



## *Globalization and the Secularization of Immigration Policy*

### **Competing Influences on Immigrant Integration Policy in Germany, France, Britain and the United States**

**Pamela Irving Jackson and Roderick Parkes**

*Rhode Island College • Center for European Integration (ZEI), Germany*

-----  
pjackson@ric.edu • Roderick.Parkes@swp-berlin.org

**Abstract:** This article examines the extent to which anti-racist policy development is on the front line of the struggle between the denationalizing forces of global economic integration and the re-nationalization efforts inherent to the securitization of immigration policies. Sassen (1999) contends that global economic integration has stimulated labor demands and migration patterns that have fostered the transnationalization of immigration policy and provided some protections to immigrants. Jacobson (1996) and Hollifield (1992) have demonstrated global convergence in human rights standards. But national governments have responded to the supra-national influences in anti-racist and minority integration policy development by substituting internal security goals for economic ones in immigration policy changes. The paper suggests that while globalization has stimulated initiatives encouraging greater tolerance of diversity, national securitization efforts have had a detrimental effect on policies aiming at the integration of immigrants in four western post-industrial societies.

In *Guests and Aliens* (1999: 151), Saskia Sassen posits that the denationalization of capital and workforce flows has led to a fundamental convergence among highly developed nations regarding immigration. Her work concurs with Jacobson's (1996: 85) analysis underscoring the impact of the European Convention on Human Rights (ECHR) on the trend toward isomorphism in European states' immigrant protection

initiatives. Signed in 1950, the ECHR originally stressed the role of states in assuring the human rights of minorities, but "individual petitions have gained increased importance since the 1970s and 1980s." The Convention has thus been instrumental in the shift of national policy in signatory states toward "harmonization" of the laws relating to migrants and minorities. Transnational human rights norms have

---

Dr. Pamela Irving Jackson, Director of the Justice Studies Program and Professor of Sociology at Rhode Island College, focuses on issues of social control and minority status, including comparative analysis of the integration of Muslims in western societies. She is the recent recipient of two Fulbright grants on this topic. Roderick Parkes (UK), research assistant at the *Stiftung Wissenschaft und Politik* in Berlin and doctoral candidate, focuses on the development of justice and home affairs integration in the EU, and specifically on questions of asylum and immigration. He received an M.Phil in European Studies from Cambridge University in 2002. The authors would like to thank the Fulbright Program, the Rhode Island College Faculty Research Fund and the Center for European Integration Studies (ZEI) at the University of Bonn, Germany for their support of this project. The paper reflects the authors' views, not necessarily those of their institutions.

emerged as primary criteria for the development of policies on asylum, immigration and aliens' status, Jacobson contends (1996: 93, also citing Soysal, 1993). Although states have willingly bound themselves to such norms, it is arguable that these permit individuals to circumvent state sovereignty in making immigration and human rights demands.

Immigration and refugee policy-making in the United States has increasingly been influenced by transnational agreements interpreted as imposing significant limits on the autonomy of the state (although in many cases the U.S. Constitution has been judged to be in agreement with these documents making reliance on the latter unnecessary). Jacobson (1996: 98-101) asserted that the shift from the dominance of state sovereignty to international human rights in the U.S. became evident in the 1970s and 80s, and is most clearly seen in federal court cases filed in the 1980s. James Hollifield (1992: 181-2) also pointed out the significance of these decisions, but cited appropriate cautions concerning their future implications. He warned, "while trends in administrative and constitutional law have been in the direction of a greater rights-based politics, there have been some reversals of liberal policy, especially in the power and willingness of immigration authorities in the United States to incarcerate aliens, pending a decision of their petition to remain."

Hollifield's caveat highlights the fact that the convergence in immigration patterns is not only attributable to the judicial dynamics and processes of denationalization that have challenged national executives' capacity to control migration. There are also striking commonalities between national executives' responses to such pressures. These can be seen to 'renationalize' migration—in other words they concern efforts to reassert control over international migration flows. The 'securitization' (Huysmans 2000; Tirman 2004 a,b; Balzacq

2005) of migration policy-making describes the way in which migration flows have been conceived as a threat to a state's internal, social and economic security and are restricted as such. In some cases, states have cooperated together, thus giving up a certain degree of national sovereignty in order to regain *de facto* control over migration flows. Analysis suggests that the framing of migration as a threat to security in much of current European (and specifically EU) immigration and asylum policy-making is disproportionate to the reality of the threat posed. This can be put down in large part to the fact that sections of the national bureaucracy have been able to extend their competencies and resources by reconceiving of social, economic and foreign policy issues as questions of security (Clutterbuck 1990; Guiraudon 1998; Bigo 1994). It is also the case, however, that this reconceptualisation of migration has empowered national executives to bring in restrictive immigration measures which might otherwise have been rejected by those parliamentary and judicial actors that uphold international and national norms to the benefit of immigrants.

The United States has not been immune to this trend. Concern about illegal immigration in the United States led to the passage of restrictive immigration and welfare eligibility policies (in 1986 and 1996) that ultimately did not reduce the flow of immigration to the country, but did increase the securitization of immigration policy: Immigrants were framed as a threat to economic security, a drain on the welfare system, and the source of drug and other crime problems. The link has also been made between migration and harder forms of security issues: The 1993 World Trade Center Attacks stimulated policy changes that increased government prerogatives in dealing with non-citizens deemed potentially threatening (Tirman, 2004a). But the salience of immigration as a threat to national security remained low until Septem-

ber 11, 2001. After these attacks, the link between immigration and hard forms of security threat became more concrete, despite the economic importance of the global flow of peoples and ideas.

This can be understood as a product of a 'politics of exceptionalism'—whereby policy-makers refer to exceptional existential threats to or from a specific group in order to legitimize exceptional security measures, rather than of a 'governmentality of unease' (Bigo 2002) as appears to have characterized developments at the European level. In the latter case, interior ministry officials, police and other 'security professionals' have become dominant in immigration policy and process it in the same way as they would 'hard' security threats. In this conception of securitization, the discursive reference to migrants as a security threat is also instrumental; however, actors cite a general threat posed by migrants to security rather than an exceptional one.

In actual fact both processes have been at work on both sides of the Atlantic: In his discussion of the "migration-security nexus," John Tirman (2004a: 2) details several of—what he views as—the unintended consequences of "the new securitization of migration," especially as Homeland Security Directives have "locked immigration and security together bureaucratically." For him, the intended, or at least readily expected consequences of the Patriot and Homeland Security Acts' provisions regarding immigrants included: a "prosecutorial juggernaut" that mounted a legal barrage against Muslim men in America, tightened visa requirements that led to "long waits to enter the U.S, historic levels of visa denials," and dramatic decline in the number of refugees admitted to the U.S. As bureaucracies "create their own momentum" toward greater internal security—a situation Tirman (2004a: 3) likens to that surrounding the 1947 National Security Act—signs of the unintended consequences of "secrecy, massive security spending...demonizing

adversaries" are emerging. Also unintended, but apparent, is the shift away from an immigration policy driven more by economics than security (Tirman 2004a: 5). Greater "contingency" (Tirman 2004a: 6) in the status of Muslim immigrants in America is becoming apparent, isolating them further from mainstream society, with doubts about their "legality, utility and social or cultural acceptability."

Such developments are indicative of 'cultural securitization' whereby immigrants are treated as a threat to national culture. These processes feed into broader efforts at nation-building at a time when the nation-state is deemed to be under threat from 'post-national' forces. National identity is thus defined in contradistinction to the 'other' or the 'outsider'. Cultural securitization results, in part, from national actors' attempts at self-legitimization in an unstable setting (Balzacq 2005; Vuori 2006).

Efforts to integrate immigrants into host societies sit on the borderline between the competing dynamics of denationalization and renationalization: Policies aimed at delegitimizing racism and facilitating the societal and economic integration of immigrants are perceived to count among the "pull factors" of immigration flows. They are, however, deemed to attract not only desirable forms of migration, but also undesirable forms. In this way, they are reflexive both to international competition for labor and to national efforts to regain control over undesirable forms of immigration.

Problems arise not only because of the perception that integration measures targeted at one particular category of immigrant may nevertheless exert an undesired 'pull' effect upon other categories, but also—and more fundamentally—because of the difficulties involved in defining 'desirable' immigration. Forms of migration that appear desirable from an economic, demographic or humanitarian point of view may seem unacceptable from a social or security-centric stand point. Different ac-

tors within the national and international political systems promote differing priorities and conceptions of what forms of migration are to be encouraged; these priorities in turn may further their own institutional interests. While security-centric conceptions of migration are often legitimized with reference to the narrow interests of citizens, humanitarian as well as some economic and social conceptions refer in a more universalistic manner to the rights of non-citizens.

Immigrant integration policies therefore place immigrants at the intersection of the struggle between the denationalizing forces of global economic integration and the efforts among governments to gain a greater degree of control over immigration. We define immigrant integration policies in a broad sense as those directed toward reducing discrimination and bias toward ethnic (as well as racial and religious) minorities, and fostering their integration. We acknowledge the dangers of such terminology, however, especially given the traditional dichotomy between 'anti-race' and 'citizenship' modes of integration policy. Nevertheless, this broad approach allows us to search for convergence in the treatment of immigrants. We recognize that the broader use of the term 'integration' to include, for example, assimilation policies, may also be problematic in light of traditional perspectives of minority group relations which distinguish among melting pot, assimilationist and multiculturalist models (Schaefer 2004). Moreover 'integration policy' can also refer to measures aimed at excluding certain immigrants either from the national territory, or socially and economically in order to integrate others. We include this dimension in our understanding of integration policy.

Our focus and terminology permit comparative analysis of the impact of globalization and the securitization of immigration regulations on several different types of immigrant integration policy de-

velopment and implementation strategies. We argue that the dynamics linking these forces reflect national efforts to maintain political sovereignty in the face of economic changes triggering global population flows. We illustrate our thesis in four highly developed western nations: Germany, France, Britain and the United States. We do not suggest that these are the only forces driving isomorphism, nor indeed that we capture all aspects even of these two driving factors.

### **NATIONAL VARIETY IN IMMIGRATION AND IMMIGRANT POLICIES**

The post-nationalist perspective posits that macroeconomic change in western post-industrial societies has stimulated labor demands and migration patterns that now propel these nations toward delegitimizing racism and integrating immigrants. Greater tolerance is sought to create the social infrastructure necessary for continued economic productivity. But Kathleen McNamara (2001: 2, 5) cautions that critical examination of the legitimation or delegitimation of specific policies through international economic, governmental and non-governmental institutions affirms the importance of a sociological view of the institutional and policy isomorphism attributed to globalization. Some sociologists assume that "markets...are embedded in a social, political and historical context which has a pervasive effect on their operation," and, in this light, examine the twin forces of "international economic integration" and "the spread of global cultural norms of neoliberalism" as operating "in tandem" to reformulate the world. Efforts to combat racism are not merely a product of international economic competition: They also reflect attempts to maintain the embedded national social and economic structures that support the influence of the democratic nation-state

as an organizational entity.

Our model, therefore, recognizes the importance of social context, and investigates the possibility that international economic integration facilitates the spread of norms through interaction with the social, political and historical infrastructure of each society. However, it also recognizes the role of these entrenched structures in limiting isomorphism, for example in the form of recent developments toward the “Europeanization” of immigration policy, especially with regard to ‘third-country nationals’ (immigrants without nationality of one of the EU member states) (cf. Caviedes, 2004). Paradoxically, though, national efforts to safeguard these specific—and in many ways idiosyncratic—social and economic structures from unwanted immigrants have also contributed to isomorphism in measures to regulate the societal and economic position of immigrants.

The history of these four societies’ incorporation of new groups and acknowledgement of their minority status has differed markedly. One point of differentiation concerns the nature of migration flows to which states have been subject. As Sassen (1999: 155) explains, international migrations are produced by economic and historical dynamics involving both receiving and sending nations; they are patterned in that the occupational and industrial distribution of nationals and immigrants usually differ markedly; and they are embedded in specific historical phases. Bauer et al. (2002) discuss the importance of self-selection in the migration process and compare migrants to the population in the sending and receiving countries. Migrations contain their own regulatory forces within the geopolitics of the system. They are bounded and differentiated processes involving both circular migration and permanent settlement. Policies regulating immigration and immigrant residence in the national territory are rooted in the underlying national social structures to which McNamara draws

attention.

Since the second world war the United States and Britain have relied primarily on self-motivated immigration in the face of labor shortages, assuming—or comparatively soon acknowledging—that most immigrants would stay (Geddes and Guiraudon 2002; Kogan; Schaefer 2004). The focus of immigration control was therefore at the entry border, unlike in *Gastarbeiter* or temporary work systems where immigrants were expected to leave the country after a limited period of time. In Britain immigration controls have been predicated on the rationale that they permit the cultural expression central to its model of immigrant integration by carefully regulating the ethnic diversity of the population. Post-war immigration restrictions in Britain were fueled by social disorder and popular hostility toward immigrants (Hansen, 2000). Policies that effectively excluded or limited entry of members of certain racial groups at the border were characteristic of both Britain and the U.S. In Britain, justification for these policies was the importance of assuring racial harmony; in the U.S., immigration quotas until 1965 were based on the percentage of each group already in the nation, thereby favoring immigration from Europe. The Immigration and Nationality Act Amendments of 1965 dismantled this quota system in the U.S., increasing immigration flows from South American and Asian nations (cf. Jernegan 2005). Additional labor market skills requirements were added in 1986 and 1990 in order to increase the economic “quality” of immigrants. Those meeting the “skills” requirements were less likely to be of color, but the economic aspect of this preferential criteria received attention, rather than the racial aspect. Amnesty provisions were sometimes offered (for example, in 1986) to integrate long-term, employed immigrants (without a criminal record) in the U.S. (cf. Schaefer 2004).

Britain restricted post-war immigra-

tion earlier, and for different reasons than its continental European neighbors. In Germany and France, despite concern over social tensions, economic interests were emphasized in immigration policy, particularly until the 1970s, and the social consequences of immigration (such as the unrest resulting from greater diversity) were not cited as a prime rationale in immigration restriction until they were used as an apology for several hate crimes against long-term immigrants in Germany in the 1990s, including the 1992 racially motivated firebombing in Moelln, and the 1993 arson attack in Solingen (ECRI, Germany, First Report, 1998). The greater longevity of guest-worker programs in Germany and post-colonial immigration in France were due in part to the—implicit or explicit—official assumption that unwanted foreigners would either choose to leave or be made to. This confidence was severely undermined by judicial activism which negated policies aimed at repatriating unwanted immigrants (Guiraudon 1998).

In the post-war period, the four states have referred to different paradigms in their treatment of immigrants. The French Republican model is based upon the idea that the national community can be defined by its active acceptance of common rational values. The relative openness of French citizenship laws allows foreigners to join the national community. This model is color-blind and does not recognize differences between its citizens according to national or ethnic origin. Republicanism has required color-blindness, restricting the state's capacity to deal with differences among immigrants who become citizens. These strictures have fostered abdication of official responsibility for "immigrant" integration.

German policies relating to immigrants, in contrast to those of France, have been explicitly based on national and ethnic distinctions. Yet, because Germany labeled itself until recently "not a country of

immigration," it, too, has been characterized as having engaged in "self-abdication of the political process to steer the incorporation of labour migrants" (Joppke 1999: 19). In this model, immigrants deemed to share German ethnicity are welcomed into the national community, while other categories of immigrant have had only limited opportunities to do so.

The British 'philosophy of integration' (Favell 1998) is much less rigorously intellectualized than the French, basing itself instead upon historical precedent and pragmatic adaptation. British colonial history led to the development of an open concept of national membership. Citizenship has an uneasy place in this model, and the persistent influence of ideas of subjecthood means that the rights attached to citizenship have typically been rather limited. Instead of apportioning rights and privileges according to membership in the national community, this model accords rights on a territorial basis. Precepts of multiculturalism have restricted the state's capacity to steer the process of social integration. Critics argue that British citizenship is an essentially empty concept, and there is no notion of the cultural requirements of immigrant integration.

As a country of immigrants, the U.S. has maintained the system of *ius soli* it inherited from the British. However, its conception of citizenship was not the passive British one whereby birth on the territory sufficed to gain access to membership rights. As in revolutionary France, there was the expectation that citizens actively participate in the state's values. Yet it lacked the means and legitimacy to demand this. A unique brand of "civil religion" (cf. Bellah 1975, 1985) was instead encouraged and fostered by the state as a bottom-up approach after the American Revolution to legitimize the newly formed nation. Individuals are free to keep their own culture, as long as they participate in the nation's economic system and proclaim

their faith in the United States.

### **INTEGRATION EFFORTS AND THE PERSISTENCE OF NATIONAL DIFFERENCES**

Broadly speaking then, these nations present three different discourses on how to deal with immigrants in post-industrial western societies: France relies on citizenship as the right vehicle for integrating immigrants; Britain (cf. Bleich 2003) and the U.S. have promoted anti-racism measures. In Germany, meanwhile, the dominant discourse has often related more to the long-term exclusion rather than integration of (non-ethnic German) immigrants. It is, therefore, indicative of a significant shift in direction, that France has helped formulate, and signed up to anti-racist EU measures, on the basis of the Treaty of Amsterdam's Articles 6a and 13. Germany has opened up its citizenship laws to non-ethnics and participated in the formulation—although less readily in the implementation—of EU anti-discrimination measures. In Britain, we discover a new emphasis on citizenship, and specifically 'active citizenship'. In both the US and Britain in the past decade, certain types of immigrant have been excluded from benefits, which are now allotted principally to citizens (Fix and Laglagaron 2002). We view changes like those in France and Germany as reflective of international competition for labor and of the related effect of international anti-race norms, whilst the changes in Britain and the US are based more on normative ideas of how to regain control of immigration.

The EU's recent role as a vehicle for the promotion of immigrant integration measures is at first glance unsurprising. Post-nationalists argue that anti-race measures are motivated in part by a desire to encourage international labor mobility; such free movement aims occupied a core position in the foundation of the European Economic

Community—precursor to the EU. Moreover, the subsequent removal of many internal barriers to the free movement of persons within the EU makes the immigrant integration policies of one member state of relevance to the others, since disgruntled minorities from one state are increasingly capable of traveling throughout the territory of the EU, and because the economic marginalization of immigrants in one country may have implications for other states in an enmeshed economic zone. This kind of 'neo-functionalist' (Haas 1964) explanation appears, however, overly deterministic, and fails to explain the form of the EU's common anti-race efforts.

We posit that the EU has provided an opportunity structure for actors 'blocked' at the national level in immigration and immigrant policy-making (Guiraudon 2001, 2000a,b; Lavenex 2001; Maurer and Parkes 2006). Sections of national bureaucracies and NGOs have been able to use EU policy-making to pursue preferences that they are unable to realize at the national level. International norms may be referred to during negotiations: Sociological analyses of negotiations at the European level stress that deliberation among individuals may encourage them to follow a 'logic of appropriateness' in which such norms play a role. Actors may also be convinced that international norms provide a solution to national problems. However, in their analysis of the formulation and adoption of the recent EU anti-race directive, Geddes and Guiraudon (2002) show that much depends upon the strength of the actors who mobilize around certain issues. European integration provides a comparatively non-hierarchical framework for policy-making in which the member states do not operate as unitary actors. Actors who have driven minority integration efforts in this sphere have pursued their own specific institutional interests and agendas. Sometimes these overlap with the promotion of international norms, but there is by no means certainty that this

will be the case. Similarly the formulation of international norms may have little to do with what might be objectively identified as existing best practice.

The promotion of international standards in this area by some European level institutions and agencies has been robust (not least because these actors are legitimized and assisted in pursuing their institutional interests through such norms). Individuals within the European Commission and European Parliament have promoted international norms. To a degree they are acting as 'agents' to their member state 'principals': Member states have charged these agencies to promote and ensure the proper application of measures to facilitate desirable regional and even international labor mobility. They are, however, capable of pursuing an autonomous agenda, although to differing degrees. Commission officials in the Directorate General dealing with social affairs were particularly active, for example, in the extension to third-country-nationals of existing anti-discrimination measures for member state nationals working in other member states.

A European Commission Against Racism and Intolerance (ECRI) has been established within the Council of Europe framework, and a European Monitoring Center on Racism and Intolerance (EUMC) within the EU. In addition, several related frameworks, charters and protocols have been developed, such as the European Convention on the Legal Status of Migrant Workers and the European Convention for the Participation of Foreigners in Public Life at the Local Level. The integration activities of some extra-state agencies mirror those of national bodies monitoring problems in immigrant integration, underscoring the development of *functional* isomorphism in this area but also the heterogeneity of national methods to achieve policy aims (most obviously concerning the level at which agencies are set up). For instance, the roles of the U.S. Civil Rights Commission

(CRC), a U.S. national body, established in 1957 under the Civil Rights Act, and the extra-state European Commission on Racism and Intolerance (ECRI), established in 1993 in the Vienna Declaration of the Council of Europe's first Heads of State Summit, are similar, though their structural position is not. The U.S. Civil Rights Commission, though bipartisan, is a fact-finding agency of the executive branch of the U.S. government. ECRI exerts pressure from outside of the nation investigated, while the CRC works internally, alerting appropriate U.S. agencies to problems of bias. Both commissions issue evaluative reports on issues relating to discrimination. The reports of the CRC are intended to shed light on areas of bias within individual states or with regard to specific federal policies in an effort to prod officials toward compliance with federal civil rights standards. This can be seen, for example, in the 2002 reports, "Civil Rights Issues Facing Arab Americans in Michigan," and the "Briefing on Civil Rights Issues facing Arab Americans in Milwaukee Post 9/11."

In 1997 the European Council established the EUMC, to combat racist propaganda and hatred within EU member nations. EUMC provides research documentation, coordination of an informational network (of universities, NGOs and international organizations), and publication of annual reports alerting EU institutions and member-state governments to racist trends and encouraging them to undertake suitable measures. As is true for ECRI reports, the issues central to EUMC publications also have much in common with those at the heart of the CRC reports. For example, EUMC focused its 2001 annual report, "Diversity and Equality for Europe," on discrimination and bias in the employment sector, as did the CRC in its 2001 report, "Federal Efforts to Eradicate Employment Discrimination in State and Local Governments."

While EUMC is an information gather-



ing resource, ECRI is a formal mechanism through which the European Union member states along with their partners in the Council of Europe seek to protect human rights. A body of the Council of Europe, ECRI (2002: 2) was created to "review member states' legislation, policies and other measures to combat racism, xenophobia, anti-Semitism and intolerance, and their effectiveness," to formulate and propose policy recommendations, and to study and work toward the reinforcement of appropriate international legal instruments. ECRI is composed of independent members selected for their "moral authority and recognized expertise in dealing with...intolerance" (ECRI 2002: 2). While each member state of the Council of Europe has a representative on ECRI, these members do not receive instruction from their government and are expected to be impartial in fulfilling the work of ECRI. The activities of the ECRI are three-pronged, directed at individual countries, selected themes, and efforts in the civil society. Country-by-country evaluations examine each of the member states of the Council of Europe at four-year intervals, resulting in a series of individual reports for each country. Three reports each have been produced for France, Germany and Britain, with specific recommendations intended to facilitate the inclusion of populations of color and Muslims. The nations have responded with policy initiatives and dialogue. The interaction between ECRI and each of these countries merits evaluation.

Nevertheless, considerable variation in national and regional immigrant integration efforts remains. Efforts to delegitimize racism in Germany, France, Britain and the United States rest on cultural supports that are different in each nation and within each country's social classes. In France, for example, Lamont (2000: 195) found that the upper class and intellectual elites accept the multiculturalist assumption that all cultures are valuable. The French working

class, however, still does not accept the relativism of multiculturalism, but is drawn by the importance of solidarity in the nation's historical traditions, its leftist politics, and its Catholicism. Lamont characterizes French workers as unified in the belief that all workers, regardless of national origin, need to work to eat. For American workers, she found, money is the great equalizer; those who find work and can support themselves may be considered equal. "Socioeconomic success...is the criterion of social membership...The market adjudicates the value of people...labor market position...is one of the main principles of equality used by American workers..." (Lamont, 2000: 196).

In Germany there is less cultural support for multiculturalism in the upper classes and less tolerance of difference in the working classes than in France or the United States. While the Green Party championed the rights of immigrants and made dual citizenship part of its campaign agenda, there have been few other supports for German elites or workers to find commonalities with the foreign workers or transnationals in the country. The Catholic Church in Germany, for example, has not provided a basis for the group solidarity that Lamont (2000) found it fostered in France, and post-war German voters have not supported a period of socialist government, as have the French. The communist ideology that dominated the eastern part of Germany for a generation provided one cultural support for solidarity among workers of different ethnic and racial backgrounds (and may have provided part of the electoral support for the Green party during its recent coalition with the Social Democrats (SPD)), but the lack of diversity resulting from the closed borders of the east during the communist era gave Germans there little experience with tolerance. Add to that the fact that Germans have not historically seen their nation as an immigration nation (a cultural support for multiculturalism in the

United States) and the importance of the market imperative in stimulating German efforts to delegitimize racism becomes clear.

The concrete effects arising from the formulation of international norms should not, therefore, be overestimated. Cathryn Cluver (2005:8) has described the prospect of “the slow death of far-reaching anti-discrimination legislation that would have eased the lives of hundreds of thousands of migrants and other population groups living in Germany...[as] reflecting poorly on the ‘success story’ of the Race Directive...and [proving] the insufficiency of EU enforcement power on ‘soft policy’ issues.” Cluver (2005:2) argues that Angela Merkel’s CDU coalition government has dismissed the need to put EU anti-discrimination legislation into German law, arguing that “these points are already sufficiently addressed in the German Constitution.” Germany has only recently officially recognized the multiethnic character of its population. While there are fewer cultural supports for antiracism in Germany than in France, the SPD/Green coalition headed by Schroeder (immediately preceding Merkel’s Christian Democratic coalition government), projected a greater sense of urgency regarding tolerance building efforts in Germany. Aware of the awful legacy of its past intolerance, the German federal government had begun to implement a set of policies and practices to make up for the lack of antiracist cultural supports in the nation’s recent history. Cluver’s concern about the demise of anti-discrimination legislation, noted above, may be applied to Germany’s entire array of anti-hate initiatives in the current political context.

### **IMMIGRATION CONTROL AND “THE NEW RACISM”**

As economic restructuring increased unemployment in the unskilled sector by

the early 1970s, a negative political reaction against immigrants spawned extremist groups and anti-immigrant legislation. According to Balibar (1991: 21 as cited in Holt, 2000: 14), for example, the rhetoric of new forms of popular racism “cites the insurmountability of cultural differences...the harmfulness of abolishing frontiers, the incompatibility of lifestyles and traditions.” Holt (2000: 16-17) points out that ethnically motivated conflicts appear to have greater legitimacy and rationality because they avoid the bias attached to biological distinctions. Such discourse is apparent in all four of the nations under examination.

Efforts to curtail immigration in Germany coincided with vociferous public discussion reaffirming German popular sentiment against becoming an “immigration nation.” In 1968 France limited Algerian immigration, and by 1974 had curtailed any new immigration—as much as possible—from sources outside the European Economic Community. Repatriation efforts aimed at North African immigrants were begun in 1977, but were ineffective. The 1986 “Pasqua Act” (the *Loi Relative aux Conditions d’Entrée et de Séjour des Etrangers en France*) led to a wave of involuntary deportations (cf. Kushnick, 1995: 189), since it permitted officials to stop foreigners to check their documents, and gave those without the correct paperwork twenty-four hours to leave or face arrest and deportation. Discourse and policy responses thus conceived of non-nationals as a threat to the national economy and society. This reflects the way that the nation-state’s polity is structured, drawing its legitimacy from nationals. Actors were thus able to promote and legitimize their policies with reference to the threat posed to nationals.

Like Germany and France, the United States reacted to the economic restructuring of deindustrialization with more restrictive immigration policy and criminal justice net—widening directed at both immigrants and people of color. The *Immigra-*

*tion Reform and Control Act of 1986* criminalized hiring illegal aliens, punishing employers with fines and incarceration, even while it offered amnesty to illegal aliens who had entered the country before January of 1982 and lived there continuously since then. The restrictive *1996 Illegal Immigration Reform and Immigrant Responsibility Act* required deportations of legal immigrants convicted of even a minor offense, and swift review of asylum seekers by Immigration and Naturalization Service agents with limited special training in this area. Affirmative action and bilingual education programs were cut back in some states. In Britain, as well, the 1980s brought restrictionist immigration legislation: The *Immigration Act* of 1988, the *Asylum and Immigration (Appeals) Act* of 1993, and further legislation in 1996 and 1999.

Fearful of the loss of voter support to right-wing politicians, the traditional parties in all four nations moved their platforms in the direction of the rightist groups, promising to curtail immigration, reduce assistance and limit eligibility for naturalization. In taking this approach the mainstream parties legitimized the anti-immigrant and racist scapegoating promulgated by the extremist parties (cf. Marcus, 1995; Feldblum, 1999). Xenophobic fears of a link between societal diversity and crime led to greater scrutiny of those who were or appeared to be foreigners. The relationship between the loss of jobs for unskilled labor and criminal justice net-widening policies is currently under examination by scholars who have cited the disproportionate impact of this trend on minority populations (cf. Western and Beckett, 1999; Beckett and Sasson, 2000). However, its criminalizing impact on the permanent foreign workforce in post-industrial nations needs more study. Initial evidence suggests its significance. In France, for example, from 1970-1990, while the foreign (*etranger*) population increased by only 2.9 percent (from 5.0 to 7.9 percent), the percent of those incar-

cerated who were *etrangers* (not-born in France and not naturalized) rose from 15% to almost 30% (cf. Jackson, 1995: 352). *Etrangers* are more likely to be incarcerated for offenses for which French nationals receive suspended sentences (Jackson, 1997). The proportion of foreign population in Germany was relatively stable from 1977-1997, rising gradually from 6.4 to 9.0 percent (with the post-1990 figures for the united Germany and the earlier figures for the former West Germany) (Federal Ministry of the Interior, 1998: 13). Yet the percentage of imprisoned persons who were foreign grew almost five-fold, from 5.8% of those convicted in 1977 to 26.6% in 1997 (*Statistisches Bundesamt*, 1999: 67). The vast majority of offenses for which foreigners were incarcerated involved violations of asylum procedures, immigration law and illegal or irregular documents. Because most foreigners in Germany were in the West (2001-5 Germany Info, [www.germany-info.org](http://www.germany-info.org)), German reunification might be expected to have reduced the percentage of prisoners who were foreign (as the prison population increased with the larger overall population of Germany). Instead, the percent of imprisoned persons who were foreign increased steadily from 1992 until the turn of the century. Thus, reunification probably masked even greater imprisonment likelihood for foreigners over the decade of the 1990s than the existing figures demonstrate. The greatest growth in the proportion of the imprisoned population that was foreign was between 1987 and the 1994-95 period, when the increases taper off somewhat. A gradual decline begins in 1999, leaving foreigners 22.4% of those incarcerated in 2001. In Britain (where the collection and publication of data for foreign nationals in the prison system of England and Wales began in 1993), there was a 120% increase in the population of foreign nationals incarcerated (to 7,720) from 1993-2003, while the increase was only 55% for British nationals (Home Office, 2003; cf. Jackson

and Parkes, 2005). While the proportion of foreign nationals among the total prison population remained at 8% from 1993-1999, it grew to 11% of the British prison population between 1999 and 2002 (Jackson and Parkes, 2005).

In all three countries the current level of incarceration for non-nationals is higher than it was when records began. In Germany and France these increases coincide with the period of immigration restrictionism which began in the mid-1970s. The figures have, however, begun to taper off. In France, the level of non-national incarceration reached its highest point in the early—to mid-1990s. In Germany, the proportion of foreign prisoners peaked somewhat later, in the mid to late 1990s. When records began in Britain, the relative proportion of immigrants among the imprisoned appears to have been lower (and still remains lower) than in France or Germany, but continued to rise after the other two had peaked. The proportion of foreign nationals imprisoned has been relatively low and has begun rising only in the last five years, partly reflecting the changing makeup of immigration to the country. The percentage of ethnic minority prisoners is substantially higher in Britain in recent years and shows no sign of dropping off. Taking into account immigrants' numbers within the total population, immigrant incarceration is disproportionately high in all three states.

In the United States restrictiveness in immigration policy development coincided with greater scrutiny of non-citizens by both immigration and criminal justice authorities in the United States. Marshall used Bureau of Justice Statistics reports to demonstrate that "the number of noncitizens who were prosecuted in U.S. district courts from 1984-94 increased an average of ten percent annually from 3,462 to 10,352...compared to a 2% annual increase in overall federal caseload...[reflecting] an increase in the number of noncitizens charged with drug and immigration offenses

(BJS, 1996, pp. 5-6," as cited in Marshall, 1997: 21). Scalia and Litras (2002:8), examine more recent data in a Bureau of Justice Statistics Special Report, indicating that "noncitizens accounted for about a third of the growth in the Federal prison population, 1985-2000...In 1985, 5,561 noncitizen Federal inmates were 14% of the total; in 2000, 37,243 noncitizens inmates were 29% of all Federal prisoners...During 2000, 54% of noncitizen inmates had been convicted of a drug offense; 35% of an immigration offense; and 11% of other offenses." They furthermore explain that immigration offenses accounted for most (two-thirds) of the noncitizen inmate growth from 1996-2000, increasing this figure from 4,411 to 13,162. The restrictive immigration policies passed in 1986 and 1996, no doubt, explain this increase. Convicted immigration offenders were more likely to be incarcerated during this period: Their incarceration rate increased from 57% to 91%. The average time that they served in prison also increased more than five-fold (from 3.6 months to 20.6 months) during these years (Scalia and Litras, 2002:2).

Wacquant (1997: 219) claims that during this period "an amalgam of immigration, illegality and criminality" was forged creating a "suitable enemy" of foreigners and quasi-foreigners. Since the 1980s, immigration and asylum have been politicized, increasingly cast as a source of terrorism, and a threat to national identity and economic stability (Huysmans, 2000). Even supranational institutional and policy developments have been based on the premise of immigrants' threat to national and internal stability. "The vision of an integrated, European-wide law enforcement action against international organized crime [has become] a reality" (Loader, 2002: 128). A "culture of post/national policing" has developed, supported by "discourses of danger and security practices [deriving] their political significance from their capacity to stimulate people to contract into a po-

litical community and to ground—or context—political authority on the basis of “refying dangers” (Loader, 2002: 129, citing Huysmans, 2000: 757).

We view state-led efforts at the exclusion of certain immigrants as a constituent part of integration policies, so the growth in immigrant incarceration has relevance to the study of immigrant integration and general integration policies. The perception that efforts to exclude immigrants at the border were failing contributed to a growth in active efforts to exclude immigrants within society. Yet, although the increases in immigrant incarceration levels may be partly accounted for by criminal justice net-widening, and other policies actively seeking to exclude unwanted immigrants within society, it may also be indicative of restrictions to integration policy: By restricting generous integration policies, the state may ‘passively’ exclude immigrants (Jackson, Zervakis and Parkes, 2005; Jackson and Parkes, 2005). Both strands reflect securitarian policy-making and the perception of the “immigrant threat.”

## CONCLUSION

This article differs from previous analyses of immigration policy isomorphism in western post-industrial societies in its focus on the degree to which the pressures of international global interdependence and competition are refracted through entrenched national social and socio-political structures. Earlier work on this topic has suggested a relative ‘passivity’ on the part of states in the face of the de-nationalizing pressures of global and regional economic integration. We argue that states have actively attempted to reassert control over migratory flows, irrespective of these economic realities. Homogenisation has occurred not because of the inability of states to resist change, but rather through commonalities in their responses to external

pressures. One of the responses has been the securitization of immigration policies, which has affected the nature both of immigration and immigrant policies. Even without the formal harmonization of policies, national ministerial officials have ‘policy shopped’, adopting (restrictive) policies developed in other states.

We identify both dynamics in the current development of European asylum, immigration, and immigrant policy. Integration in this sphere stems in part from the initial economic cooperation that typified the post-war European project. The neo-functional understanding of European integration, which builds upon Liberal accounts of the prevalence of economic forces in preference formation, identifies a process of ‘spillover’ from the core economic integration. Efforts to encourage the mobility of labor between the member states have created pressure to regulate the movement, as well as the societal and economic position of ‘third-country-nationals’. Equally though, cooperation in this sphere also developed outside the mainstream of European cooperation, as national government officials used ‘transgovernmental’ cooperation as a means to regain control over migration flows. The measures resulting from this cooperation were restrictive in tone, and the concept of ‘pull factors’ was prevalent. It has been argued that the actors in these forms of cooperation—predominantly officials from justice and interior ministries—made use of transgovernmental cooperation as a means of escaping the constraints posed by national judiciaries, social and economic ministries (Guiraudon 2000a). Yet, despite a degree of harmonisation in this sphere, national differences remain apparent, and have disrupted both policy-formulation and implementation.

In their efforts to regain control over migration, sections of national governments have conceived of uncontrolled migration flows as a threat to security. The societal position of immigrants is seen to have

a bearing on the effectiveness of immigration controls, and there is pressure to restrict rights accordingly. The attacks on London suggest, however, that the security/rights nexus should be legislated for in a different way, since the failure to facilitate the societal integration and promote the rights of immigrants may actually be detrimental to national security. Nevertheless, we can identify the two competing dynamics—one seeking to ‘integrate’ immigrants and delegitimize racism, the other seeking to prevent this integration where it disrupts immigration controls—in the four states’ immigrant and immigration policies. The development of governance beyond the nation-state has broken the hierarchy, and unitary nature, of policy-making in the nation-state, allowing certain sections of the national executive to dominate policy-making, and sharpening the tension between the two dynamics.

We find a degree of isomorphism that can be traced to the two competing dynamics. In Britain and the United States, immigration controls have been extended from the border into society, as they are in France and Germany (cf. Jackson and Parkes, 2005). The assumption that underpinned earlier access to benefits and privileges in Britain—namely that those on the national territory were legally there and were therefore entitled to such access—has proved untenable in the face of growing migration flows. Immigration controls have been set up to guard access to social, economic and legal benefits. Similarly, citizenship has become the gateway to many benefits, and ideas of ‘active citizenship’ are being realized; under the current Labour government, official definitions of ‘Britishness’ are being formulated. This shows similarities with both the German and French models. In France, meanwhile, renewed efforts are being made to combat discrimination, and there has been shift away from the color-blind notion of Republican citizenship. This pushes it closer to the British or US

model. Germany has weakened the exclusive ethnic basis of its citizenship laws and has made (somewhat limited) efforts to combat discrimination. France and Germany both set a premium on the exclusion of unwanted immigrants at the entry border, predicating this partly on the idea that this is a prerequisite of good societal relations with the immigrant population. Similarly, in the United States, securitization efforts implemented through the Patriot Act are intended to tighten exclusion at the border, in an effort to assure internal security. State involvement in immigrant integration efforts has not increased in the United States; rather, securitization-fueled perceptions of the “threat” posed by Muslims may, in the long run, reduce the integration of some immigrant populations, bringing the U.S. closer to its European partners in the “War on Terrorism.”

#### REFERENCES

- Balibar, Etienne 1991. “Is There a ‘Neo-Racism’?” Pp. 17-28 in Etienne Balibar and Immanuel Wallerstein (eds.) *Race, Nation, and Class: Ambiguous Identities*. Verso.
- Balzacq, Thierry 2005. “The Three Faces of Securitization: Political Agency, Audience and Context.” *European Journal of International Relations*, Vol. 11 (2): 171-201.
- Bauer, Thomas, P. Pereira, M. Vogler and K. Zimmermann 2002. “Portuguese Migrants in the German Labor Market” *International Migration Review* 36 (2): 467-491.
- Beckett, Katherine and Theodore Sasson 2000. *The Politics of Injustice: Crime and Punishment in America*. Pine Forge Press.
- Bellah, Robert N. 1975 [1992]. *The Broken Covenant: American Civil Religion in a Time of Trial*, second edition. U. of Chicago.
- Bellah, Robert N. 1985. *Habits of the Heart*. U of CA.
- Bigo, Didier 1994. “The European Internal Security Field,” in M. Anderson and M. den Boer (eds.) *Policing Across National Boundaries*. Pinter.

2002. "Security and immigration, toward a critique of the governmentality of Unease." *Alternatives* 27: 63-92.
- Bleich, Erik 2003. *Race Politics in Britain and France*. Cambridge U.
- Bureau of Justice Statistics 1996. *Noncitizens in the Federal Criminal Justice System, 1984-1994*. U.S. Department of Justice.
- Caviedes, Alexander 2004. "The open method of co-ordination in immigration policy." *Journal of European Public Policy* 11 (2) April: 289-310.
- Clutterbuck, Richard 1990. *Terrorism, Drugs and Crime in Europe after 1992*. Routledge.
- Cluver, Cathryn 2004. (September 23) "Killing me softly: The slow death of anti-discrimination legislation in Germany." *Challenge Europe Online Journal*, Issue 14, European Policy Centre ([www.theepc.be](http://www.theepc.be)).
- European Commission 2005. *Policy Plan on Legal Migration*, COM(2005) 669 Final.
- European Commission Against Racism and Intolerance (ECRI).
- France, *First Report*, 6/98; *Second Report*, 6/00; *Third Report*, 2/05
- Germany, *First Report*, 3/98; *Second Report*, 12/00; *Third Report*, 6/04.
- United Kingdom: *First Report*, 1/99; *Second Report*, 4/01; *Third Report*, 6/05.
- Resolution Res (2002) 8 on the Statute of ECRI*. Strasbourg: Council of Europe.
- Favell, Adrian 1998. *Philosophies of Integration*. St. Martin's Press.
- Federal Ministry of the Interior 1998. *Survey of the Policy and Law Concerning Foreigners in the Federal Republic of Germany*. Germany.
- Feldblum, Miriam 1999. *Reconstructing Citizenship*. SUNY.
- Fix, Michael and L. Laglagaron 2002 "Social Rights and Citizenship." Urban Institute.
- Geddes, Andrew and Virginie Guiraudon 2002. The anti-discrimination policy paradigm in France and the UK. Turin: ECPR Joint Session
- Giraudon, Virginie. 1998. "Citizenship rights for non-citizens." in Joppke, Christian (ed) *Challenge to the Nation-State*. Oxford U.
- Giraudon, Virginie. 2000a "Escaping domestic constraints." CIS Workshop, 12/8/2000.
- Giraudon, Virginie. 2000b "European Integration and Migration Policy." *Journal of Common Market Studies*, 38 (2) (June): 251-71.
- Giraudon, Virginie. 2001. "The EU 'Garbage Can': Differential Development, Adhocracy, Opportunism in the Immigration Domain" European Community Studies Association, Madison, WI.
- Haas, Ernst. 1964. *Beyond the Nation-State*. Stanford: Stanford U.
- Hansen, Randall 2000 *Citizenship and Immigration in Post-War Britain*. Oxford U.
- Hollifield, James F. 1992 *Immigrants, Markets and States*. Harvard U.
- Holt, Thomas C. 2000 *The Problem of Race in the 21st Century*. Harvard U.
- Home Office 2003 "Prison Statistics England and Wales 2002"
- Huysmans, Jef 2000. "The European Union and the Securitization of Migration." *Journal of Common Market Studies*, Vol. 38 (5): 751-77.
- Jackson, Pamela Irving 1995. "Minority Group Threat, Crime, and the Mobilization of Law in France." Pp. 341-359 in D. Hawkins (ed.), *Ethnicity, Race and Crime*. SUNY.
- Jackson, Pamela Irving 1995, 1997 "Minorities, Crime and Criminal Justice in France." Pp. 130-150 in Ineke Haen Marshall (ed.), *Minorities, Migrants and Crime*. Sage.
- Jackson, Pamela Irving and Roderick Parkes 2005. "Immigration Policy and the Social Exclusion of Minorities: British Securitization 1948-2003." *Journal of Social and Ecological Boundaries*, Volume 1 (2): 5-31.
- Jackson, Pamela Irving, Peter Zervakis and Roderick Parkes 2005. "A Contextual Analysis of the Integration of Muslims in Four Western Societies." *The Discourse of Sociological Practice*. Volume 7: 205-216.
- Jacobson, David. 1996. *Rights Across Borders*. Johns Hopkins.
- Jernegan, Kevin 2005. "New Century: Immigration and the U.S." Migration Information Source. ([www.migrationinformation.org](http://www.migrationinformation.org)).
- Joppke, Christian 1999. "The Domestic Legal Sources of Immigrant Rights." Florence European University Institute Working Paper.
- Kogan, Irena "Employment Careers and Employment Dynamics of Immigrants in Germany and Great Britain" <http://education.nyu.edu/humsocsci/rc28/Kogan.pdf>
- Kushnick, Louis 1995. "Racism and Anti-Racism in Western Europe." Pp. 181-202 in Benjamin P. Bowser (ed.), *Racism and Anti-Racism in World Perspective*. Sage.
- Lamont Michele 2000. *The Dignity of Working Men*. Russell Sage and Harvard U. 2001 "Immigration and the Salience of Racial Boundaries among French Workers." *French Politics, Culture and Society*:19 (1):

- 1-21.
- Lavenex, S. (2001) "The Europeanization of Refugee Policies." *Journal of Common Market Studies*, Vol.39.5, pp.851-74.
- Loader, Ian 2002 "Policing, Securitization and Democratization in Europe." *Criminal Justice* 2 (2): 125-153.
- Marcus, Jonathan 1995. *The National Front and French Politics*. New York: NYU.
- Marshall, Ineke Haen 1997. "Minorities, Crime, and Criminal Justice in the U.S." Pp. 1-35 in Ineke Haen Marshall (ed), *Minorities, Migrants, and Crime*. Sage.
- Maurer, Andreas and Roderick Parkes (2006) "Asylum Policy and Democracy in the European Union from Amsterdam towards the Hague Programme." SWP Working Paper.
- McNamara, Kathleen 2001. "Globalization and the Social Construction of Market Imperatives." Workshop, *Ideas, Discourse and European Integration*, Harvard U.
- Sassen, Saskia. 1999. *Guests and Aliens*. New Press.
- Scalia, John and Marika F.X. Litras 2002. *Immigration Offenders in the Federal Criminal Justice System, 2000*. Bureau of Justice Statistics Special Report (NCJ 191745).
- Schaefer, Richard T. 2004. *Racial and Ethnic Groups*, ninth edition. Prentice Hall.
- Soysal, Yasemin 1993. "Immigration and the Emerging European Polity." Pp. 171-186 in Svein S. Andersen and Kjell A. Eliassen (eds.) *Making Policy in Europe*. Sage.
- Soysal, Yasemin. 1994 *Limits to Citizenship*. U. of Chicago.
- Statistisches Bundesamt 1999 *Justiz im Spiegel der Rechtspflegestatistik*. Germany. Sus-smuth Commission 2001. *Structuring Immigration Fostering Integration*. Berlin: Independent Commission on Migration to Germany.
- Tirman, John 2004a "The Migration-Security Nexus." GSC Quarterly 13 (Summer/Fall) (Global Security and Cooperation, Social Science Research Council <http://www.ssrc.org>).
- 2004b *The Maze of Fear: Migration and Security after September 11*. New Press.
- Vuori, Juha A. 2006 "Securitization in a Totalitarian Regime." Department of Political Science, 20014 University of Turku, Finland, East Asian Studies Seminar Paper, <http://aasia.utu.fi/seminaari-en.html>.
- Wacquant, Loic 1999 "Suitable Enemies: Foreigners and Immigrants in the Prisons of Europe." *Punishment and Society* 1 (2): 215-222.
- Western, Bruce and Katherine Beckett 1999 "How Unregulated Is the U.S. Labor Market? The Penal System as a Labor Market Institution." *American Journal of Sociology*: 104 (4): 1030-60.