutions, discourses, etc.) interact with each other and the effects that such interactions have. Two main critical and interrelated points that have been raised in this respect will be discussed.

Many scholars have mentioned, explicitly or implicitly, *the agency-structure relation* as a problematic aspect in the understanding of migrations (Boswell, 2007; Castles, 2010b; Van Meeteren, 2010; Van Nieuwenhuyze, 2009; Vasta, 2011). Boswell has referred to the debate concerning this issue in terms of a trade-off: “.between a theory with a plausible account of agency but which neglects social structures and one allowing substantial causal weight to institutions but lacking a plausible theory of agency” (Boswell, 2007, p. 76). She has related this trade-off to another, the one between theoretical neatness and complexity of explanation of social phenomena. The solution, as observed in the discussion of the different theories of irregular migration, has often been found in bypassing the problem and choosing to explain things, using either the structure prism or the agency one. The result has been a dichotomous tendency that has pictured irregular migrants either as “products” of structures (the state, the economy, the human rights’ regime) or as a sign of their irrelevance.

More in general, structure and agency have been treated as alternatives, whereas the focus, as suggested by Vasta, should have been centred on their relation (Vasta, 2011, p. 3). In this respect, Van Nieuwenhuyze, recalling Giddens’ structuration theory, has suggested: “Structure is not external to individual lives; structural properties are both the medium and the outcome of the practices they organize. Actions should be studied and analysed in their situated contexts, showing how they sustain and reproduce structural relations without falling into the functionalistic trap. There are no mechanical forces that guarantee the reproduction of a social system from day to day or from generation to generation, but all social life is generated in and through social praxis. In this sense, structure is internal, embodied; but it also stretches away in time and space, beyond the control of any individual actors. Through this approach, both structure and agency can be included in the analysis (Van Nieuwenhuyze, 2009, p. 16).

A second problematic aspect regards the understanding of *cause-effect relations* in society (Czaika & de Haas, 2011; Luhmann, 2012; Moeller, 2013). This issue has

emerged especially in the analysis of state policies but it affects all social interactions. The problem concerns the epistemic structure of the input-output model that is usually used. The model postulates a direct, straightforward, exclusive relation between one event (the input or cause) and another (the output or effect) (Luhmann, 2012). While this model indubitably offers the advantage of theoretical neatness, its linear, one-dimensional structure generally fails to produce realistic accounts of social interactions. The model may work well for a simple laboratory experiment. There, it is possible to select a limited number of variables whose interaction needs to be studied (the internal variables) and to perfectly control them; other variables (the external ones) can be easily excluded. Furthermore, it is possible to delimit the length of the experiment. All these characteristics usually allow one to establish clear-cut, cause-effect relations. However, applied to social reality, this model tends to produce reductionist accounts. The complexity that characterizes the functioning of society poses different problems: (a) it is difficult to identify and control internal variables; (b) it is impossible to isolate the analysis from external variables; (c) it is not possible to temporally limit the interactions. The case of a new state policy offers a perfect example. The common understanding is that a certain action is enforced to obtain certain results, yet: (a) it is not possible to perfectly control both how the action is designed and implemented, and how the receivers adapt and counteract; (b) it is impossible to isolate external variables, for instance, the reaction of other social actors or the intervention of unconsidered factors; (c) it is not possible to temporally limit the effects generated by the initial action (for a similar discussion, see: Czaika & de Haas, 2011). Hence, it is very difficult to establish a straightforward cause-effect relation, at least in terms of the input-output model. The implication is not a negation of the existence of cause-effect relations, but the suggestion of an understanding of these as part of complex, multifactor, dynamic interactions.

The analysis carried out of the different theories of irregular migration has clearly showed the implications of this crucial epistemic problem in a number of tendencies: (a) the production of single-cause explanations; (b) the overstatement of actors' capabilities, rationality, vision; (c) in connection with the foregoing, the treatment of actors' actions or mis-actions (especially of institutional or system actors, e.g. "the state", "the economy", "society") in terms of intentionality; (d) the underestimation of external variables and other actors' reactions and forms of adaptation; (e) the understatement of the existence of short-term, medium-term and long-term effects. These tendencies have led to the construction of a straight cause-effect hypothesis about irregular migration. While these may have reached the goal of offering internally logical, clear-cut explanations, they have generally failed to offer comprehensive, generalizable theories capable of satisfactorily accounting for the complexity of the phenomenon.

### **The Sedentary Bias**

The study of international migrations has also been affected by what has been defined as *the sedentary bias* (Bakewell, 2008; Castles, 2010b; Friese & Mezzadra, 2010; Papastergiadis, 2010; Zolberg, 2006). This tendency, which can be linked to

methodological nationalism, interprets international migration as an exceptional phenomenon that perturbs the “normal” conditions of fixed national populations and limited cross-border fluxes. Since it frames them as exceptional, the adoption of this perspective treats migrations as a problem. As underlined by Zolberg: “Despite epochal changes, since nation-states emerged, they continue to adhere to the normative assumption that they consist of self-reproducing populations. In relation to this idea, emigration and immigration are constructed as disturbances” (Zolberg, 2006, p. 222). This perspective has oriented the scientific approach towards migrations in many ways, for instance: (a) human mobility has been understood as a problematic novelty instead of a normal, historical feature (Urry, 2007); (b) states and migrants have been interpreted as opposed, so the presence of the latter has then, somehow, indicated a failure of the former (Cornelius et al., 1994); (c) the internal demand for migrants has been neglected, leading to the invasion paradigm (Zolberg, 2006); (d) there has been a tendency to focus almost exclusively on the process of border trespassing, discarding, for example, the role of state visas (Bommes & Sciortino, 2011); (e) the state and its institutions, for instance, citizenship, have been considered as fixed and immutable, neglecting social interactions and change (Isin, 2009); (f) migrants have been treated as either victims or villains (Anderson, 2008); (g) the policy-oriented, problem-solving focus of research (Bommes & Sciortino, 2011). Hence, it is not difficult to recognize many of these problems lying behind the main explanations of irregular migration that have been discussed.

### 3.4.3 *Summary: Problematic Aspects in the Theorizing of Irregular Migration*

The analysis of the different theoretical explanations of irregular migration has revealed two main problems: the treatment of irregular migration as a undifferentiated phenomenon, both spatially and temporally, and the use of mono-causal explanations. These explanations, moreover, have been, at least in the way they have been proposed, difficult to reconcile, if not downright contradictory. The possibility for a more effective and comprehensive theory of irregular migration has been further limited by a number of theoretical problems and cul-de-sacs. To conclude, then, it seems possible to summarize a number of problematic points whose reformulation could help to develop a more adequate framework of analysis of irregular migration:

- (a) There has been a problematic understanding of *society*. This has generally been understood as subsumed to the concept of the state. From this perspective, states were imagined not only as the containers of societies, but also as their regulators. The first aspect has favoured an undifferentiated analysis of irregular migration because every state has been assumed as an equal unit with similar characteristics, capacities, and functions. The second aspect, presupposing the possibility of total control, has led to “gap hypothesis”-like, failure/choice explanations. If it is assumed that states control society, a phenomenon that escapes their eye can only be interpreted either as a choice or as a failure.

- (b) There has been a problematic understanding of the different *social actors* and their interests. These have generally been presented as rational, coherent and time-stable. The issue has been more glaring in the interpretation of institutional or systemic actors that possess a great degree of internal complexity, but it has also concerned the understanding of individuals. The tendency has been to paint them as single-minded, monolithic, steady actors, rather than as internally complex, often contradictory, interactive ones. In the explanations of irregular migration, the case of the state has been paradigmatic. Many approaches have proposed conceptualization, such as, state's desires, state's self-restraint or state's hidden agendas, which tend to produce reductionist interpretations. The state, like all the other social actors, is internally articulated, possesses different and often conflicting interests, interacts and adapts to the environment's stimulations.
- (c) There has been a problematic understanding of *social interactions*. These have generally been understood in reductionist terms. On the one hand, this has determined a tendency to develop deterministic, direct cause-effect explanations of social interactions. Actors, policies, processes have been interpreted as perfectly capable of establishing and achieving their objectives, neglecting phenomena, such as, incoherence, ineffectiveness, or environmental reactions. On the other hand, there has been a tendency to produce dichotomous explanations, alternatively focused whether on the role of structures or of agency. Thus, irregular migration has been explained either as a phenomenon determined by the state, the economy or international law, or by the agency of actors, such as, migrants, smugglers or employers.

A theory that understands society as the main unit of analysis and the different actors, including the state, as internally complex, multifaceted, interactive ones, would probably offer the possibility for a more complex and differentiated theory of irregular migration. Moreover, it would allow the overcoming of the gap hypothesis conception. Once the idea is left behind that any actor or institution is internally monolithic and can control all social transactions, the whole focus changes. The query is no longer about actors' real intentions or covert plans, failure or success, domination or irrelevance; instead, it is about actors' decision processes and compromises, degrees of success or disappointment, complex and dynamic interactions. While this hermeneutic approach would certainly offer less deterministic and clear-cut accounts of irregular migration, its multi-causal and differentiated explanations would certainly attain the goal to be more congruous with social reality.

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