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0521828147 - Immigration and Politics in the New Europe: Reinventing Borders

Gallya Lahav

Excerpt

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## 1 Introduction

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Act I, Scene 1: Young dark immigrant boy crosses a bustling city street. As he briskly turns the corner, in front of a kiosk selling newspapers in thirty-five languages, he stops to look up at the European Parliament's new age glass skyscraper that honors Europe's citizens. For the moment, his eyes miss the pop-art covered wall in front of him. Slashing across it, red painted words scream, "Immigrés Dehors!" ["Immigrants Out!"]

(Diary of researcher, Brussels, June 1993.)

Scene 2: In neighboring France, where the European Parliament meets, ideals of "égalité" seem to collide with immigrant realities. Strasbourg, a city of 250,000, is the European Union's capital. It is also home to 14 percent of France's foreign residents, 10 percent unemployment, and a substantial (26 percent of Front National vote) anti-immigrant party.

(*New York Times*, 23 March 1997.)

Approximately 25 percent of the world's migrants (15 million "foreigners") reside in Europe today. European policy-makers are forced to deal with this reality and the increasing agitation of their indigenous publics. What was once a bureaucratic and post-World War II phenomenon tied largely to reconstruction needs, the introduction of culturally, religiously, and ethnically diverse groups into European society has had an impact in the public and political arenas. This has been marked by electoral campaigns and party contestation, the emergence and consolidation of extreme-right parties, and increasing public support for xenophobic political forces.

The growing politicization of immigration in Europe has occurred at a time when Europeans witness a challenge to the very idea of their nation-states. Despite and because of increasing integration of the European Union (EU), the problems of immigration point to the differences that still exist among the member-states. The construction of Europe, while incorporating attempts to manage issues such as immigration collectively, brings to the fore the existing diversity of cultures and political traditions in the region, particularly in dealing with concepts that are so close to the core of identity: questions of "us" versus "them."

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## 2 Immigration and politics in the new Europe

To the extent that the realization of a single-market Europe, anchored in the 1957 Treaty of Rome, rests on the success of freedom of movement, a harmonized immigration policy serves as a major test of founder Monnet's frontier-free Europe. While many believe in the EU's potential in matters of the purse, the sensitive issue of immigration resonates in matters of the heart, where nationalism, racism, and xenophobia persist. Despite the complexity of the migration debate, its resolution (or lack thereof) is a critical test of EU durability.

Efforts to "Europeanize"<sup>1</sup> immigration policy expose a major polemic now being addressed by policy-makers and scholars alike: how can liberal democracies reconcile efforts to control the movement of people with those to promote open borders, free markets, and liberal standards? This conundrum not only serves as the starting point for my inquiry, but also generates a more practical question that drives the rationale of this exploration. Given traditional national differences, the interesting question is not why the immigration issue has become politicized in the EU, but why states would cooperate, and on what bases they would converge, if at all. In studying the normative anatomy of a common immigration policy, I am mainly interested in the constraints and possibilities for collective action problem-solving in a changing and uncertain "playing field." As this story unfolds, the immigration paradox in Europe gives pause to those who suppose that the triumph of global forces makes free movement of persons inevitable.

### Questions and considerations

The analytical framework adopted here consists of policy/institutional and attitudinal data that were designed to gauge the viability of European nation-state convergence in a transnational community. It addresses three separate questions. First, what interests (i.e., national, ideological, European) would motivate states to cooperate (or not) on immigration? Second, on what basis would such cooperation be organized (intergovernmental or supranational)? Finally, what would be the nature (liberal or restrictive) of that cooperation?

To a large degree, these questions are empirically grounded in institutional developments and developing norms, and they are measured by what Europeans say and think, and by what policy-makers do. The answers are fundamentally dependent on the extent to which Europeans have coalesced in their thinking, and the way in which policy-makers and institutions have responded.

The organization of this book reflects an attempt to link institutions to norms, and domestic constraints to changing factors in the international

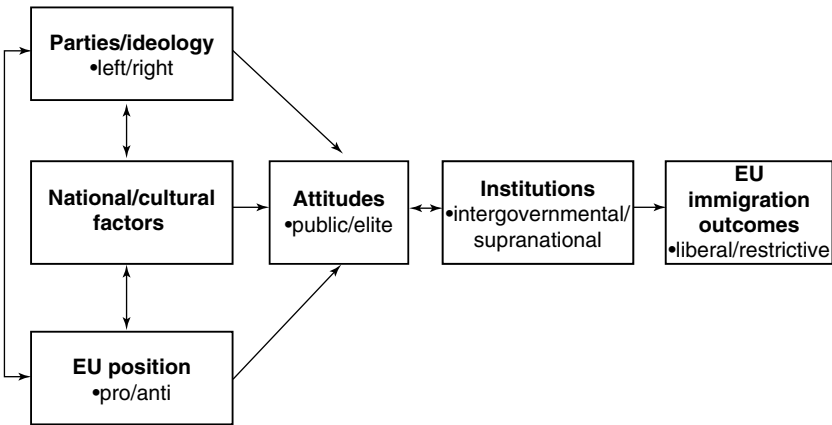


Figure 1.1 Conceptual map

arena. These dynamics illuminate the significant relationship between European regional integration and migration regulation, and they allow us to say something about the future of free movement of people and transnational cooperation. I systematically consider: (1) the interests involved; (2) how they structure public and elite attitudes; (3) their institutional organization; and (4) the link to policy outcomes. These variables are illustrated schematically in figure 1.1.

As figure 1.1 reveals, the linkages between these questions help us understand the conditions under which Europeanization is applicable to immigration issues. In short, we can elucidate the range of behaviors available to policy-makers by linking variables of thinking (i.e., national, ideological, and regional interests) to institutional frameworks and policy preferences.

**Immigration and the construction of Europe: the politics of inclusion and exclusion**

No analysis of migration in Europe today can avoid the consideration of European integration dynamics. This commonly held assumption derives from international relations theories of globalization and interdependence, and it is supported by immigration scholars trying to explain national “loss of control” (Sassen 1996; Cornelius, Martin, and Hollifield 1994; see also Bhagwati 2003). This book takes issue with these foregone conclusions, but it embraces the premise that immigration is significantly enmeshed in the globalization process. The question is: how?

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## 4 Immigration and politics in the new Europe

The drive toward building a common Europe is linked to immigration in two ways: institutionally and attitudinally. First, institution-building and -consolidation present all sorts of struggles – between national and supranational forces; between political parties; between national group actors – that fundamentally involve how Europe should be organized. As discussed in chapter 2, these dynamics channel and frame the entire immigration debate, which is already laden with issues of sovereignty.

The second component of European integration that influences migration thinking is related to the psychological processes that buttress the construction of any new community: the identification of “in-groups” and “out-groups.” Can Italians feel kinship with the French, and should people from the United Kingdom feel supranational ties to those living in Belgium? The conflict of identifying with one’s nation or Europe as a whole is indeed real and impacts the politics of inclusion and exclusion. “Europeanness,” the identification with a larger community, may be seen as a mobilizing force of inclusiveness that inherently *excludes* outsiders – foreigners. This attitudinal component of European integration is particularly sensitive to questions of national identity and citizenship, and it is the focus of this book. If we accept the significance of public policy in affecting migration outcomes, we must consider not only the trajectory of institutional developments, but also their normative correlates, the paradigms that policy-makers and publics employ during transitional phases.

Immigration has been traditionally construed as a two-fold dilemma: problems of intake and the nature of incorporation. The first set of questions focuses on the “nuts and bolts” of immigration: yes or no? how many? basis of entry? These issues deal with strategies for control and regulation. The second stream of questions addresses the nature of incorporation, or what should be done with immigrants once they arrive. Policy demands include the kinds of rights to be extended to immigrants and methods of integration (i.e., assimilation, multiculturalism, etc.). Not only do models of integration vary dramatically by country, but many migrants to whom integration programs apply are not migrants at all, but “ethnic minorities,” a term generally used to refer to established communities founded by postwar immigrants (Layton-Henry 1990: 6).<sup>2</sup> They are the children or even the grandchildren of migrants, commonly referred to as “second-generation” or “third-generation” immigrants. In the European Union, second-generation Turks residing in Germany have fewer rights than first-generation Irish migrants to the United Kingdom or Macanese in Portugal. As the following chapters show, every country defines intake and incorporation preferences differently, and it is the EU’s desire to standardize these policies that has added a new dimension to these incongruities.

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The nature of the immigration debate becomes more complicated at the European Union level, as it reflects and magnifies the problems that each nation has confronted internally. With the completion of the single market, citizens of one of the fifteen member-states (soon to be twenty-five), are no longer “foreigners” in the other fourteen. As the EU erases its internal borders, immigration policy and implementation require agreement and trust among members, in addition to some common outlook among nations which have traditionally confronted distinct groups differently. Formulating a common policy involves deciding which outsiders require visas to enter the Union and ensuring that illegal immigrants, drug traffickers, smugglers, and terrorists do not profit from the elimination of borders. It also raises traditional concerns about social welfare policies, integration strategies, asylum histories, and race relations. These concerns are shaped by country-specific and partisan-ideological debates.

Developments at the EU level are indicative of the controversies and limitations that remain concerning immigration and the intergovernmental pillar (the Justice and Home Affairs Council), which has largely left immigration goals and implementation strategies to national and administrative interpretation. Since the adoption of the Treaty on European Union (commonly known as the Maastricht Treaty) in 1993, there has been a formal recognition of the need for a serious common immigration policy. While subsequent EU treaties and summits (including Amsterdam in 1997, Tampere in 1999, Nice in 2000, Laeken in 2001, and Seville in 2002) have attempted to give teeth to a common immigration policy, much of the rhetoric has not been accompanied by any substantive policy changes.

Clearly, the immigration problem at the EU level is about the harmonization of national trends. While the Tampere report issued by the European Council (1999) has gone farther than ever to identify the principles for cooperation, it made a specific plea for strong will and leadership to shape public opinion. How the EU will reconcile the promises of Maastricht, Amsterdam, Tampere, Nice, Laeken, and Seville with the reality of public opinion on immigration remains to be seen.<sup>3</sup> The question persists: can this be done?

### **Using theories of integration to explain immigration outcomes: institutional explanations**

The obstacles that inhibit the free flow of people in a European Union that broadly promotes open borders, free markets, and liberal standards raise fundamental questions about the viability and character of regional integration, cooperation, and globalization at large. These are mainly

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questions of institutional and attitudinal convergence. What insights do integration theories of cooperation offer immigration researchers? Conversely, what does the attempt to build a common immigration and asylum policy tell us about competing theories of European integration?

The limits to cooperation not only expose the conflict between transnational and domestic mandates in migration regulation, but also reflect the wider gap that remains between *neofunctional* theories of a supranational EU and more realist (state-centric) *intergovernmental* views of governance.<sup>4</sup> While both views envision cooperation taking place, they differ in the extent of changes to national control and policy outcomes that may ensue. Realist, intergovernmental approaches to European policy-making emphasize national differences, limited forms of cooperation, and more protectionist policy outcomes. A neofunctional view endorses supranational governance, which may constrain the behavior of member-states and generate more liberal outcomes. These theoretical trajectories tend to pose a dichotomy between regional norms and national interests – one camp envisions openness and the other protectionism. Prevailing scholarship on migration is divided and thus requires some disaggregation. Based on two competing explanations of cooperation, we may broadly distinguish between *liberal* and *restrictive* immigration policy output.

*A supranational view of Europe and liberal immigration*

The extent to which the EU is able to operate as a supranational entity (or not) is largely dependent upon its ability to construct and uphold those common policies, such as immigration, which necessarily determine its identity. A unified Europe warrants a common immigration policy to ensure that other common policies it upholds in a number of other realms (e.g., social, economic, etc.) are not undermined by an inconsistent application of immigration and asylum policy in differing member-states. A neofunctional view of Europe posits that cooperation in one issue area is a function of integration in another. And it suggests that, once this process of organization begins, the power of nation-states to act independently is incrementally reduced.<sup>5</sup>

One school, rooted in the international relations theories of interdependence, argues that in an increasingly global world, where the lines between nation-states are becoming blurred, states are indeed seeking international solutions to domestic problems (Keohane and Nye 1977; Art and Jervis 1992). Developments subsumed under the term “globalization” have transformed state sovereignty (Krasner 1993; Ruggie 1993; Sikkink 1993), limited national policy-making (Goldstein and Keohane 1993), and eroded national sovereignty (Evans 1998;

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Keohane and Milner 1996). “[T]ransnational and global economic, political, social, and cultural forces, including migration” itself, have weakened national frontiers and decision-making autonomy (Collinson 1993: 103). Economic interdependence and the globalization of the economy have essentially constrained the state’s role in regulating migration and have generated more liberal policies (Sassen 1991, 1996). These solutions, in the context of what appear to be immutable global forces, cast doubt on the capacity and/or will of national policy-makers to manage migration unilaterally or according to traditional agendas.

The recent bodies of literature in the fields of international political economy (IPE) and sociology have made impressive contributions to the debate on international constraints on migration regulation. While very different in their assumptions, both schools have challenged the traditional notion of realist politics, bringing into question the state-centric assumptions that states are the sole protectors of territorial integrity, and that national choices are increasingly constrained by the liberal precepts of markets and rights.

Some scholars of political economy have argued that international human rights and the freedom of circulation required by a global economy and regional markets are the two aspects of a liberal regime that undermine the sovereignty and significance of nation-states in regulating migration policy (Hollifield 1992a, 1992b; Sassen 1996). Based on neoliberal theories of twentieth-century norms (see Rosecrance 1986), these theorists of “embedded liberalism” contend that rights expressed in the form of constitutional norms and principles act to constrain the power and autonomy of states. Sociologists and legal scholars have gone even further and declared both territorial sovereignty and national citizenship to be outmoded (Soysal 1994; Bauböck 1994; Jacobson 1996) and devalued (Schuck 1989, 1998)<sup>6</sup> concepts. These arguments lend support to the hypothesis that immigration policy is an area in which states may be expected to cooperate, and to defer to “international regimes,” a set of principles, norms, rules, and decision-making procedures around which actor expectations converge in a given area (Ruggie 1982; Krasner 1982, 1983).<sup>7</sup> The implications point to the supremacy of liberal regimes and limited state control over migration interests. They give credence to state-demise and loss-of-control theses.

*A national, intergovernmental view of Europe and  
restrictive immigration*

State-centric and (neo)realist critics argue that a view of globalization and international instruments as factors that undermine state capacity to control migration fails to realize the basis from which they derive: the



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state itself. These theories assume that states have the power to protect and defend territorial integrity, and that they continue to regulate international migration in accordance with their “national interests” (Waltz 1979; Zolberg 1981; Weiner 1985, 1990). While in this view cooperation may occur, its form is intergovernmental, which involves the lowest common denominator of interstate bargaining and strict limits on future transfers of sovereignty.<sup>8</sup>

Indeed, as long as the nation-state is the primary unit for dispensing rights and privileges (Meyer 1980), and for protecting its nationals (Shaw 1997), it remains the main interlocutor for, reference for, and target of interest groups and political actors, including migrant groups and their supporters (Kostoryano 1996). In fact, one does not – yet – find a transnational issue network for migrant rights that includes groups operating at the European level along with others at the national and subnational levels (Guiraudon 2001b). Despite the presence of a few non-governmental organizations (NGOs) in Brussels and the efforts of the European Commission to sponsor a Forum of Migrants, recent studies have revealed a missing link between European-level groups and migrant organizations mobilizing domestically (Favell 1997; Geddes 1998; Kostoryano 1994).

The theoretical debates about the role of the state in migration regulation tend to neglect the mechanisms that are used to effectively manage immigration policy (Lahav 1997b, 1998, 2000). They also tend to ignore national constraints of pluralist societies. Indeed, when we go beyond the realist view of the state as a monolithic unit of analysis and adopt a more pluralist model, there are still questions about domestic constraints on policy-making such as public opinion (Layton-Henry 1992; Thränhardt 1992; Wihtol de Wenden 1988, 1999; Fetzner 2000), including extreme-right and populist pressures (Thränhardt 1997; Givens 2002; Lewis-Beck and Mitchell 1993; Gibson 2002), organized interests (Haus 2002), business/economic actors (Castles and Kosack 1985; Freeman 2002; Kessler 1997), ethnic groups (Abadan-Unat 1997; Esman 1994), or other traditional dominant interests, such as constitutional courts (Joppke 1998b, 1998c, 1999; Legomsky 1987; Schuck 1998).<sup>9</sup> While some have argued that these constraints have led to loss of elite control over the immigration agenda, they fail to explain the increasing will on the part of receiving countries to stem unsolicited migration flows (Brubaker 1994, 1995; Freeman 1994, 1995, 1998; Joppke 1997, 1998b; Lahav 1997b; Guiraudon and Lahav 2000). The presupposition of the unitary state as an administrative actor overlooks the modes of implementation being adopted to regulate migration (Lahav 1998, 2000), as well as the role of law-and-order



Table 1.1 *Summary of theoretical conjectures*

Theory	Form of cooperation	Power	Common immigration policy and immigration outcomes
Realism	Intergovernmental	Nation-state	No, restrictive
Functionalism/ interdependence	Supranational	European Union/ transnational actors	Yes, liberal
Hybrid	Intergovernmental/ supranational	Nation-state and EU	Yes, restrictive

bureaucrats (Guirandon 2000a) and police and security officials (Bigo 1996, 2001; Huysmans 2000).<sup>10</sup> In this scenario, regional disparities reflect important national interests and traditions that are neither necessarily liberal nor readily open to supranational cooperation.

*An alternative view: the argument*

This book inscribes itself in this theoretical debate by probing the extent to which traditional national tendencies have been supplanted by international and transnational developments. It tests the hypothesis that supranational cooperation or regional integration may be inhibited if national interests and ideological affinities persist in structuring policy preferences. Thus we would expect that the triumph of European integration, particularly in its supranational form, would make the free movement of persons inevitable. In contrast, immigration may prove to remain an area of politics in which nation-states are most assertive about their exclusive claims to sovereignty, and in which governments and political parties will continue to press for stricter physical immigration control.

I attempt to go beyond the well-established sovereignty debate to explain immigration outcomes in Europe. These debates tend to polarize unhelpfully around the decline or resilience of nation-states in regulating immigration. I reject the commonly understood dichotomy between supranational and national constraints (i.e., that one camp promotes openness and the other protectionism). Instead, I argue that increasing interdependence and harmonization at the European level are compatible with growing national influence (see table 1.1).

In general, restrictive cooperation is the likely outcome. This is driven not only by reasons to do with its effectiveness as a policy output but, more importantly, by the powerful policy input of emergent consensual attitudes on restrictive policies, among elites and mass publics alike, regarding how to manage and legislate European immigration problems.

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My emphasis on public opinion and its impact on European-level policy-making represents a significant departure from more institution-based analyses of European migration. Recognizing that international regimes and policy outcomes are products of dynamic interaction between institutions, principles, rules, and norms (Krasner 1982; Ruggie 1982; March and Olsen 1984, 1989), I build my argument about cooperation by linking European developments with immigration norms.<sup>11</sup> In this way, the aim is to respond to the growing gap in the immigration literature – a tendency to focus on immigration strictly as policy output, rather than policy input. If we observe that policy outcomes may diverge radically from policy inputs,<sup>12</sup> then it is reasonable to question the missing link. The parameters of long-term policy consequences are likely to be revealed by analyzing the basic norms at work. By delineating the political constellations and constraints on migration cooperation, we may gain some theoretical leverage to predict the portability of Europeanization to policy areas that are sensitive to national interests.

By surveying the prospects for collective policy-making, this book provides a normative portrait of immigration at the European level. It offers a complementary, albeit vital, attitudinal perspective to the work of those who have focused more on policy dynamics such as issues of immigration control, citizenship, naturalization, and integration.<sup>13</sup> I do not pretend to give a comprehensive account of immigration politics in the European Union. Other more politics-based, policy-outcome, or legal works on the subject have provided a much more detailed portrait of migration phenomena and a sense of national dynamics that no elite or public attitudes alone can ever provide.<sup>14</sup> The emphasis on European-level policy-making should be read as a supplement to other more national accounts, as the nation-state is, after all, where the majority of the migration action lies. Together, the data provide evidence that public and elite attitudes provide constraints and possibilities, which have determined some EU-level policy outcomes. Contrary to conventional understanding of regional integration, these dynamics may promote less-than-liberal transnational practices in a global order.

While the challenges of immigration and European integration have been well documented, *how* these dynamics are linked and how they affect the choices available to European policy-makers are yet unclear. Some limited attention has been given to the actual instruments and policies adopted, but there has been little consideration of the attitudes and norms that shape the immigration debate in an emergent Europe. This is important if we want to go beyond descriptive analysis and explain the unevenness of regional integration. This attitudinal perspective begins to help us unravel the larger puzzle that has preoccupied contemporary