

1 Introduction

The Migration Trilemma

[T]he increasing love of well-being and shifting character of property make democratic peoples afraid of material disturbances. Love of public peace is often the only political passion which they retain, and it alone becomes more active and powerful as all others fade and die. This naturally disposes the citizens constantly to give the central government new powers, or to let it take them, for it alone seems both anxious and able to defend them from anarchy by defending itself.

(de Tocqueville 1969: 671)

In its immediate response to the terrorist attacks of 11 September 2001, the United States (US) closed its civilian airspace, and rerouted all passenger traffic to Canada, the latter which vacated its own skies to act as a proxy for its American neighbour. Code-named Operation Yellow Ribbon, Canadian officials grounded more than 255 planes across 17 of their country's airports to allow potentially dangerous civilian aircraft to be diverted from their intended American destinations. Although extraordinary, the Canadian Government's assistance to its North American neighbour on 11 September was but the initial step in accelerating the extensive international political cooperation and coordination that would become the norm among the formal gatekeepers of immigration and human mobility. It underscored the expansive degree to which contemporary liberal states are committed to cooperate with one another across global networks of trade, work, study, and travel.¹

As we will see across the pages of this book, the events of 11 September specifically spurred the liberal states in Europe and the US to erect unprecedented domestic barriers to international migration and human mobility, restrictions that affected citizens and border crossers, including migrant workers, tourists, foreign students, asylum seekers, and refugees

¹ Koslowski (2005: 529) argues that the grounding of commercial aircraft and implementation of strict border control measures by the Bush administration in response to the 11 September attacks resulted in 'the US doing to itself what no enemy had done before: an embargo on trade'.

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(Carrera and Bigo 2013; Koslowski 2011b; Zolberg 2001).² For example, at a closed meeting of the EU Strategic Committee on Immigration, Frontiers, and Asylum, on 26 October 2001, the head of the American delegation told EU Member State representatives that, ‘since the events of 11 September 2001, the whole system of visas, border control, and management of legal immigration had come under close scrutiny ... [as] a need for a more effective system across the board, not targeted specifically at terrorism but taking the events of 11 September as the trigger for developing a new approach’ (Council of the European Union 2001).

In pursuit of this mission, the liberal states recalibrated their migration equation, re-evaluated or redefined their ‘control’ mechanisms, and reassessed their normative priorities regarding immigration and human mobility.³ Among the immediate and universal policy responses by the liberal states were their imposition of stringent border restrictions and visa requirements, carrier and employer sanctions, accelerated migrant return policies, stricter migrant labour law enforcement practices, stronger work authorization and student verification procedures, accelerated detention and removal of criminal aliens, and the creation of territorial buffer zones and biometric databases.⁴ The traumatic terrorist events facilitated the expansion of what we label the ‘migration policy playing field’, an ongoing project that co-opts or coerces numerous non-central state actors to implement and enforce the liberal state’s immigration and human mobility policies.

In contrast to the early post-World War II (WWII) period when immigration was primarily framed as an economic and/or cultural issue (Burns and Gimpel 2000; Citrin et al. 1997; Espenshade and Hempstead 1996; Hainmueller and Hiscox 2010; Scheve and Slaughter 2001) and often

² Immigration and human mobility have been framed differently in elite discourse (Koslowski 2011; Weinar et al. 2018). Generally, whereas immigration tends to be negatively framed as a problem or threat, human mobility tends to be positively portrayed as contributing to social capital and economic growth (Weinar et al. 2018: 2). Nevertheless, the two terms have been conflated since the beginning of the Covid-19 pandemic, as states were forced to monitor all border flows and distinguish between citizens who enjoy the right to free movement, from those who do not possess this right, that is, non-citizens. For these reasons, some scholars have advocated for a more comprehensive framework that considers all types of international human mobility within a global mobility regime (see Koslowski 2018).

³ The emphasis shifted from ‘control’ associated with the implicit assumptions of ‘zero net immigration’ to the more selective notion of ‘management’ or ‘regulation’ of populations flows (de Haas et al. 2018; Helbling and Leblang 2018; Massey 2013; Meissner 2004). According to Meissner et al. (2013: 6), the last Director of the American Immigration and Naturalization Services (INS), ‘the American Department of Homeland Security’s newly reinstated DHS’s adoption of a risk-management approach to border security has meant that the state’s objective is managing and *not* sealing borders’.

⁴ The 2001 American Patriot Act and 2002 Enhanced Border Security and Visa Entry Reform Act paved the path for enhanced visa screening, racial and ethnic profiling, and robust security checks at US ports of entry.

‘depoliticized’ by governments and mainstream political parties (Freeman 1979: 99–130; Messina 1989: 21–52; Schain 2008: 178–79; Simon 1989), the subject is now primarily framed as a public safety or national security concern ranking high on the political and policy agendas of liberal states (Hampshire 2009: 109; Rudolph 2006, 2017). The involvement of foreigners in planning and executing the terrorist attacks perpetrated in the US and Europe effectively consolidated an implied association between immigration and security. The 11 September 2001 and subsequent terrorist events in Europe during the 2000s brought to the fore a multiplicity of ‘new security’ threats that are now closely linked, however misleadingly, with immigration and human mobility.⁵ In the process, immigration-related issues were thrust onto the national security and foreign policy agendas of the liberal states in Europe and the US (Adamson 2006; Buonfino 2004; Geddes 2005; Givens et al. 2009; Pastore 2007; Rudolph, 2003, 2006; Greenhill 2016a; Koslowski 2001; Lahav 2003, 2006). In so doing, they reinforced the perception that the primary threats associated with immigration and human mobility, including ethnic conflict and terrorism, are linked to ‘new security’ issues which transcend state territorial boundaries, challenge societal security (Buzan 1983; Buzan et al. 1998; Wæver 1998), and elicit public anxiety (Papademetriou and Banaluescu-Bogdan 2016).

In addition to altering the trajectory of state immigration policies, this book will argue that the events of 11 September also seriously challenged many of the assumptions underpinning the liberal immigration and human mobility regime which had hitherto prevailed during the post-WWII period (Hampshire 2009; Hollifield 1992). They specifically sparked apprehension among policy makers and their publics that open territorial borders and expansive immigration policies, the hallmarks of ‘embedded liberalism’ (Hollifield 1992), were in tension with the core responsibility of liberal states to provide public safety and national security. In contrast to the early post-WWII period when immigration was primarily framed by political elites and the media through the lenses of the economy and/or of civil and human rights (Burns and Gimpel 2000; Citrin et al. 1997; Hainmueller and Hiscox 2010; Scheve and Slaughter 2001) and largely ‘depoliticized’ by governments and mainstream

⁵ See the proliferation of scholarship regarding immigration and security during the early 2000s (Adamson 2006; Aradau 2001; Bigo 2001; Bilgic 2013; Buonfino 2004; Burgess and Gutwirth 2011; Ceyhan and Tsoukala 2002; Chebel d’Appollonia 2008, 2012; Chebel d’Appollonia and Reich 2008, 2010; Collyer 2006; Croft 2012; Diez and Squire 2008; Faist 2006; Freedman 2004; Geddes 2001, 2005; Givens 2010; Ginsburg 2010; Guild 2009; Guild and Baldaccini 2006; Huysmans 2006; Kaya 2012; Rudolph 2006; Tirman 2004; van Munster 2009; Watson 2009).

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political parties (Freeman 1979: 99–130; Messina 1989: 21–52; Schain 2008: 178–79; Simon 1989), the post-Cold War era is punctuated by the ascendance of immigration as a public safety and national security concern that ranks high on the political and policy agendas of the liberal states (Hampshire 2009: 109; Rudolph 2006). As a non-partisan Vox/Morning Consult (2016) opinion survey revealed, Americans reported that they are far more anxious about public safety, specifically crime and terrorism, than jobs and the economy.

Against this backdrop, the overarching objective of this book is to assess the capacity of the liberal states to manage immigration in a post-Cold War global threat environment. Toward this end, it raises and addresses two interrelated questions: To what extent can liberal states in Europe and the US reconcile the inherent contradictions of a migration trilemma that pits the values and imperatives of markets and the liberal state's commitment to protect citizen and immigrant rights against the political pressures to circumscribe them? Is the capacity of liberal states to implement liberal immigration and immigrant policies severely constrained, as many scholars claim? In investigating and answering these questions, this book will illuminate the inherent trade-offs confronting liberal states whenever the requirements of the domestic economy (e.g., satisfying the demand of employers for foreign workers), protecting civil liberties (e.g., respecting due process and personal privacy),⁶ honouring humanitarian commitments (e.g., sheltering asylum seekers and refugees), and providing public safety and national security (e.g., averting terrorism and crime perpetrated by migrants) unavoidably conflict.

Wedding studies of post-WWII migration to Europe and the US with the numerous insights of scholars working within and across the fields of international relations, comparative political behaviour, and political psychology, this book situates the migration trilemma, described below, within a dynamic threat context. It traces the processes by which the subject of immigration episodically has been politicized and securitized in Europe and the US since the end of the Cold War and the implications of these trends for the governance of human mobility and the future of the liberal order. The neo-institutionally inspired analytical framework of ideas, interests, and institutions, described below, links contemporary immigration policies and politics with the 'soft' or informal norms (de

⁶ Though we use the term civil liberties interchangeably with civil rights throughout the book, the former refers to freedom from government intervention (e.g., discrimination, privacy, due process, freedom of persons/movement), whereas the latter refer to rights extended to citizens by government (e.g., citizenship, residence, work). Broadly speaking, civil rights in immigration discourse refer to both universalistic (humanitarian) principles and social membership inclusion (Rodriguez 2013).

Haas et al. 2018) that underpin them, such as public opinion and political discourse.⁷ Utilizing a variety of original and secondary sources, we delineate the effects of public safety and national security threat frames on issue salience, popular attitudes, political party politics and, ultimately, immigration policy outcomes. Adopting a dynamic perspective of the security driver as it conditions contemporary immigration policy outcomes offers a new perspective on the dominant mode of politics that influences the course of immigration politics and policies across the member states of the European Union (EU) during the current millennium.⁸

The book's collective findings suggest that an immigration management regime now prevails across the liberal states that significantly deviate from the values, norms, policies, and practices of its more liberal predecessor. Moreover, it concludes that the immigration policies of the liberal states and, especially, those which govern the conditions of human mobility, have substantially converged and their burdens of managing immigration-related responsibilities have been substantially alleviated (Longo 2018). Contrary to the thesis that their immigration policy prerogatives are significantly circumscribed by the imperatives and norms of markets and/or rights (Hollifield 1992: 94, 2004; Hollifield et al. 2008; Jacobson 1996; Soysal 1994), the evidence presented in this book's chapters will demonstrate that the liberal states currently enjoy *greater* decision-making freedom than previously. By forging bilateral and multilateral policy agreements (Kunz et al. 2011; Lavenex 2006a) and devolving many of their responsibilities for implementing immigration and human mobility policy to non-central state actors (Guiraudon and Lahav 2000, 2006b), contemporary liberal states exercise considerable control over immigration and human mobility flows in the new security era.

The tensions generated by the long-standing commitments of liberal states to simultaneously maintain free markets and respect for the rights

⁷ A neo-institutional lens links state immigration policies and practices with soft or subjective norms in ways that mirror what scholars of international relations describe as the soft power of global governance, including the 'formal and informal bundles of rules, roles, and relationships that define and regulate [the] social practices of state and non-state actors'.

⁸ Given their relatively recent experiences with immigration and, consequently, the subject's historically lower salience in the post-2004 EU enlargement countries (European Commission/Eurobarometer 2006a), we largely exclude the latter from our analyses and instead focus on the EU-15 member states in this book. Our cross-national analyses of public opinion reveal a significant difference ($p < 0.05$) between EU average salience among the EU fifteen- and twenty-seven-Member State countries. On average, 18 per cent of pre-2004 EU member publics reported immigration was salient compared to 13 per cent when the twelve post-2004 member states were included. Central and East Europeans exhibit considerably greater social distancing from immigrants than populations from European countries with comparatively longer experience of immigration (Čermáková and Leontiyeva 2017; Lehne 2019; Peshkopia et al. 2022).

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of migrants have been explored by numerous scholars (Boswell 2007; Boswell and Geddes 2011; Etzioni 2004; Hollifield 1992; Joppke 1998a, 1998b; Roos and Laube 2015; Sasse 2005). However, hitherto the normative and psychological dimensions of the contemporary politics of immigration have been largely ignored. Scholars of the politics of immigration especially have underestimated the influence of political elites and the media (Atwell Seate and Mastro 2016) in shaping norms and policy outcomes. They have discounted the extent to which public discourse and public opinion circumscribe contemporary immigration and human mobility policy in a perceived public safety and/or national security threat environment. Furthermore, the myriad ways in which non-central state actors contribute to the liberal state's immigration control agenda have been insufficiently explored. The numerous subnational, international, supranational, and private spaces where immigration and human mobility policies are formulated and implemented have been largely under-theorized. It is in these spaces, we argue, that the implementation of policies pertaining to immigration and human mobility are devolved to non-central state actors in a process in which state sovereignty is partially, albeit unevenly, 'pooled' (Cerny 2010: 54; Krasner 1999, 2004). Rectifying these oversights is one of the major objectives of this book.

I Immigration as a New Security Threat

To many scholars of contemporary immigration (Manges Douglas and Sáenz 2013; Woods and Arthur 2014), the tumultuous events of and following 11 September marked a 'critical juncture'⁹ in the evolution of public and political discourse about immigration and human mobility within the liberal states. Although political discussion about these

⁹ Critical junctures are 'events and developments in the distant past, generally concentrated in a relatively short period, that have a crucial impact on outcomes later in time' (Capoccia 2015; Capoccia and Keleman 2007). Political economists and sociologists often refer to critical junctures in explaining collective behaviour pertaining to structural transformations to changes in societal attitudes. According to Pierson (2000), critical junctures can radically modify the geopolitical landscape, and alter the policy paths future decision makers choose. Public policy scholars also refer to 'focusing events' as providing insights into the post-crisis policy formation process (Birkland 1997). Defined as events that are sudden, relatively uncommon, harmful, concentrated in specific geographic areas or community of interests, and known to policy makers and publics simultaneously (Birkland 1998), they catapult previously neglected issues to the top of the public policy agenda (Birkland 2004). In this sense, the European equivalent of the focusing event of 11 September occurred with the 11 March 2004 Madrid bombings and the 7 July 2005 London bombings. Though years apart and following different policy contexts and a trajectory of historical explanations, the cases are linked by their association to foreign networks, and expression in public discourse on national security (Lahav 2010).

subjects was often impassioned and contentious before 11 September 2001, its tenor nevertheless became decidedly more illiberal (Berezin 2009) thereafter.¹⁰ Indeed, the mass media and politicians across Europe and in the US have not only been more inclined to identify immigration as a serious problem post-11 September, but also an existential threat (Claude-Valentin 2004; Faist 2002) associated with terrorism (Chacón 2006; Wadhia 2018) and national security (Kerwin 2005; Rudolph 2003). For example, in a conspicuous departure from precedence, ‘war’ has displaced in elite discourse alternative terms that had previously described terrorist atrocities perpetrated in other settings (Montgomery 2005: 176).¹¹

Echoing in many ways the mass and elite hysteria aroused by the ‘Red Scare’ in the US during the early 1920s, the events of 11 September have indeed triggered what sociologists describe as a ‘moral panic’ (Cohen 1973), or a significant cause for concern that ‘need not bear a close relationship with the concrete harm or damage that the condition poses or causes’ (Goode and Ben-Yehuda 2009: 149).¹² In the former instance, communists, and in the latter, Muslims, were framed rhetorically as ‘dangerous others’ and scapegoated as endangering the American way of life and posing an imminent threat to public safety and national security (Kerwin 2005; Rudolph 2006; Salehyan 2008, 2009). In this climate immigration has shifted from a ‘low’ politics issue, or one focused on its economic and/or social effects, to a matter of ‘high’ politics with implications for public safety, national security, and foreign affairs (Geddes 2003: 3). Prior to 11 September, political discourse about immigration, asylum, and the mass immigrant settlement of ethnically and racially diverse minorities often aroused economic and cultural fears within the public. However, it was not until the public’s anxieties about ‘societal security’ (Wæver 1998) and quality of life issues (Alexseev 2005: 66–67) intersected with its fears about immigration as a threat to public safety and national security during the 1990s (Huysmans 2002: 752)

¹⁰ That immigration and terrorism were so quickly conflated in the aftermath of 11 September, in the absence of substantial political dissent (Hammerstad 2011), underscored the extent to which it had already been subsumed within a discourse of unease and fear (Huysmans 2006).

¹¹ In Israel, for example, the discourse around African asylum seekers became embedded in laws about ‘infiltrators’, a military term that has been associated with Palestinian terrorists since the 1950s (Hochman 2015).

¹² Resonating with an earlier and darker period in American history involving the infamous trial of Italian anarchists and communist immigrants, Sacco and Vanzetti, during the ‘Red Scare’ of the early 1920s, the fixation with migration triggered what sociologists described as a moral panic (Cohen 1973), a fear that a person, group, or related episode are sources of evil which threaten societal well-being.

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that the social construction of immigration as an issue for public safety and national security became embedded within the domestic politics of the liberal states (Lahav and Messina 2005).¹³ In doing so, immigration became a valence issue, similar to crime or poverty, about which voters and major political parties chiefly agree or have a common preference (Stokes 1963; Putnam 1973).¹⁴ In this vein, it is easy for politicians of all backgrounds to support immigration enforcement measures, and difficult to oppose them. (Tichenor and Rosenblum 2011: 621).

The elevated political salience of immigration and its ascent to the top of the public policy agenda across the liberal states post-11 September is noteworthy. They significantly deviate from its status during the post-WWII, Bretton Woods era when the subject was ranked relatively low on the political and policy agenda (Alonso and da Fonseca 2011) and largely framed by the media and political elites as an economic and/or social issue.¹⁵ At the apex of this earlier, more liberal period, state immigration policy was primarily driven by the interests of influential economic and political actors. Consequently, across the liberal states it purportedly fell under the influence of ‘client politics’ and was more expansive than most publics would have preferred (Joppke 1998b: 270). As we will argue in this book, current immigration policy outcomes no longer covary with a largely economic-driven client or distributive mode of politics but, rather, with an entrepreneurial mode (Freeman 2006). This, we argue, is the prevailing mode of politics across most liberal democratic states in the new security era.

In this entrepreneurial mode the liberal state co-opts or coerces a plethora of non-central state actors from the private, international, and subnational sectors who have the economic, political, and/or technological resources to assist liberal states in circumscribing immigration and human mobility (Lahav 1998, 2003). Distinct from ‘non-state actors’ typically associated with civil society (Held 1993) or security governance (Bello 2017), non-central state actors include both public and private actors, who sit outside of national or central governments. Specifically,

¹³ With some exceptions (Doosje et al. 2009; Greenhill 2016a, 2016b; Helbling and Meierrieks 2020a; Jacobs et al. 2017; Malhotra and Popp 2012; Spilerman and Stecklov 2009), scholars have mostly focused on the physical threat posed by crime (Bigo 2016; Dinas and van Spanje 2011; Fitzgerald et al. 2012; Froestad et al. 2015; Raijman 2013; Semyonov 2013; Sniderman and Hagendoorn 2007).

¹⁴ Putnam (1973: 112–13) suggests issues like crime and poverty do not involve competing interests among social groups, but rather, common problems afflicting the community as a whole.

¹⁵ During the early post-WWII period, political parties largely neglected or were indifferent towards immigration (Alonso and da Fonseca 2011; Messina 2007) and, consequently, it ranked low on the political and policy agenda.

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actors such as airlines and transport companies, travel agencies, hospitals, universities, employer groups, local governments and foreign states have been co-opted in an expansive regulatory framework of immigration and border control (Lahav 2002, 2003, 2007; Guiraudon and Lahav 2000, 2006b). Various referred to as ‘deputy sheriffs’ (Torpey 1998), ‘agents’ (Guiraudon and Lahav 2000), ‘tools of government’ (Bennett 2008) and public–private partnerships (Lahav 2008), airlines and transport companies, travel agencies, hospitals, universities, employer groups, local governments, and foreign states have been co-opted by the liberal state in a regulatory framework through the processes of ‘remote control’ (FitzGerald 2020; Zolberg 1999), delegation (Guiraudon 2000; Guiraudon and Lahav 2000), externalization (Boswell 2003; Lavenex and Uçarer 2002), outsourcing (Morris 2023; Mountz 2018), privatization (Lahav 1998, 2002, 2005; Menz 2010), and commercialization (Gammeltoft-Hansen and Sørensen 2013; Harney 1977; Koser 2007). In all cases, the relationship between liberal states and non-central state actors in pursuing security goals is driven by the former’s objective to better manage human mobility (Bigo 1996), and the latter’s aim to avert or minimize financial costs (Tichenor and Rosenblum 2011: 622), sanctions, or impediments to business operations. As we will see in Chapter 3, the liberal’s state’s security-driven migration agenda has been significantly facilitated by its co-optation or coercion of a plethora of non-central state actors who help it navigate and reconcile the inherent contradictions of the migration trilemma and, thus, achieve its preferred policy outcomes.

II Managing Contemporary Immigration and Human Mobility: The Trilemma

Sovereign states largely dictated the conditions under which foreigners entered and remained within their territories for most of the twentieth century. Indeed, with the introduction of the modern passport system during the 1920s, the state became the dominant actor in managing human mobility, thus allowing it to better exercise its sovereign authority and protect its citizens from possible physical harm perpetrated by external actors or forces (Torpey 1998, 2000).¹⁶ During this period,

¹⁶ Zolberg (2006a: 222), following de Vattel (1758), argues that controlling the entry of foreigners into its territory is the *sine qua non* of state sovereignty. Against this backdrop, the proliferation of regulations pertaining to human mobility since the twentieth century have spawned the erection of physical barriers and administrative checkpoints at the territorial borders of states and the creation of standardized documents such as passports to identify the nationality of border crossers (Torpey 1998)

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non-central state actors played little role in formulating and implementing immigration and human mobility policy. However, the marginality of these actors to the processes of making and implementing policy began to change during the 1970s in Europe and the 1980s in the US. As Chapter 3 will document, liberal states have now devolved much of their decision-making authority regarding immigration and human mobility policy *upwards* to intergovernmental or international institutions, *downwards* to subnational governments, and *outwards* to private sector actors, including airlines, employers, and private security agencies (Guiraudon and Lahav 2000). As we will argue in the chapter, by utilizing numerous and various remote-control strategies (FitzGerald 2020; Zaiotti 2016; Zolberg 1998, 1999), the liberal state has expanded its capacity to manage immigration and human mobility.

The contemporary liberal state's efforts to successfully devolve many of its responsibilities related to immigration and human mobility policy is nevertheless circumscribed on three fronts. First, it confronts numerous legal, constitutional, and normative hurdles, especially regarding its ambition to pursue an exclusionary policy course that abrogates the rights of migrants and refugees. These strictures include but are not limited to the pervasiveness of liberal values and norms within and across the liberal states (Hollifield 1992: 222–23) as well as their commitment to adhere to domestic and international human rights law (Sassen 1996: 63–105). Indeed, one need only contrast the pervasive practices of denaturalization, 'round-ups' of foreigners, and mass migrant deportations in Europe and the US at the turn of the nineteenth century to appreciate the revolution in liberal norms and practices that has occurred regarding state immigration policy since the beginning of the post-1945 liberal epoch (Weil 2013; Wong 2015).¹⁷ Second, the states that are most committed to facilitating cross border trade, commerce, and tourism, that is liberal states, cannot easily embrace policies that unreasonably or indefinitely impede human mobility. Their long-standing commitments to free trade and rights protections are especially antithetical to the imposition of onerous border restrictions (Sassen 1996) that discriminate against and thus inhibit the movement of people across national borders (Haubrich 2003).

Finally, the elevated salience of immigration during the new security era has catapulted the subject to the forefront of public discussion, thus pressuring political elites to discern and respond to the public's views

¹⁷ Consider, for example, the massive expulsions of Poles and Jews from Prussia during the mid-1880s, or the passage of the 1882 Chinese Exclusion Act in the US. See Reinecke and Loehr (2020) for historians' views of the reflexive turn in migration studies.