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## Germany's Immigration Policy, 2000-2002. Understanding Policy Change with a Political Process Approach

This paper is a slightly reworked version of a dissertation originally submitted in September 2002 in accordance with the requirements of the degree of Master of Science in Society and Space at the Faculty of Social Sciences, University of Bristol

Arbeitspapiere – Working Papers  
No. 3, 2003

Ette, Andreas:

Germany's Immigration Policy, 2000-2002. Understanding Policy Change with a Political Process Approach / Andreas Ette. – Bremen: COMCAD, 2003

(Working Papers – Center on Migration, Citizenship and Development; 3)

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## Abstract

Major changes have shaped Germany's immigration policy between 2000 and 2002. In particular, two regulations were passed that form the focus of this inquiry: (1) the introduction of the Green Card in August 2000, which arranges for the immigration of 20,000 foreign computer experts; (2) the passing of the Immigration Act in June 2002, which introduces a point system for the selection of labour migrants, offers a supply-side instrument for the recruitment of migrants depending on the situation of the labour market, and ends Germany's focus on temporary labour migration. Both policy changes (will) have decisive impacts on the volume and composition of future migration to Germany.

The study argues that immigration policies of nation-states are crucial elements in determining the pattern and scope of global migration. But Geographers studying international migration have not yet adequately reacted to these new challenges. For a more comprehensive theory of international migration it is necessary to take politics more seriously. The study contributes to this venture by analysing the factors that shaped Germany's recent policy shifts. Two questions guided this investigation: (1) what influence does the political process have on the actual policy output? (2) What role do economy and national identity play in the changes in Germany's immigration policy?

The study of immigration policy today is dominated by structural, institutionalist and pluralist theories. In contrast, this study develops a theoretical framework, which specifically focuses on the dynamics and contingencies of the political process to understand policy changes. It argues that the political process itself is a crucial variable that affects policy outputs. Furthermore, it understands the political process as a filter, transforming structural determinants – economy and national identity – into actual policy. Adopting two theoretical concepts from the study of contentious politics, the Political Opportunity Structure (POS) and the Framing approach, this dissertation demonstrates that the political process – understood as a framing contest and a particular structure of actors and their opportunities to affect policies – has a decisive impact on the shape of immigration policies. Addressing the second question the investigation shows the role of economic conditions in causing these changes and offers explanations for the minor influence of political arguments, which refer to Germany's national identity during this period of policy reform.

## Zusammenfassung

In der deutschen Einwanderungspolitik kam es in den vergangenen zwei Jahren zu maßgeblichen Veränderungen. Inhalt sind eine Reihe neuer gesetzlicher Regelungen, von denen zwei den Mittelpunkt dieser Arbeit bilden: Erstens wurde die Green Card im August 2000 eingeführt, um die Zuwanderung von 20.000 ausländischen Computerfachkräften zu regeln. Zweitens wurde das Zuwanderungsgesetz im Juni 2002 verabschiedet, das nach seinem Inkrafttreten im Januar 2003 eine Reihe neuer Instrumente zur Steuerung von Migration nach Deutschland bietet: Dazu zählt ein Punktesystem, das der Auswahl von Arbeitsmigranten dient, als auch ein angebotsorientiertes Verfahren, welches Zuwanderung in Abhängigkeit vom deutschen Arbeitsmarkt steuert. Weiterhin wird Deutschlands bisherige Praxis der zeitlich begrenzten Arbeitsmigration im Bereich der Zuwanderung von Hochqualifizierten beendet: Für Hochqualifizierte besteht zukünftig die Möglichkeit der Gewährung eines Daueraufenthaltes von Anfang an. Die Konsequenz der neuen einwanderungsrechtlichen Regelungen wird eine deutliche Veränderung der Zusammensetzung und des Umfangs der Zuwanderung nach Deutschland sein.

Die Einwanderungspolitik von Nationalstaaten ist heute einer der entscheidenden Faktoren, die das Ausmaß und das Muster globaler Migrationsströme beeinflussen. Die Geographie hat der staatlichen Migrationspolitik bisher jedoch wenig Bedeutung beigemessen. Dabei ist für eine umfassendere Theorie der internationalen Migration ein Verständnis dieser Migrationspolitiken unabdingbar. Diese Arbeit versteht sich als Teil eines Forschungsprogramms, das diesen politischen Aspekten internationaler Migration verstärkt Bedeutung beimisst. Ihr Ziel ist die Bestimmung maßgeblicher Faktoren, mittels welcher sich die Veränderungen der deutschen Einwanderungspolitik zwischen den Jahren 2000 und 2002 erklären lassen. Zwei Forschungsfragen leiteten diese Untersuchung: (1) Welchen Einfluss hatte der Politikprozess auf die Gestaltung einwanderungsrechtlicher Regelungen? (2) Welche Rolle spielten wirtschaftliche Faktoren, sowie die nationale Identität bezüglich der Veränderungen in der deutschen Einwanderungspolitik?

Die Untersuchung von Einwanderungspolitiken wird bisher von strukturalistischen, institutionalistischen und pluralistischen Theorien dominiert. Im Gegensatz dazu entwickelt diese Arbeit ein theoretisches Konzept, das seine Aufmerksamkeit auf die Dynamiken und Eventualitäten des politischen Prozesses richtet, um Veränderungen in den Politikgehalten ("policies") zu erklären. Für die Untersuchung des Politikprozesses, der zum Wandel in der deutschen Einwanderungspolitik führte, nutzt diese Arbeit das Konzept politischer Gelegenheitsstrukturen (Political Opportunity Structures) und des Framings. Ein Ergebnis

dieser Arbeit ist, dass der Politikprozess (verstanden als eine bestimmte Struktur von Akteuren, ihren Framingversuchen und Möglichkeiten der politischen Einflussnahme) einen maßgeblichen Einfluss auf die Veränderungen der deutschen Einwanderungspolitik hatte. Die Dynamiken dieses Prozesses waren für den Wandel in diesem Politikfeld von größerer Bedeutung als wirtschaftliche Faktoren. Letzteren kam als Auslöser dieser Reform eine wichtige Funktion zu. Weiterhin bietet die Analyse des politischen Prozesses Erklärungen für die untergeordnete Rolle der nationalen Identität in diesem Reformprozess.

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## Acknowledgments

This dissertation, concerned with the movement of people, has been written in manifold places. The idea for this work originated last year during the summer in Berlin, it took shape during my studies in Bristol, included journeys to different parts of Germany this summer, profited from some quiet time in Wald-Michelbach and now it is back in Berlin where it is completed. My acknowledgments are to those who have provided advice and support during this project.

This dissertation could not have been written without the financial support of the Friedrich-Ebert-Foundation for my studies in Germany and in particular for my studies abroad.

I would like to thank Professor Franz-Josef Kemper who first taught me about the study of international migration, Heike Pethe who encouraged me in studying Germany's recent politics of immigration, and Clive Barnett who advised this work through personal and also long-distance conversations.

I am indebted to the number of people I could interview and who generously took the time to talk to me and to share their impressions and opinions of Germany's immigration policy. They offered me an understanding of the intricate dynamics of Germany's immigration policy and gave me the confidence to write about them.

Writing this dissertation in English needed the assistance of many friends. For their English language knowledge and their readiness to read drafts of this work I wish to thank Astrid Schwietering and Paula Kramer. For her qualities as a native speaker and her support in writing the final draft of this work I am grateful to Ali Percy. The line of argument and the central theme of this study gained enormously from evening strolls and conversations with Reinhard Pollak and Volkhart Finn Heinrich. Although not involved in the writing of this dissertation I also thank my grandparents and in particular my mother for enabling my studies. A last word of thanks to Jennifer John for her patience in reading drafts of every chapter and the companionship she gives.



## Abbreviations

ASAV	Anwerbestoppausnahmereverordnung Exceptional Regulations concerning the Recruitment ban
BA	Bundesanstalt für Arbeit Federal Office for Employment
BAFL	Bundesamt für die Anerkennung ausländischer Flüchtlinge Federal Office for the Recognition of Foreign Refugees
BDA	Bundesvereinigung der Deutschen Arbeitgeberverbände Confederation of German Employers' Associations
BDI	Bundesverband der Deutschen Industrie Federation of German Industries
BITKOM	Bundesverband Informationswirtschaft, Telekommunikation und Neue Medien e.V. German Association for Information Technology, Telecommunications and New Media e.V.
BMA	Bundesministerium für Arbeit und Sozialordnung Federal Ministry of Labour and Social Affairs
BMI	Bundesministerium des Innern Federal Ministry of the Interior
CDU	Christlich Demokratische Union Deutschlands Christian Democratic Party of Germany
CSU	Christlich Soziale Union Christian-Social Union
DGB	Deutscher Gewerkschaftsbund German Confederation of Trade Unions
EFMS	Europäisches Forum für Migrationsstudien European Forum for Migration Studies
FAZ	Frankfurter Allgemeine Zeitung
FDP	Freie Demokratische Partei Free Democratic Party
FR	Frankfurter Rundschau
FRG	Federal Republic of Germany
GDR	German Democratic Republic
ICT	Information and Communication Technology
PDS	Partei des Demokratischen Sozialismus Party of Democratic Socialism

POS	Political Opportunity Structure
SPD	Sozialdemokratische Partei Deutschlands German Social Democratic Party

# 1 Introduction

Major changes have shaped Germany's immigration policy between 2000 and 2002.<sup>1</sup> Three landmark events indicate the trend of developments in this policy area: On 20 February 2000 Chancellor Gerhard Schröder opened the international computer fair CeBIT in Hanover. In his speech he announced a "Green Card" to recruit foreign software experts for Germany's computer industry. One year later on 4 July 2001 the "Independent Commission on Migration to Germany" published its final report "Structuring Immigration – Fostering Integration". The document starts with the claim that "Germany needs immigrants". Finally, a further year later on 20 June 2002, President Johannes Rau signed Germany's first Immigration Act. This law marks a fundamental change in Germany's immigration policy: it offers the first comprehensive legal framework to govern migration to Germany; it offers procedures for the selection and recruitment of immigrants; and it ends a long-standing and intricate political debate about Germany's self-definition of being "not an immigration country" (kein Einwanderungsland).<sup>2</sup>

"How are these developments in Germany's immigration policy related to geographical research?" will probably be a question from the reader. The central link is certainly Geography's long-standing tradition in the study of international migration. One particular research interest in the field of Geography asks for the reasons for migration (Bähr 1997:18), investigating the factors which explain the volume of migration flows and the stock of migrants in a society. In the discipline of Geography and of Migration Studies more generally, a range of approaches was developed to deal with this question. These approaches borrow heavily from theoretical findings in other disciplines. In particular, economic and sociological foundations play an important role. Most common are neoclassical macro- and micro approaches focusing on the labour market or the individual actor, as well as world system theory and approaches, which are based or inspired by network theories (Massey et al. 1993, 1998). These frameworks have one point in common: they largely neglect the political dimension of the international movement of people. This is surprising because international migration as a crossing of nation-states' borders is unquestionably a political process, which "entails not only physical relocation, but a change of jurisdiction and membership" (Zolberg 1989:405-406). During recent years scholars have increasingly stressed the influence of the "political performance" on the level of immigration (Hollifield 1992:14). For example, Grete Brochmann (1999:2) argues that for Western European states the 1990s were a period of strict immigration control where "states' control policies, more than any other factor, can explain direction, volume and composition of international migration". These arguments are based on an increasing amount of literature, which demonstrates the decisive influence

nation-states' policies have on international migration flows.<sup>3</sup> Theoreticians, who so far have particularly emphasized the economic and sociological factors to explain international migration, acknowledge in the meantime the need to include political variables in their models. For example, Douglas Massey recognizes that, "a principle challenge is to model the behaviour of nation-states and political actors, filling a void in the general theory of international migration" (Massey quoted in Zolberg 1999:71-72).<sup>4</sup> But so far a theory is missing which gives an explanation for the ways in which the state influences population movements and "really elevate[s] policy outputs and the state to the status of independent variables" (Hollifield 2000:146-147).<sup>5</sup>

When investigating the politics of international migration, two research topics are generally proposed. The first concerns the explanation of policy outcomes. It is the study of the actual effects of migration policies on the flows and stocks of migration. However, these studies are confronted with a large range of independent variables that must be taken into account (Hollifield 2000:146-148). Because of these difficulties most studies and theories dealing with the politics of international migration focus on the actual immigration policy a state adopts.<sup>6</sup> This corresponds with the second proposed research topic: the study of policy outputs. In those studies the focus is on the supply and demand of immigration policy. Here, research questions address why immigration policies are in some states more liberal and expansive than in others. Which factors can account for admissionist or restrictionist immigration policies of particular nation-states? Answers to these questions are seen as an important step to establish a theory which accounts for the political influences on the flows and stocks in international movements. These answers ultimately contribute to a more comprehensive general theory of international migration (Massey et al. 1993, 1998).

The explanation of the policy outputs is the starting point for this study. The questions outlined above are applied to Germany's changing immigration policy and aim to offer a more comprehensive understanding of Germany's immigration experiences. Specifically, the research questions follow the observed changes in Germany on the one hand and theoretical debates in the study of the politics of international migration on the other. In particular two questions are at the centre of this study. (1) Which influence has the political process on the actual policy output? (2) What role does the economy and national identity play in the changes in Germany's immigration policy? The investigation differs from structurally orientated theories that focus on the unique history of a country or the performance of the economy to explain the orientation of immigration policies. Instead, the study is an examination of the political process. This process has a double role to play: first, because the dynamics and contingencies of the political process are important explaining variables in themselves. Second, because the political process is the central mechanism which translates

societal and economic interests into policy outputs. In contrast to the overwhelming focus on pluralist accounts in the study of the processes of immigration policies the study adopts two theoretical concepts from the study of contentious politics – the Political Opportunity Structure (POS) and the Framing approach.<sup>7</sup> The concept of POS is adopted to analyse the institutional aspects and the interactions between the different actors in the process. In contrast, the framing approach offers an understanding of the role of political ideas and their impact on policy decision-making. Both frameworks are already well-established tools in other fields of research and used to gain more explanatory leverage in the study of immigration policies as well.

The structure of this dissertation is as follows: Chapter 2 offers a discussion of different theories of immigration policies and develops the theoretical framework already outlined in more depth. In Chapter 3, Germany's immigration policy is analysed. There is particular focus on the changes during the last three years that mark the dependent variable in this study. The actual empirical analysis is presented in Chapter 4. Finally, Chapter 5 brings together the different results of this study and offers some concluding comments.

## 2 Theories of Immigration Policies

The aim of this chapter is to construct an appropriate theoretical framework to explain changing immigration policies. In the first section, two already well-established theories on immigration policies – the national identity and the economical approach – are analysed.<sup>8</sup> Whereas these two approaches see immigration policy as a result of historical or economic determinants, the next section discusses two concepts which emphasize politics as a decisive factor influencing immigration policies. Consequently, the third section develops a new model that underlines that the success of policy initiatives is largely dependent on collective actors and the existence of political opportunity structures and resonant argumentative packages.

### 2.1 Cultural and Economic Theories

#### 2.1.1 *The National Identity Approach*

In a literature review of immigration policies of individual Western states, cultural values or ‘national identity’ arguments are often used as ad hoc explanations for the differences between countries (Meissner 1992; Münz 2001). The theoretical approach behind these arguments makes the case, that “the unique history of each country, its conceptions of citizenship and nationality, as well as debates over national identity and social conflicts within it, shape its immigration policies” (Meyers 2000:1251). It utilizes a historical approach and consequently plays down the importance of external or “situational” factors. Most significant in this context is probably the work by Rogers Brubaker on conceptions of citizenship in France and Germany.<sup>9</sup> He argues, “state interests in an expansive or restrictive citizenry are not immediately given by economic, demographic, or military considerations. Rather, judgements of what is in the interest of the state are mediated by self-understandings, by cultural idioms, by ways of thinking and talking about nationhood” (Brubaker 1992:16).

Jeannette Money offers a good overview of the national identity approach. In her attempt to test theories of immigration policies quantitatively, she defined three different indicators of the national identity of a state (Money 1999:27-30). (1) The degree of homogeneity of a population. Here, the hypothesis is that the more ethnically homogeneous a country, the more the citizens will be threatened by an influx of foreigners. Consequently, the resulting immigration policy would be more restrictive. (2) The differences between settler societies (for example, the United States) that were created through immigration and the “ethnic states of Europe, whose identity was forged via a common history, language, religion, and racial (phenotypical) similarity” (Money 1999:28). The hypothesis is that countries whose national

myth already includes immigration as a positive value have a more expansive immigration policy. (3) The citizenship law. Here, the major distinction is between those countries whose citizenship laws tend towards *jus sanguinis* (citizenship by descent) and those countries whose citizenship laws tend toward *jus soli* (citizenship by birth on the national territory). The hypothesis is that those countries with a citizenship law which tends towards *jus soli* are more liberal in their immigration policy.

The national identity approach contributes to our understanding of immigration policies in several ways (Meyers 2000:1255-1257): (1) First, in exploring the history and traditions of nation-states it helps to explain what is politically imperative today. (2) Second, it explains why some countries (in particular settler societies) favour permanent immigration, while others (for example Western European states) prefer temporary labour migration.<sup>10</sup> Nevertheless, several problems with this model remain and serious flaws are revealed by national contexts in which immigration policies are changing fundamentally. One of the problems is that analyses working in this paradigm often study a very restricted number of cases which often leads them to adopt the most different system design (Guy 1998:37).<sup>11</sup> One of the consequences of this methodological constraint is an overestimation of the internal coherence of such ideal-type models, making an explanation of changes in these types over time unobtainable (Bauböck 2001:38-39). A further weakness of this approach is its understanding of the sources of societal preferences. The approach expects that these demands are translated into political outputs but does not define how this transformation into policy occurs (Money 2000:26-30). Miriam Feldblum consequently criticises the approach in her study of French policy: “Such a framework tends to reify various historical and ideological strands into more or less static national models to be juxtaposed against other national models. [...] To look primarily at national traditions and models to explain current reform outcomes either lays the groundwork for a series of national exceptions – as in French exceptionalism, German exceptionalism, and American exceptionalism – or leaves many questions unanswered about the dynamic character and direction of the reforms” (Feldblum 1999:7-8).

### *2.1.2 The Economic Theory*

The economic approach argues that economic factors and the class-based political process are shaping immigration policies (Meyers 2000:1247). Immigration policies can be explained by the preferences of the economic actors, who are mostly pro-immigration as immigration exerts a downward pressure on wages and thereby increases their profits. There are two different versions of the economic theory: (1) from the perspective by Stephen Castles and Godula Kosack “migrants represent a surplus pool of labour that helps to discipline the

indigenous working classes and to overcome crises in the capitalist system” (quoted in Money 1999:30-31). Immigrant labour is seen as a workforce, which is easy to mobilize when needed. Here it is hypothesized that employers demand immigrant labour and by that measure immigration policy follows labour market fluctuations and specialized needs. (2) A second version of the economic theory argues that immigration produces a segmented labour market which is more flexible than the rather inflexible labour market in recently advanced industrial countries (Meyers 2000:1248; Biffi 2000). Compared to native workers, immigrant labour is less protected and “provide[s] the flexibility lost as a result of labour market regulation” (Money 1999:31).

Compared to the national identity approach, the economic theory is better equipped to explain changing immigration policies especially with regard to migrant workers, illegal immigrants and short-term correlations between the economic cycle and immigration policies (Meyers 2000:1250). Furthermore, by pointing to the role of employers, the approach is more sensitive to the question of how economic determinants result in policy outputs. Helga Leitner, arguing in the economic framework states “which interests and concerns come to determine the nature of admission policies in part is dependent on the power relations between the different interest groups and on their capacity to exercise political power” (Leitner 1995:262). Applied to the countries of Western Europe, the approach correctly predicts the close correlation between economic cycles and immigration policies during the guestworker era (Meyers 2000:1250). Nevertheless, the focus on economic actors and their power, encounters difficulties when priorities between different immigrant groups need to be explained. A point in case is the colonial immigration to France or Britain or the immigration of ethnic Germans to Germany.

In his discussion of both approaches, Aristide Zolberg argues that even if economic and cultural influences can be seen as the fundamental social forces of immigration policy, neither influence the policy directly.<sup>12</sup> Instead, in his opinion, the final policy output is “mediated by established political structures [...] and political institutions” (Zolberg 1999:86). Both theories, the cultural and the economic, do not have the necessary analytical responsiveness to understand how structural determinants are transformed in the political process and its final output.<sup>13</sup> Therefore, the remainder of this chapter discusses different approaches that focus specifically on the influencing and mediating role of the political process and the actors involved.



## 2.2 Institutional and Domestic Politics Approaches

Both approaches discussed in the preceding sections are largely apolitical in the sense that they offer little understanding of how the preferences of the influential actors are translated into policy. This neglect of the political life of immigration issues is now widely recognized (Baldwin-Edwards/Schain 1994a; Brettell/Hollifield 2000; Bovenkerk/Miles/Verbunt 1991; and Zolberg 1989). In Castles and Millers words, “international migration is frequently viewed as a socio-economic phenomenon largely devoid of political significance” (Castles/Miller 1998:253).<sup>14</sup> It is only since the mid-1980s that the politicisation of immigration policy in most of the European states began (Hammar 2001:15-16).<sup>15</sup> Besides the inability of cultural and economic theories to explain nation-state immigration policy, the high politicisation of the field alone suggests that the policy process needs more attention than thirty years before. This necessity is mirrored in the increasing numbers of studies on this topic. Especially during the 1990s this work made progress in a theoretical understanding of the politics of immigration and accumulated a large number of single case studies.<sup>16</sup> The following sections provide an overview of theoretical approaches that developed in this area and assess their ability to shed light on the German case.

### 2.2.1 *Neo-Institutionalism and Path-Dependency*

The first studies to take the political dimension seriously in explaining immigration policies of nation-states were studies influenced by neo-institutionalist approaches. In Eytan Meyers characterization, this approach focuses on the role of the state (i.e. the administration/bureaucracy) in shaping immigration policy. In its purest sense the institutionalist approach argues “that political institutions can be autonomous: they can form public policy according to the interests of the state and remain unaffected by societal or interest group pressures” (Meyers 2001:1261).<sup>17</sup> In the context of the immigration control issue, the focus of the institutionalist approach falls more on the fact that policy decisions, once taken, reinforce themselves and determine in part the future development of events. It argues that the policy framework, once established, structures and constrains political actions and policy interventions (Favell 2001:26-32). In short, “political choices made by earlier generations create institutions, which shape both policies and ideas for later generations” (Meyers 2000:1261). Although the specific focus of these approaches on the role of the state as the most important actor in shaping immigration policies offers too narrow a picture, they at least emphasize the importance of the political dimension of the field (Koopmans/Statham 2000:30-31).

Most of the studies applying this theoretical framework are more concerned with immigrant policy.<sup>18</sup> But Randall Hansen’s work applies this framework specifically to immigration control

policy.<sup>19</sup> In his research on Commonwealth migration in Britain and subsequently also colonial migration in France and the asylum policy in Germany, Hansen argues that recent immigration policy can only be understood by analysing path-dependence effects, which favour policy continuity. (Hansen 2000:32, 2002). For example, he interprets the large amount of asylum seekers in Germany at the end of the 1980s and beginning of the 1990s as an institutional constraint of the German constitution from 1948 which included a clause granting the right of asylum to anyone claiming political persecution and which afterwards was hard to change (Hansen 2002:277-278). There is no doubt that path-dependent effects are powerful intervening variables in the politics of immigration. Studies working with this approach certainly show the durability and stability of policy frameworks and their constraining effects on future policy-making. Nevertheless, Hansen himself acknowledges weaknesses: “Works that emphasize historical continuity and path dependency invariably poorly account for moments at which the historical trajectory is punctured by dramatic policy change” (Hansen 1999:423). They are not able to explain the transformation from one policy framework to another, the ‘puzzling’ in search of a new paradigm (Favell 2001:20). For an understanding of these transformations, the actors and dynamics of the political process need to be taken into account more explicitly (Feldblum 1999:10). Therefore, the following section focuses on those approaches which specifically include the political process in their explanatory framework.

### 2.2.2 Domestic Politics Approaches

The theoretical approach in the field of immigration policies that has probably received most attention in recent years is the work by Gary Freeman. In his article “Modes of immigration politics in liberal democratic states” he offers a theory about immigration policy, referring specifically to the political process and the constellations between different actors in the field as crucial explanatory factors (Freeman 1995). The approach is clearly based on a pluralist account and assumes that the state only serves as a neutral arena, where societal preferences represented by different interest groups can compete with each other. More precisely, Freeman builds his model on the work by James Q. Wilson who differentiates four types of politics depending on the distribution of the benefits and costs of a certain policy.<sup>20</sup> If the benefits and costs of a policy are both concentrated on identifiable and relatively discrete groups of society, Wilson’s predicted mode of politics is *interest group politics*. In this situation politics is predicted to be conflict laden, because for both sides a great deal is at stake (Freeman/Birrell 2001:527). Alternatively, when benefits are concentrated but costs are diffuse the developing mode is *client politics*, “a form of bilateral influence in which small and well-organized groups intensely interested in a policy develop close working relationships

with those officials responsible for it. Their interactions take place largely out of public view and with little outside interference.”<sup>21</sup>

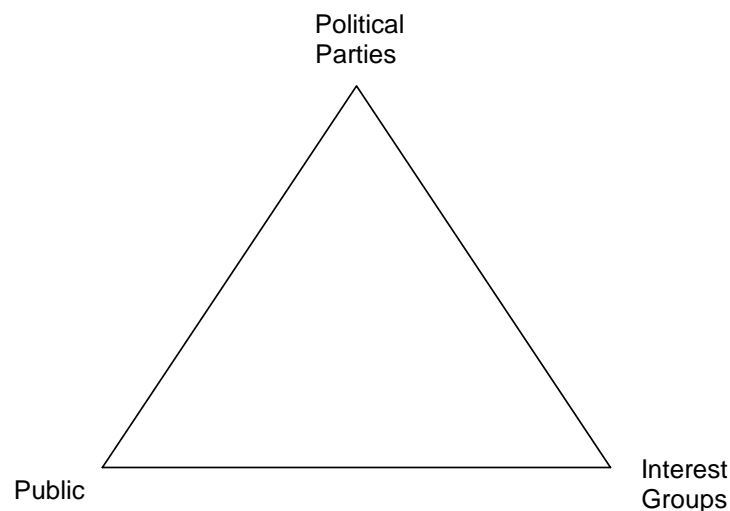
In transferring this theoretical approach to the study of immigration policies, Freeman identifies employers’ organizations, the family and ethnic relations of those making up the immigration streams, the legal establishment, intellectuals and anti-racist movements as the potential groups benefiting from immigration (Freeman 1995, 1998:103). In contrast, the general public is seen as the bearer of the costs of immigration that are distributed broadly across the whole society. In his analysis of a range of liberal democracies he concludes “that the most common mode of immigration politics [...] is client politics” (Freeman/Birrell 2001:527).

Generalizing these findings, expansive or restrictive immigration policies can be seen as a result of the existing mode of politics. In the case of *client politics* the policies will be largely expansive because those groups supportive of larger intakes dominate immigration issues. On the other hand, in the case of *interest group politics*, the resulting immigration policy depends on the different degrees of influence the two competing social groups can exercise on the government. When the public, perceived as a group generally opposed to immigration, enforce their opinions, immigration policy will be generally more restrictive than in the case where interest groups generally in favour of immigration achieve their goals. Therefore, in Freeman’s approach the public<sup>22</sup> and the interest groups are the two fundamental dimensions at the centre of any analysis of the political processes of immigration policies.

The starting point for this discussion of the “modes of politics” approach was Aristide Zolberg’s argument that analyses of immigration policies need to understand the transformation of structural determinants – economy and national identity – into policy by the political process. It is argued that Freeman’s approach is a good basis for a theoretical framework, which allows for an analysis of this transformation. Nevertheless, for a more precise concept, one of the central findings from the debate about Freeman’s article will be added.<sup>23</sup> Freeman himself realized that his concept of client politics works best in the case of the United States (Freeman 1995:887). Applied to Western European countries the differences between the political systems need to be taken into account. In opposition to Freeman’s article, Ted Perlmutter argues for the centrality of political parties as autonomous actors in the development of immigration politics in Western European states” (Perlmutter 1996:384). He argues that the politicisation of immigration politics does not only depend on the distribution of costs and benefits but also on the fact that immigration issues are part of party competition and the inability of mass parties to control the political agenda (Perlmutter

1996:378).<sup>24</sup> Furthermore, to understand the transformation from structural determinants into public policy, political parties are important actors because of their role in drawing up legislation (Brochmann 1999:16). Consequently, it is argued that political parties need to be inserted as a third dimension, besides interest groups and the public, into an explanatory framework. A refined approach for understanding the political processes of immigration policy needs to pay attention to all three dimensions identified: interest groups, political parties, and the public. Figure 1 summarizes the above discussion.

**Figure 1: Three dimensions of the political process<sup>25</sup>**



### 2.3 Immigration Policy as Contentious Politics

The preceding section identified a three-dimensional framework for the study of immigration policies, from the discussion of Gary Freeman’s “modes of politics” approach. This framework argues that the political parties, interest groups and the public are the important actors in the political processes of immigration issues. Nevertheless, for a more comprehensive concept a theory is missing which integrates the three dimensions and helps to understand the interactions and outputs. Such a theory has not yet been established. The remainder of this section offers preliminary ideas for such a framework.

If immigration policy can be understood in the scheme of client politics, the need for such a framework is probably less acute. But what will happen “when the issue [of immigration policy] spills over in a larger public arena than [...] one would expect from a policy yielding concentrated benefits and diffuse costs?” (Guiraudon 1998:288). What will happen when immigration policy decision-making occurs no longer behind closed doors but is negotiated between different actors in the public sphere? Freeman himself realized that in situations when client politics shifts to interest group politics the mobilization of the public becomes an

important factor influencing the political process and the political output (Freeman/Birrell 2001). In these situations the dynamics of the political processes are much more complex than in long-established structures of negotiation typical for the client politics type. The crux is that during the 1980s and 90s in most Western European countries a situation emerged which is characterized by “decision-makers [...] [who] operate in an environment of heightened public awareness mobilised by social movements and political parties ranging from those on the anti-immigrant new Right to those who support immigrants on the civil rights Left” (Baldwin-Edwards/Schain 1994:10). For that reason it is important that there is a theoretical concept able to analyse the political struggles and dynamics which cannot be understood in the static concept of client politics.

It is argued that such a theoretical approach can be found in studies of contentious politics. For a long time the analysis of contentious politics was equated with the study of social movements. It is only in the last few years that this commonly-held narrow picture of social movements has been included within the broader frame of contentious politics (Tarrow 1998). Terms like the “social movement sector” (Tarrow 1989:18-19) which includes different groups like ad hoc assemblies, interest groups and institutional groups or “interest organizations” (Burstein 1999:8) mirror this conceptual stretching. In Paul Burstein words “it is not useful to think of social movement organizations as something different from interest groups [...] (because) it is impossible to distinguish among them in terms of the characteristics usually used to define them” (Burstein 1999:8). These similarities between social movements, interest groups and political parties lead to the diffusion of analytical concepts in all three fields of research (Roth 2001:238).<sup>26</sup>

In the study of social movements situations are commonly characterized by interactions among a broad range of actors. The social movement as a challenger group, the government often as the target of the movement’s political mobilization, interest groups or other organizations which get dragged in these arguments and the public opinion often represented by the mass media are typical constellations of actors in this field of study. Therefore, during the last three decades a rich fund of theoretical concepts has been developed which is able to analyse the interactions between these actors as well as the policy output of these political conflicts.<sup>27</sup> It is argued that these theoretical achievements from the study of social movements can offer helpful theoretical tools to understand the political processes of immigration issues as well.<sup>28</sup> Ruud Koopmans and Paul Statham offer the theoretically most advanced concept of applying concepts from the field of social movements to immigration policy. They argue it is necessary to “move beyond the usual loose and vague references to ‘institutions’, ‘political process’, or ‘public discourse’, and specify much more clearly what these consist of, which dimensions can be distinguished,

and which indicators might be used in empirical investigations” (Koopmans/Statham 2000:31).<sup>29</sup> With regard to the analysis of the structural conditions (actors and their interactions) of the political process they propose applying the concept of political opportunity structures (POS). This approach is well suited to analyse the institutions and their possibilities for influencing the outputs of the political processes. For a thorough understanding of the public discourse, they argue for the application of the framing approach. Both the structural as well as the discursive conditions are crucial elements for understanding the dynamics of political processes. Building on their work, it is argued that, especially in political situations characterized by sharp conflicts and the involvement of the public, these concepts allow theory-led empirical research that introduces more explanatory leverage into the study of immigration policy.

In the following two sections, the two theoretical frameworks of POS and framing are examined. Two questions are emphasised in this discussion. (1) Do these concepts have the potential to integrate the three dimensions of the political process already discussed? (2) Do these concepts offer useful independent variables to explain the dynamics of the political process and its outputs?

### *2.3.1 Political Opportunity Structures*

The concept of political opportunity structures has its origins in the work by Peter Eisinger. In his comparative study about urban protest in the USA he explained the differences in the success of mobilization by referring to the political environment and the opportunity it offered for protest (Rucht 1994:344).<sup>30</sup> Afterwards Sidney Tarrow and Doug McAdam in particular elaborated this approach in their works in the 1980s (McAdam 1982, 1996; Tarrow 1989, 1998). In Tarrow’s definition POS are “consistent – but not necessarily formal or permanent – dimensions of the political environment that provide incentives for people to undertake collective action by affecting their expectations for success or failure” (Tarrow 1998:76-77). The core idea of the concept is the analysis of the opening or closing of political space. The opening up of political space is understood as a situation where an actor in the political process receives increasing opportunities to act (Gamson/Meyer 1996:277) in what is called a “policy window” (Kingdon quoted in Gamson/Meyer 1996:280-281) or a “window of opportunity” (Tarrow 1998:78). The dimensions of the POS differ slightly between different scholars.<sup>31</sup> In the analysis here, Tarrow’s categorization that focuses on the development of incentives for actors over time is adopted. He differentiates between four dimensions:

- (1) Shifts in ruling alignments;
- (2) Opening up of access to participation;

- (3) Cleavages within and among elites; and
- (4) Availability of a coalition with influential allies.

It is argued that these four dimensions allow a thorough analysis of the political process of immigration policies. Furthermore, they are well suited to understand the process which transforms structural determinants into policy outputs. Figure 1 represented the three groups of actors that participate in these processes. However, the fixed shape of the triangle as a representation of the political process probably misleads. In reality it would be better to imagine the inside of the triangle as a playing field on which the contention between the different actors takes place. The argument put forward here is that Tarrow's four political opportunity structures are key to understanding why and when in such situations some policy initiatives are successful but others fail (Gamson/Meyer 1996:275).<sup>32</sup>

Freeman's "modes of politics" approach is clearly based on a pluralist understanding of public policy making. The discussion of his concept already pointed to its weak understanding of the role of political parties in the political processes. A second point that needs to be added to this discussion is its lack of a sufficiently developed notion of the varying capacity of groups to affect legislative decision-making (Howlett/Ramesh 1995:33-38). In contrast, the political opportunity structure approach does not assume that either interest groups or political parties play the central role in the policy-making process. It offers a sensible theoretical concept, which allows an explanation of the success of political initiatives by pointing to crucial structures in the political environment. These structures correspond to Tarrow's four dimensions. Transferred to the study of immigration policies, they are the crucial indicators that allow an understanding of changing policies. Concerning the first dimension, the *shifts in ruling alignments* point to the influence different parties have on the success of movement mobilization or specific policy issues (Kriesi et al. 1992:233). This seems to be particularly important when the role of immigration issues in party competitions is taken into account (Thürnhardt 1993). The *opening up of access to participation* refers to particular events that allow groups outside the political system to influence the political agenda. The most prominent examples in the context of immigration are anti-immigrant movements, which gained influence on the immigration legislation during the 1980s and 90s (Feldblum 1999; Karapın 2000; Koopmans 1996). The *cleavages within and among elites* often have the effect of widening the circle of conflict to groups outside the political system (Tarrow 1996:56). These processes seem particularly important when the issue of immigration policy spills over into the public arena. Then minor political actors become involved in the political process and exert increasing influence on the political agenda. Finally, *the availability of a coalition with influential allies* is a crucial condition, which

largely determines whether a political initiative from outside the political system influences the decision-making in the policy process.

Summarizing this discussion it is argued that the concept of POS is a helpful analytical tool to understand contentious political processes. Specifically, Tarrow's four dimensions are a set of independent variables, which allow an analysis of the political environment of immigration policies. Finally, the POS approach is able to explain the success of political initiatives for a broad range of actors. Nevertheless, the theoretical discussions around the study of social movements showed that the focus only on structural conditions misses a crucial aspect of political processes: the power of argumentation. It is the influences of discourses on the political process that will be the central focus of the next section.

### *2.3.2 Framing*

The preceding section offered a theoretical tool that allowed an analysis of the structural conditions that help to explain changing policies of immigration. Hanspeter Kriesi and Dominique Wisler argue in their analysis of the institutionalisation of direct democracy in Switzerland and the USA for a further explanatory factor. They state that “under conditions of liberal democracies, institutional change presupposes a process of social learning on the part of large sections of the population. This implies that ideas come to play a crucial role in the process” (Kriesi/Wisler 2000:47). In their understanding, the dynamics and outputs of the political process do not only depend on the structures and actors involved but also on the exchanged political arguments, the political ideas concerning the issues at stake.<sup>33</sup>

In the study of social movements it was the concept of “framing” which drew attention to the role of ideas and discourses.<sup>34</sup> The term “denotes an active, procedural phenomenon that implies agency and contention at the level of reality construction” (Snow/Benford 2000:614). This definition points to the fact that reality is not an a priori given but needs to be interpreted. Frames are results of the work by different actors who actively produce these interpretive schemas. Lastly, the definition points to the contentiousness of these processes because frames differ from each other and challenge each other. In the understanding of the framing approach, policy issues could be imagined as an ongoing dialectical process in which evolving and changing frames provide interpretations and meanings for relevant events (Gamson/Modigliani 1989). Consequently, a political process is best conceived as a contest between different frames about the right interpretation of the issue or problem at stake (Snow/Benford 2000:626).

In the study of social movements, David Snow and his colleagues in particular, established a differentiated approach, which allows an analysis of the influence of frames on the political



process. They offer two analytical tools: (1) first, for the study of the development, generation and elaboration of frames; (2) second, for the analysis of the conditions that influence the success or failure of a framing effort. Concerning the elaboration of frames, Snow and his colleagues describe different strategic frame alignment processes (Snow/Rochford/Worden/Benford 1986; Snow/Benford 1988). Two of them seem crucial in this study: *frame bridging* and *frame transformation*. Turning to the first, frame bridging, they refer to the active linking of two or more ideologically congruent but structurally unconnected frames regarding a particular issue. By comparison, frame transformation describes a framing strategy where old understandings and meanings are changed. New values may have to be planted to garner support. In these cases the scope of change is broadened considerably as a new primary framework gains ascendance over others and comes to function as a potential new frame that interprets events and experiences in a new way (Snow/Rochford/Worden/Benford 1986:475). In the analysis of these frame alignment processes it needs to be acknowledged that the development of frames are contested processes. Therefore the different counterframing strategies by opponents of the new frame need to be analysed as well (Benford/Snow 2000:626).

For the study of the success or failure of framing efforts, Snow and Benford point to the frame resonance as one of the key determinants for the differential success of these efforts. They hypothesize that the higher the degree of frame resonance, the greater the probability that the framing effort will be relatively successful (Snow/Rochford/Worden/Benford 1986:477). In particular it is the robustness, completeness, and thoroughness of the framing effort which accounts for its success (Snow/Rochford 1988:199). Therefore, Snow and Benford differentiate six variables that allow for empirical analyses of framing efforts (Snow/Benford 2000:619-622). This study refers to three of them:

- (1) The credibility of the frame articulator refers to the fact that speakers who are regarded as more credible are generally more persuasive. Snow and Benford argue that the greater the status of the frame articulator, the more plausible and resonant the framings.
- (2) In the case of the empirical credibility of the frame it is the question of whether the arguments in the frame can be empirically verified. The hypothesis is that the greater the number of slices of such evidence, the more resonant is the framing effort.
- (3) The last variable is concerned with the narrative fidelity of the frame. It is the question about the extent to which the offered framings resonate with the targets' cultural narrations. Here, the greater the narrative fidelity of the framing, the greater its salience and resonance.

Concluding the last two sections it is argued that structural and discursive variables are important to explain changing policies of immigration. Two arguments are put forward here. (1) First, fundamental policy changes need to be accompanied by favourable conditions in the political environment. The POS offers an analytical toolkit to analyse these structural conditions. Concerning the empirical part of this study Sidney Tarrow's categorization of the POS will be applied to the case of Germany's changing immigration policy. (2) Second, to carry through fundamental and controversial changes in public policy, master frames play an important role in the political process. The generation and elaboration of this frame will be part of the political process dynamics. Therefore, the analysis of the construction of the frame will be a first step in the enquiry. A second step concerns the actual influence the frame has on the policy-making process. Here, the resonance the frame received will be at the centre of this study.

### 3 Immigration Policy in Germany

The aim of this study is to apply the theoretical framework developed in Chapter 2 to the case of Germany's changing immigration policy. However, before this analysis, the following sections offer a historical background to migration and its policy in Germany. In section 3.1 an overview of Germany's migration history is given. Although the interest of this study lies in the changing policy and not in the changing volume of migration, this background is necessary to assess the policies in this area. Afterwards, in section 3.2 the origins of Germany's immigration policy are analysed. Finally, in section 3.3 the changes in Germany's immigration policy between the years 2000 and 2002 are examined.

#### 3.1 Migration to and from Germany since 1945

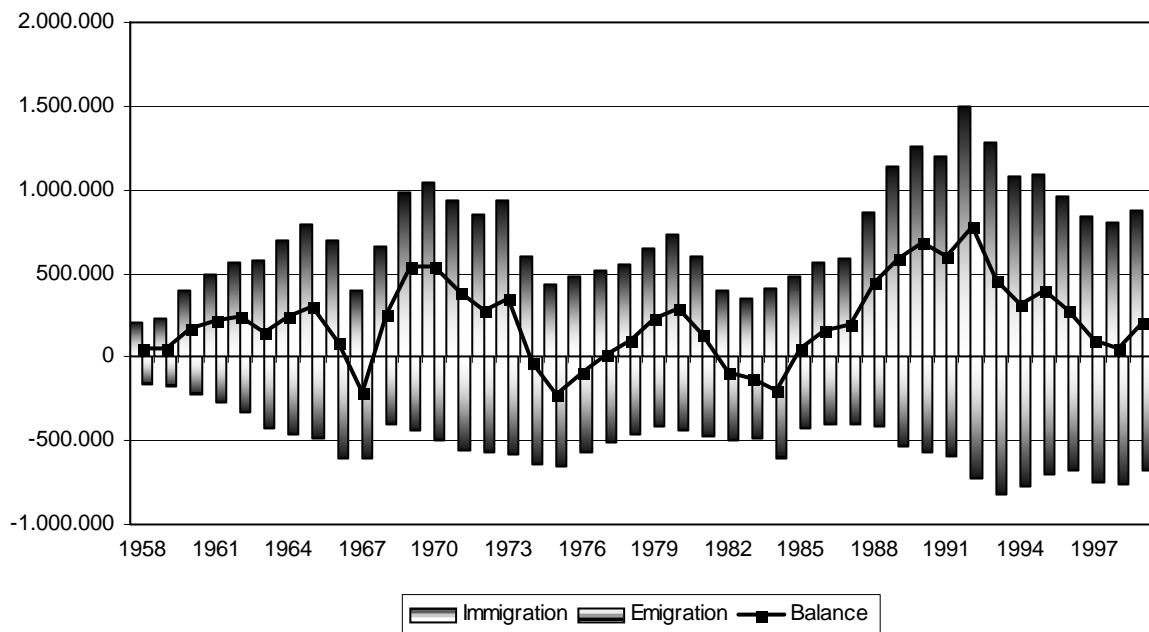
In the years after the Second World War Germany became one of the largest immigrant-receiving countries in the world. Between 1960 and 1999, approximately 30 million people immigrated to Germany and 21 million emigrated, resulting in a net migration balance of more than 8.9 million people (Ausländerbeauftragte 2001). During this time, the number of people that left Germany exceeded the number of those who arrived only in seven years (1967, 1975-77 and 1982-84) (see Figure 2). Following the work by Rainer Münz and Ralf Ulrich (1997:67-68) six phases of post-war immigration to Germany are distinguished:

- (1) Between 1945 and 1949 immigration was dominated by ethnic German refugees and expellees (Vertriebene) from the eastern parts of the German Reich as well as from Poland, Czechoslovakia, Hungary and Yugoslavia (Marshall 2000:6).<sup>35</sup>
- (2) The second phase, from 1949 to 1961, was dominated by migration from East to West Germany. During this time over 3.8 million East Germans moved to West Germany, whereas 393,000 also migrated in the opposite direction (Münz/Ulrich 1997:73).
- (3) The phase of large-scale labour immigration started in 1961 after the migration from the GDR to the FRG suddenly decreased after the construction of the Berlin wall. Before, in the years between 1950 and 1960 the volume of actual labour migration was rather small and absolute numbers increased only from 72,000 to 329,000 (Münz/Ulrich 1997:78). However, in the years between 1960 and 1973 the numbers accelerated. In 1973 already 2.6 million foreign workers were employed in the German labour market.<sup>36</sup>
- (4) The third phase ended in 1973 with the halt to recruitment. The policy of repatriation led to a decreasing number of foreigners in the initial years, but growing numbers of asylum seekers and especially family unifications reversed this trend at the end of the

1970s. The guest-worker population consolidated until 1988 when almost 4.5 million foreigners were living in Germany (Ausländerbeauftragte 2001).

- (5) The fifth phase started with the political transformations in Eastern Europe. The years 1988 to 1992 witnessed a sharp increase of immigration to Germany mainly because of ethnic Germans (Aussiedler), asylum seekers, refugees and new labour migration. From 1988 to 1992 a total of 1.4 million ethnic Germans and 1.1 million asylum seekers immigrated to Germany.<sup>37</sup>
- (6) The last phase from 1992 until the end of the 1990s was dominated by new restrictive measures concerning ethnic Germans and asylum seekers, which largely reduced numbers in both groups of immigrants. In the years between 1994 and 2000 the numbers of asylum seekers stabilized at a level of about 100,000 applications a year (BAFL 2002). In the case of ethnic Germans in the same period an average of 150,000 immigrated every year (Bundesverwaltungsamt 2002). By contrast, the volume of official labour migration from Eastern European countries to Germany continued at the same level. This migration, which only started in 1990, consisted mostly of the temporary immigration of guestworkers, seasonal workers, and project-linked workers (Werksvertragsarbeitnehmer). During the years 1994 and 2000 an average of 243,000 workers a year migrated to Germany (Werner 1996, Hönekopp 1997; Ausländerbeauftragte 2001).<sup>38</sup>

**Figure 2: Development of Immigration and Emigration in Germany between 1958 and 1999**



Source: Ausländerbeauftragte (2001).

### 3.2 The Origins of Germany's Immigration Policy

The preceding section provided an overview of Germany's most important migration streams during the last five decades. This section assesses the development of the corresponding policies of immigration between the years 1950 and 1999. The public discourse often gives the impression that immigration to Germany happens largely without legal foundation (Santel/Weber 2000:128-129). However, Germany's immigration system consists of "a mix of several immigration and control regime elements" (Thranhardt 1999:45) which massively influenced its migration experience.<sup>39</sup>

In comparing Germany's immigration policy with the policy of other states its much more fragmented structure is obvious. Although the different streams of migration occur on a legal basis they miss an overall legal and conceptual framework which allows for planned and coordinated political action (Santel 1998; Mehrländer/Schultze 1992:Chapter 2.3). A further characteristic of Germany's immigration policy was the fundamental differences between the immigration of ethnic Germans compared to non-German immigrants. The preferential treatment of ethnic Germans was based on Article 116 in the German Basic Law. In this article, the definition of German citizenship defines as Germans all those who have a German cultural and ethnic descent (*deutsche Volkszugehörigkeit*). This expansive definition therefore included all the expellees and ethnic Germans, as the provision of cultural descent covered them even if they did not actually hold formal German nationality at the time. On this legal foundation more than 4.2 million ethnic Germans immigrated to Germany between the years 1950 and 2001 (Bundesverwaltungsamt 2002). The legal foundations for the immigration of foreign labour to Germany were almost the opposite. They were based on bilateral treaties between the German government and a number of Mediterranean countries between 1955 and 1968 (Seifert 2000:66). The political aim was to find a pragmatic solution for the increasing labour shortage in the German economy. The main principle of these regulations was the rotation of workers coming to Germany for only two or three years to be replaced afterwards by new labour migrants. These temporary migration regulations were carried out in the initial years.<sup>40</sup> However, the parallel interest of employers and migrants soon brought about a definite tendency towards permanent settlement. Nevertheless, labour migration to Germany came to an end in autumn 1973 when the government used the October 1973 oil embargo to announce a ban on the further recruitment of guestworkers (Martin 1994:201-202).

At the beginning of the 1990s the regulations governing both groups of immigrants witnessed fundamental changes. After the immigration of ethnic Germans increased massively at the end of the 1980s the government moved swiftly to close off this route of immigration. The

policy started to remove the special status this group of immigrants had previously received.<sup>41</sup> Fundamental changes affected labour migration to Germany as well. From 21 December 1990 new regulations started to lift the halt to recruitment from 1973. The government introduced a series of prescriptions, which allowed temporary labour migration from non-EU countries in exceptional cases (ASAV). The governmental aim behind these new programs was to react to Germany's domestic labor shortages and to lower the migration pressures from Eastern European countries (Hönekopp 1997:10-11). With regard to the volume of immigrants it included mainly seasonal workers, guestworkers, and project-linked workers. In cases of public interest the program also organized the employment of particular skilled workers, for example scientists and artists. The similarities between these programs and the labour recruitment of the former guestworker period are obvious. They particularly apply to the temporary character of these programs and the pragmatic policy that followed only short-term necessities of the labour market (Rudolph 1996:287; Marshall 2000:30).

### **3.3 Recent Changes in Germany's Immigration Policy**

The last two sections offered an overview of Germany's immigration control regime. In this section the changes in Germany's immigration policy between the years 2000 and 2002 are analysed. First, the Green Card, which was introduced in August 2000, will be examined. The second part of this analysis is concerned with the new Immigration Law. It is argued that this law, passed in June 2002, marks a distinct turning away from Germany's former immigration policy.<sup>42</sup>

The Green Card initiative includes the recruitment of 20,000 foreign computer experts who are allowed to work and live in Germany for five years. The crucial criterion for an application is the qualification of the applicant. It needs to include a university degree or a yearly salary of at least 50,000 Euros (Martin/von Löffelholz/Straubhaar 2002:15). These regulations simplify access to the German labour market. However, the main ideas of the policy that already governed the recruitment of guestworkers and the temporary labour migration in the 1990s remain (Angenendt 2002:34-36; Hunger/Kolb 2001:157). In principle it would have been possible to organize the immigration of high-skilled computer experts in the legal framework of the ASAV. The Green Card only specified the heightened public interest in the migration and employment of these foreign workers, and set a quota (Hunger/Kolb 2001:158).

The more fundamental change in Germany's immigration policy was the passing of the Immigration Act in June 2002 that will come into effect in January 2003.<sup>43</sup> It introduced a

fundamentally new legal framework governing Germany's immigration policy. Three regulations are of particular importance:

- (1) The most extensive regulation concerns the introduction of a points-based immigration scheme that organizes immigration based on an annual quota. The quota will be set each year based on Germany's economic and scientific interests. Full details of the points system are yet to be determined, but the evaluation criteria for the points system will cover for example the age, education, and work experiences of the applicant. Furthermore, immigrants coming on the basis of the point system will be eligible for a settlement permit, which is of unlimited duration (§ 20 Residence Act (RA)).
- (2) A second regulation extends and replaces the former ASAV. The law provides a supply-side instrument (Regelverfahren) for immigrants with certain qualifications. The level of immigration using this gate of entry depends on the actual situation on the German labour market (§ 18 RA).
- (3) A third regulation adopts and extends the Green Card regulation. For highly qualified immigrants the law includes the possibility to apply for permanent residency immediately. Furthermore, this new category does not only apply to computer experts but covers scientists, highly specialized scientific personnel, and certain highly skilled employees as well (§ 19 RA).

Further provisions and regulations of the new law concern institutional changes. In particular a Migration Council was established which will consist of seven experts in demography, labour market policy, migration and integration. The council will issue an annual advisory opinion about the development of immigration in Germany and make statements on the necessity of immigration through the point system (§ 76 RA). Beside these generally more admissionist regulations, the law includes restrictive regulations as well. However, these restrictionist parts of the law are expected to be of minor importance for the level and composition of migration to Germany.<sup>44</sup>

The last section analysed the changes in Germany's immigration policy between the years 2000 and 2002. Beside the regulations for computer experts from summer 2000, the main emphasis was on the new immigration law. Compared to the short-sighted policy of the preceding years this new legal framework governing Germany's immigration policy introduced some fundamental changes: (1) it offers a comprehensive framework for the regulation of migration to Germany; (2) it ends the former focus on temporary migration programs and offers immigrants long-term perspectives in Germany; (3) it accepts the necessity that the German society and economy depend on further immigration and offers usable methods to organize these migrations. These changes in Germany's immigration

policy were the result of a range of influential factors. The goal of the analysis in Chapter 4 is to reveal the influence of the political process, economy and national identity in shaping the decision-making for immigration policies.



## 4 Political Process Dynamics shaping Germany's Immigration Policy

### 4.1 Constructing Hypotheses

The theoretical framework in Section 2.3 argues that the political process is one of the crucial factors shaping immigration policies. The framework examined interest groups, political parties and the public as the three main groups of actors who participate in the political process. Furthermore, it proposed that frames and political opportunity structures are crucial independent variables that help to explain the outputs of the political process around immigration policy. In this chapter the theoretical framework will be applied to the immigration policy in Germany between 2000 and 2002. The main goal is to reach a thorough understanding of the different factors influencing the recent reform in Germany's immigration policy. However, the empirical investigation also includes two theoretical goals. (1) First, to prove that political process approaches are necessary for the understanding of immigration policy. And subsequently, to establish framing and political opportunity structure approaches as appropriate theoretical concepts in the analysis of these political processes. (2) Second, to assess the actual influence of the economy and the national identity on the policy of immigration. Here, the analysis follows Aristide Zolberg's argument that the influential social forces of immigration policies – economy and national identity – do not affect policies directly, but only when filtered through the political process.

For the empirical analysis, five hypotheses were derived from the theoretical concepts of framing and POS:

- (1) Concerning the crucial role of ideas in political processes it is assumed that one of the causes for Germany's changing immigration policy was the construction of a master frame that offered an attractive alternative to the status quo in the particular policy area.
- (2) The second assumption focuses on the support these ideas receive. It argues that to cause a change in policies, master frames need a large resonance in public and in politics.

Although frames and ideas are important conditions for changing policies, they would fall on deaf ears if they were not accompanied by political opportunity structures that favour this shift. A given POS can answer the question of whether this new frame can successfully be translated into new policy. Transferred to the German case, three dimensions seem to offer

crucial structures that might open a “window of opportunities” and enable reform in this policy area.

- (3) The distribution of power between the different parties in the political system is a crucial dimension of the POS. This hypothesis proposes that the change in government in 1998, from a CDU-FDP coalition to an SPD-Green coalition, had a decisive influence on political developments in Germany’s immigration policy.
- (4) A second dimension refers to access to the political system. It assumes that interest groups from outside the policy were the important forces in demanding the introduction of the immigration law. Furthermore, it is hypothesized that the debate about the Green Card was the decisive event which increased the influence on the political agenda of those actors arguing for the establishment of the new law.
- (5) The last assumption argues that without the considerable support of interest groups from outside the polity the reform of Germany’s immigration policy would not have happened. However, these interest groups demanding a reform of policy need to have influential allies which heighten their power in the political environment. It is hypothesized that the demand for a new legal framework from a broad range of actors inside and outside the political system is a final variable to explain the change in Germany’s immigration policy.

These five propositions structure the empirical analysis in the remainder of this chapter. In section 4.2 the research design which guided this analysis is laid out, in section 4.3 the focus is on the role of ideas in the political process. Finally, section 4.4 will examine the structural conditions of the political process.

## 4.2 Research Strategy

In the following empirical analyses the political process is seen as an influential variable to understand the changes in Germany’s immigration policy. The theoretical approach focuses on the role of ideas and the political environment, which structure the political process. Therefore, a mix of research strategies are used which best allow for tracking the ways in which the political process has shaped Germany’s policy of immigration.

In general, the methods applied are mostly qualitative and interpretative and based on textual analysis (Lamnek 1995; Atteslander 2000). The data collection followed a fourfold research strategy:<sup>45</sup>

- (1) A first source of information was a comprehensive analysis of already available secondary literature covering the research period. This body of literature allowed the identification of major points of interest during the political process. Furthermore, it offered first interpretations and analysis of crucial factors influencing the observed policy change.
- (2) A second source of empirical data was the large amount of documents produced during the political process. Here, the numerous official publications and statements by the different actors involved are analysed. It includes the report by commissions and committees, printed matters of the Bundestag (parliament) and Bundesrat (upper house), protocols of parliamentary debates, and expert reports published during the period of investigation. These sources were mainly analysed to gather information about the POS as well as to analyse the spread of the new frames in the documents of political parties and other organisations. For an overview of used documents see the list of Primary Sources in the Bibliography.
- (3) A third step of data collection included a series of on-site expert interviews which were carried out (Meuser/Nagel 1991). The interviews were intended to gather information about organizations, perspectives, and strategies of specific actors as well as information on particular events. They were mainly used to complete the understanding of the existing POS and collecting background information not available elsewhere. Interviews were conducted with a broad range of actors including political parties, trade unions, employer organizations, academics in the field and others. A complete list of the conducted interviews is given in the Appendix.
- (4) A last research strategy particularly focused on the role of ideas and frames during the political process. Following the experiences of other frame analyses (Tarrow 1989; Kriesi 2001; Gerhards/Neidhardt/Rucht 1998), the data basis was intended to be representative.<sup>46</sup> A comprehensive press analysis was conducted including all front-page articles of two national newspapers concerned with the issue.<sup>47</sup> The period of investigation included all editions between February 2000 and December 2001. These press articles were mainly used to understand the developments of the different frames and counterframes as well as to analyse the resonance these frames received.<sup>48</sup>

## 4.3 Framing

### 4.3.1 *Constructing a new Master Frame*

23 February 2000 marked a watershed in Germany's immigration policy. In his opening speech of the computer fair CeBIT, Chancellor Gerhard Schröder introduced a new

framework to discuss immigration issues in Germany. The speech dealt with the worries in the ICT at that time. Already, two years earlier, representatives of this economic sector had begun to complain about a labour shortage of computer experts (Welsch 2001:60). The trade organization BITKOM argued that the lack of labour was one of the fundamental obstacles to future economic growth in this branch of the economy (Greifenstein 2001:9-13). A central demand concerned permission for 30,000 foreign experts from central and east European countries to work in Germany (Handelsblatt 26.08.1998 quoted in Welsch 2001:60). The government did not comply with these demands at that time. However, because of its urgency, the topic became part of the discussions in the Alliance for Labour, Education and Economic Competitiveness.<sup>49</sup> One consequence was a whole bundle of measures to reduce this shortage of labour, which was introduced in July 1999. It included for instance an increase in apprenticeships and further education possibilities by the Federal Office for Employment (BA). In spite of these efforts, the ICT continued to argue for the need for foreign experts, as an estimated 75,000 vacancies could not be filled with domestic workers. The surprising message in Chancellor Schröder's speech at that time was that the government had changed their mind about the recruitment of foreign computer experts. What Schröder announced was the introduction of a Green Card for highly skilled migrants as an additional measure without which the lack of labour could not be tackled.

As a result of this announcement, the following weeks saw an intensive debate about the immigration of highly skilled migrants to Germany. During this discussion Germany experienced a fundamental turn in its former assessment of immigration. So far, the common frame in German politics understood immigration as a burden to the welfare state. Migration was normally associated with the "immigration of the poor." Suddenly, this image changed when immigration became one of the central solutions for Germany's economic problems. The simple label Green Card combined the fame of the "new economy" with the necessity of allowing a few thousand people to come to Germany. A central claim of this frame was that Germany's position of supremacy depends on foreign experts without whom the German ICT could not remain competitive in a global economy (FR 14.03.2000). "Get Germany ready for the Information Age" (Federal Ministry of Labour and Social Affairs 2000) and "Germany is spelled with .de" (Bundesregierung 2000) were central slogans in this context. A further charm of the Green Card was its emphasis on German interests as opposed to the former focus on duties, for example during the asylum debate.

At the heart of this new master frame was the relationship between immigration and economy. However, the construction of this new developing frame received further support by successfully bridging its own requests with the discussion about the decreasing population in Germany. This *frame bridging* linked two so far unconnected frames and

increased the prominence of both. The problems of demographic change were already on the political agenda but only marginally debated in public. Already in October 1992 the German parliament had appointed an Enquete Commission working on these questions, which published its final results in April 2002 (Enquête-Commission 2002). However, its work made minor contributions to a societal debate that discussed the problem of a declining population in the context of Germany's immigration policy (Bade/Münz 2002:15). A recent study by the United Nations had far more influence on the discussion in Germany. The report "Replacement Migration: Is it a Solution to Declining and Ageing Populations?" provoked a combination of the debate about labour immigration with questions of demographic change (Klusmeyer 2001:520). In the public discourse in spring 2000 different actors made this connection between both clusters of argumentation.<sup>50</sup> Also the media picked up on this topic and published articles which constructed apocalyptic images about deserted areas in Germany, an exhausted society unable to provide for its pensioners and patients and an economy which has lost its competitiveness in a global market (Klingst 2000; Kirbach 2001).

This newly created master frame – consisting of economic and demographical arguments – is well summarized in the following quote of the final report of the Independent Commission on Migration to Germany. "We [Germany] need immigrants, because the population of Germany is becoming older. The life expectancy is increasing, while the number of children per family is continuously low, and the birth rate is decreasing. For that reason, the population will decrease considerably in the 21<sup>st</sup> century. This demographic development will affect the labour market and also the innovativeness of the economy and society [...] Immigration to Germany is supposed to enhance the competitiveness of the economy. No business enterprise should be forced to relocate to another country, to refrain from making investments or from availing of growth potential due to a labour shortage. It is particularly important to attract highly qualified immigrants to Germany whose innovative abilities and technological skills can make a decisive contribution to securing the economic future" (Unabhängige Kommission "Zuwanderung" 2001:11,83).

#### 4.3.2 *Frame Construction as Contested Process*

The preceding section analysed the new master frame in Germany's immigration policy. The focus was on the different interpretations of reality and how strategic processes of frame alignment constructed this master frame. What was left out in this section was the dynamic in these processes. So far, the construction of a master frame seems to be a strategic and planned action. Instead, the following section focuses on the construction of the master frame as a contested process, which is less planned and depends largely on the interaction of the involved actors. In the literature, the term *counterframing* describes the attempts by

opponents of a frame to rebut or undermine this interpretive framework. And the term *framing contests* refers to the reframing activities by the actors who announced the frame in the first place to limit or reverse potential damage to their previous claims (Benford/Snow 2000:625-626). The analysis of these contested processes of frame development, generation, and elaboration offers a good understanding of the political process dynamics in Germany's recent immigration policy. They are crucial for the understanding of the dynamics in the playing field between the major groups of actors – interest groups, public and political parties.

The development of the new master frame that based immigration on the economic and demographic necessities of Germany's society did not go unchallenged. During the first few weeks after Chancellor Schröder's speech at the CeBIT, the different actors who saw their own interests and political convictions threatened by the newly emerging framework criticised the proposed Green Card. One of the first lines of critique was based on the question of whether immigration is a responsible solution when four million people are already without work.<sup>51</sup> For instance, the DGB as the trade union umbrella organization pointed to the fact that 37,000 unemployed EDP experts are registered at job centres as well as 56,000 unemployed engineers (FAZ 14.03.2000). At first glance these numbers seem to be contradictory and subsequently difficult to communicate. Therefore, the government made great efforts to emphasize that the Green Card initiative would produce new jobs, up to 300,000 until the end of 2003. Furthermore, they affirmed that nobody should be frightened of losing his or her work as a consequence of the Green Card (FR 26.02.2000). The Green Card regulations were very strict with the intention of lowering worries in the population. For the same reason, the regulations include only ICT-related jobs, while demands by other economic sectors were rejected (FR 02.03.2000). Finally, the Green Card became embedded in a complete bundle of measures including better training and further education in Germany (FR 14.03.2000). All these measures were employed to support the original idea of the Green Card and to limit the damage of these counterframings.

A second counterframe referred to the asylum law.<sup>52</sup> The CDU and CSU in particular used this line of critique to undermine the emerging master frame. Angela Merkel, party leader of the CDU, argued, "there is no possibility for immigration in addition to asylum seekers" (FR 14.03.2000). Both parties demanded that further immigration to Germany could only be possible if the guaranteed claim on asylum in the basic law were changed to an institutional guarantee (FR 04.04.2000; FAZ 04.04.2000; FAZ 10.04.2000). At the beginning of this debate, the conservative parties were supported by employer organizations that emphasized the abuse of the German asylum law (FR 25.04.2000). However, this attempt to counteract the changes in Germany's immigration policy lost its influence when a broad range of actors

disagreed with these demands. Most popular was probably the statement by the president of the BDI, Hans-Olaf Henkel, who argued that the German asylum law should remain unchanged and IT experts should not be set off against asylum seekers (FR 12.05.2000). In spite of these critics, until November 2000 the CDU and CSU continued to demand changes in the asylum law.<sup>53</sup> However, once the asylum policy was included in the Independent Commission on Migration to Germany, this line of critique was no longer able to affect the already established master frame. Finally, when the SPD made concessions to begin thinking about possible methods to shorten the asylum proceedings (FAZ 16.05.2000; FR 14.07.2000) and a range of organizations put pressure on the CDU to maintain the right of asylum in the basic law<sup>54</sup> a compromise between the conservative parties and the government could be found.<sup>55</sup>

The last two sections analysed the establishment of a new master frame concerning immigration issues in Germany. It was shown that a broad range of groups, including interest groups, the government, the political parties and the media took part in this contested process of frame construction. Furthermore, the analysis clarified the role of economic and demographic arguments as main interpretational frameworks in the debate about Germany's reform of immigration control. Both sections were able to support the original assumptions that frames are crucial variables to explain policy changes.

#### *4.3.3 The Resonance of the new Master Frame*

Both preceding sections analysed the construction of the new master frame concerning Germany's immigration policy. What they omitted is the resonance this interpreting framework received. The proposition put forward here argues that a master frame is one of the central variables explaining the policy shift in Germany. However, this master frame will only have the power to influence policy if it receives a reasonable level of attention. This analysis defines resonance as the quantity and quality with which the new master frame influenced political opinion. The quantity describes the sheer number of organisations who adopted this master frame for their political statements. The quality refers to the extent of completeness to which the frame was adopted, whether all parts of this interpretational package became adopted in a political statement or only fractions of it. Transferred to the study of the immigration policy in Germany, the following quote by Cornelia Schmalz-Jacobsen (former Federal Commissioner of Foreigners) illustrates the success of the new master frame in the year 2000: "The very sudden swing round of members of the government as well as numerous members of parliament was amusing and alarming at the same time. From one day to the next, prejudices which normally die hard, for instance the slogan of the 'exceeded limit', were not expressed anymore" (Schmalz-Jacobsen 2001:41).

Following this assessment, the remainder of this section will analyse the resonance of the new master frame in the political discourse in more detail.

The pervasiveness of the new master frame was revealed in the preceding section, which showed that the new master frame could establish itself against the undermining activities of several counterframes. Nevertheless, the resonance of the new master frame will be analysed more specifically by its influence on politics. It was the CDU which first noticed the consequences of the new master frame on the political process. The initial opposition by the CDU resulted in strong criticism of the politics of this party (FR 04.04.2000; FR 10.04.2000). It was especially the employer organizations in addition to the media coverage that put pressure on the CDU and CSU. "The once loyal followers in the industry turn their back on the CDU" was the title of an article in the FR (FR 01.04.2000). This pressure resulted in the acceptance of the need for high-skilled immigration to Germany by the CDU.<sup>56</sup> An indicator of how widely used the new master frame was is found in the concepts of the different political parties concerning future immigration policy in Germany. Notwithstanding the actual policy the concepts propose, all political parties, except the PDS, used the new master frame as one of the central arguments in their concept.<sup>57</sup>

At the same time, once the new master frame had established itself in the political and public discourse, references to the former dominant master frame were used in counterframings. In particular the CDU used references to the former frame to support their political goals. However, it is argued that the resonance of this former master frame was decreasing in the years 2000 and 2001 and could not "strike a responsive chord" (Snow/Benford 1988:198). To support this argument, two events during the year 2000 are analysed. A first event is the CDU campaign in advance of the election in North Rhine-Westphalia. The CDU candidate and former federal technology minister Jürgen Rüttgers made opposition to the Green Card the centrepiece of his election campaign. He asserted that Germans preferred "children instead of Indians" (Kinder statt Inder), and sent postcards to voters with the slogan "more training instead of more immigration" (mehr Ausbildung statt mehr Einwanderung) (Martin 2001). The campaign argued for a better educational policy as an alternative to import foreign high-tech workers. It tried to repeat the successful campaign against the new citizenship law in January 1999 by appealing to xenophobic attitudes and taking up the restrictive discourse against foreigners of the 1980s and 90s.<sup>58</sup> However, the campaign failed and was criticised by a broad range of actors. Particularly important was the critique of the employer organizations whose President Dieter Hundt judged the campaign as "not thought through and full of wretched populism" (FR 01.04.2000). A second event, which also offers clear indications for a decreasing resonance of the former master frame in Germany's immigration policy, was the debate about a "German guiding culture" (deutsche Leitkultur).



Friedrich Merz, leader of the parliamentary faction of the CDU, argued, “foreigners need to be willing to take on a German guiding culture” (FR 11.10.2000; CDU 2000). This announcement resulted in a heated debate inside the CDU and CSU but also in the public arena. Various members of Merz’s own party executive announced that they would not use the term (FAZ 07.11.2000). The protestant churches publicly criticized this term and its debate (FR 06.11.2000; FR 25.10.2000) and Paul Spiegel, chairperson of the Central Council of Jews in Germany, criticised the “talk about the guiding culture” with harsh words during a demonstration against right-wing extremism in Berlin (FR 10.11.2000; FR 13.11.2000). Douglas Klusmeyer (2001:521), analysing this debate argues that the term “Leitkultur” would “embrace the traditional idiom of Romantic German nationalism.” Although some observers argued that the CDU only adopted this nationalistic stance toward immigrants because of strategic considerations (FAZ 04.11.2000) it indicates the decreasing resonance of the former frame. One of the results was that even within the CDU/CSU itself the term was not often used and was abandoned before the CDU published its proposal for a German immigration policy in May 2001.<sup>59</sup>

To conclude this section, a few interpretations are provided to explain the differential success of both master frames. Following the work by David Snow and Robert Benford (2000), three factors are identified as crucial variables in the German context:

- (1) The first variable that accounts for the level of resonance a frame receives is the credibility of the frame articulator. In the political process of Germany’s immigration policy all relevant actors have high reputation and credibility. However, the preceding analysis indicates that the success of the new master frame can be traced back to the support this frame received from a broad range of actors. On the other side it was only the CDU/CSU as the one single actor, which continued to refer to the former master frame. During the political process in the year 2000 the CDU became isolated in their political positions. The critique and the lack of support for the CDU/CSU has already been considered in the preceding analysis. Here, it is argued that this isolated position affected the credibility of both parties in a negative way. In consequence, this partial isolation of both parties in respect to the immigration issue is one variable that can explain the lack of resonance the former master frame received.
- (2) The second factor refers to the empirical credibility of a master frame. The “Children instead of Indians” campaign, already analysed, referred to classic scenarios, which depicted “immigration as a threat” and appealed to images of cultural homogeneity. The initial experiences with the Green Card contradicted this frame. In the first year less migrants used the Green Card as a means to come to Germany. One consequence was a change in the perception of migration. What was seen before as

an endless global migration stream now became a scarce benefit.<sup>60</sup> In particular the emerging slogan “competition for the best minds” (Wettbewerb um die besten Köpfe) clarified that being an attractive country for immigrants is not a matter of course (Unabhängige Kommission “Zuwanderung” 2001:26). This empirical evidence supported the new frame but challenged the reliability of the former frame: it was shown that it is possible to manage and steer migration and that immigration is the right solution for Germany’s economic problems because other countries are recruiting highly qualified people as well.

- (3) Finally, the third variable concerns the analysis of the narrative fidelity of the master frames. In the case of the newly developed master frame, the preceding sections revealed the combination of immigration with economic and demographic necessities as a central interpretive package. It is argued that particularly the economic arguments have a great narrative fidelity in German society (Uske 2000). The reasons for the high salience of economic arguments would need further analysis. Nevertheless, Germany’s economic problems during the 1990s and the high rate of unemployment had a great impact on the narrative fidelity of economic claims. For the former dominant master frame an analysis of its narrative fidelity is more complicated. However, it is undisputed that the former debates about immigration policy in Germany were largely influenced by the ethnocultural self-definition in the Federal Republic of Germany. This self-definition goes back to Wilhelmine Germany and particular to the division of the two German states.<sup>61</sup> The cohesion between both states was maintained by its inclusive citizenship law, which defined as Germans all those who have a German cultural or ethnic descent (Hogwood 2000:132-135). The consequences for immigration policy were that the official recognition of Germany as an immigration country would have contradicted the ethnocultural definition of Germany’s nationhood and the Basic Law’s conception of a provisional state (Joppke 1999:62-65). This historical background also explains the importance for subsequent governments to maintain the doctrine that “Germany is not an immigration country” against the de facto status of an immigration country. After the reunification in 1990, the need for this ethnocultural self-definition faded away. And although the importance of these ethnocultural argumentations were decreasing in the immigration debates of the 1990s they were maintained as a justification for Germany’s immigration policy (Joppke 1999:95-99). It is argued that it was only the establishment of a new master frame which revealed the difficulties of justifying former interpretive packages. The consequence was the sudden shift in position of many actors, as already described.

The preceding sections investigated at first the construction of a new master frame around economic and demographic claims. The high level of resonance of the new master frame

was then revealed. What happened in the political process was a frame transformation, which fundamentally changed the frameworks in which immigration issues are discussed. It is argued that the new frame was particularly convincing because it succeeded in tying together the new political paradigm (Green Card and Immigration Law) with the threat of economical decline. The original assumption was that the new master frame is one of the crucial variables to explain the reform in Germany's immigration policy. The results of the analysis in these three sections support this argument and point to the importance of ideational aspects for an understanding of policy change.

#### 4.4 Structural Conditions

The preceding sections argued that new political ideas had an important role to play in Germany's recent changes in immigration policy. However, successful political mobilization depends not only on the available interpretive frameworks but also on the political environment. To achieve policy change, governmental decisions need to be acted upon. Here, the POS is a useful tool to analyse the relevant structures in the political environment that allow the different actors to exert influence on policy decision-making. Transferred to the study of the political process of Germany's immigration policy the approach provides answers to three questions:

- (1) Why did the reform in Germany's immigration policy happen between the years 2000 and 2002? Which factors can account for this timing?
- (2) Why did the minor policy change of the Green Card trigger a complete new legal framework for Germany's immigration policy?
- (3) The political initiative for a reform of Germany's immigration policy originated from interest groups outside the political system. How did these demands finally result in a change in policy?

For these three questions the frame analysis did not offer sufficient answers. The POS points to three structures of the political process that have the potential to answer these questions: (1) shifting ruling alignments in the government; (2) access of interest groups to the political system; and (3) a coalition of societal and political actors supporting the reform. These three structures have the potential to open a "window of opportunity" (Tarrow 1998:78) which might explain the shift in Germany's immigration policy.<sup>62</sup> They are analysed in the subsequent sections.

#### 4.4.1 *The Influence of a new Government*

The first political opportunity structure to be analysed concerns the distribution of power among the various parties in the political system. Changes in government have a decisive influence on political decision-making and the level of political mobilization by actors outside the polity (Kriesi et al. 1992:231-239; Tarrow 1998:78). The influence of this variable is suggested by considering the change in government in 1998. Prior to this, between 1982 and 1998, there was a coalition government of CDU/CSU and FDP. During these years the government introduced important changes in Germany's immigration policy. However, the official word of the government emphasized continuity of the policy. The maintenance of Germany's status as a non-immigration country played the most prominent role in the political discourse. Furthermore, the CDU/CSU made no move to introduce any far-reaching changes in Germany's immigration policy.

Independent of government policy, the political positions of the opposition parties began to change during the 1990s. For an analysis of the different positions concerning immigration policy in Germany's party system, the debate about an immigration law during the 1990s is most revealing. The debate had already begun during the reforms of the asylum law in 1992. The federal leadership of the SPD had demanded an immigration law but did not insist on it for fear of being blamed for failure of the reform (Marshall 2000:156). Nevertheless, in the final "asylum compromise", the government promised to examine the possibilities of limiting and steering immigration at national and international levels (Joppke 1999:97). Between the years 1994 and 1998 the political parties and governments of the Länder introduced several bills for a more comprehensive immigration policy. On 11 March 1997 the Land Rhineland-Palatinate made a proposal in the Upper House of Parliament (Bundesrat) for a new legal framework governing immigration to Germany (Bundesratsdrucksache 180/97). Only a few weeks later, on 15 April 1997, Alliance 90/The Greens published its proposal for an immigration law. The draft already included a quota regulation to influence the volume of immigrants. Furthermore, it included the introduction of a Commission for Immigration, to advise the parliament and, every two years, to propose the level of immigration (Deutscher Bundestag 1997a). A final demand for an immigration law was made on 23 April 1997 when the parliamentary group of the SPD introduced its proposal for a "Law for the steering of Immigration and the improvement of Integration" (Deutscher Bundestag 1997b). In spite of these efforts, the CDU/CSU-FDP government refused to pass an immigration law. The main argument from the CSU against the introduction of an immigration law focused on their concerns that such regulations "would be a wrong and dangerous signal because it raises hopes of potential immigrants."<sup>63</sup> These different political positions are also to be found in the election manifestos for the federal elections in 1998. Both, the SPD and the Greens demanded the introduction of an immigration law.<sup>64</sup> But the CDU did not mention the topic,

instead focusing on restricting abuse of the asylum law.<sup>65</sup> However, after the election victory in September 1998 the inclusion of an Immigration Law in the SPD/Green Coalition Agreement led to one of the fiercest debates among the coalition partners. In October 1998 two SPD Ministers of the new government, Herta Däubler-Gmelin (Minister of Justice), and Otto Schily (Minister of the Interior), argued for a change of former SPD positions because “immigration could in the current situation not be demanded from anybody.” And Otto Schily argued that Germany has “reached the limits, the point where we have to say we cannot bear any more. The majority of Germans agree with me: Zero immigration for now. The burden has become too great” (Quoted in Martin 2001). Consequently no plans for a new immigration law were included in the government statement.<sup>66</sup>

The preceding analysis described the different political convictions in the German party system. Two conclusions can be drawn from this analysis: (1) first, the demands for an immigration law by the SPD and the Greens in 1997 and in the election manifesto indicates the general openness to changing Germany’s immigration policy by the incoming government; (2) second, this general openness of the new government was an important precondition for the political mobilization of interest groups. Those groups that had an interest in changing Germany’s immigration policy were encouraged to intensify their efforts.<sup>67</sup> In the following section the influence of these interest groups on the political process is analysed.

#### *4.4.2 The Green Card – Access to the Political Agenda*

The preceding section analysed the different positions in Germany’s party system concerning immigration policy. A crucial result is the generally greater responsiveness to these issues by the SPD-Green government compared to the former government. However, the analysis also made clear that comprehensive changes concerning Germany’s immigration policy were not planned.<sup>68</sup> Therefore, the following section focuses on interest groups who do not have legislative power themselves but play an important role in lobbying for legislative initiatives.<sup>69</sup>

In the context of Germany’s changing immigration policy, the debate about the Green Card was the event which allowed interest groups to influence the political and public agenda. Two factors can be identified that fundamentally increased this influence. (1) First, the divisions between the two parties in government concerning the need for an immigration law. The preceding section mentioned the conflicts during the coalition treaty negotiations. It is argued that these conflicts between political elites had the effect of widening the circle of conflict to groups outside the political system, giving them marginal power (Tarrow 1996:56). (2) Second, the contradictions between the two master frames in the debate on Germany’s immigration policy contributed to a further increase of access to the political agenda (Zald

1996:268). Because of the obvious differences between both interpretational frameworks, the political system became more receptive to outside influences in the search for a new political and legal framework.

In the 1980s and 1990s, immigration policy in Germany was a highly politicised topic (Hammar 2001). During these years, this policy issue developed its own constellation of actors who are involved in the corresponding political processes. The considerable importance of these interest groups in shaping policy outputs is one characteristic of Germany's immigration policies (Esser/Korte 1985:175-176). In the literature, the following actors receive particular attention: the DGB, the BDA, the Protestant and Catholic Churches, welfare organizations, journalists, scientists and the political parties (Esser/Korte 1985:176; Bade/Bommes 2000:176). An updated list would also include a range of non-governmental organization (NGOs) and immigrant organizations. From the 1980s onwards, it was a sub-section of this conglomeration of interest groups which first demanded the introduction of comprehensive immigration legislations.

At the end of the 1980s, the Bielefeld Refugee Council made initial proposals for an immigration law (Marshall 2000:152). At the beginning of the 1990s, the Friedrich-Ebert-Foundation forcefully demanded a new legal framework for Germany's immigration policy. In a series of seminars and publications they stated that Germany has developed into a new type of immigration country (Mehrländer/Schultze 1992, 1995). They argued that a critical investigation of the foreigner- and asylum policy in Germany shows that politicians owed an adequate response to these immigration processes (Mehrländer/Schultze 1992:3). A broad range of academics gave further support to these demands during the federal election campaign in 1994. They argued that the "lack of political shaping of migration and its consequences in Germany" (Bade 1994:9) has brought them together to publish the "Manifesto of the 60: Germany and Immigration" (Manifest der 60: Deutschland und die Einwanderung). They demanded comprehensive concepts of immigration, integration, immigration legislation and migration policy in Germany and wanted to set off a public debate about these issues. A third request for more comprehensive solutions in Germany's immigration policy was published in 1997. Both Christian churches in Germany published their "Common Word of the churches concerning the challenges of migration and flight".<sup>70</sup>

The preceding examples are good indicators of the broad debate concerning immigration policy in Germany. However, the coalition contract of the SPD-Green government in 1998 did not take these demands into account. It was only the announcement of the Green Card that allowed these interest groups and their demands for an immigration law access to the political agenda in the year 2000. Already on 26 February 2000 Professor Bade, former

initiator of the Manifesto and member of the Council for Migration (Rat für Migration), had argued in the Frankfurter Rundschau that the Green Card, “although it is a right measure, does not go far enough. The connection to reality concerning immigration policy cannot be established with exceptional regulations (ASAV) but only with a comprehensive concept” (FR 26.02.2000). In view of the serious lack of high-skilled labour, the demands for an immigration law had the potential of a *prognostic frame* which proposed an attractive and comprehensive solution to the underlying structural problems of Germany’s economy and society (Benford/Snow 1988).<sup>71</sup> To account for the extension of the debate about the Green Card to a debate about an immigration law, two factors were of crucial importance: First, the employer organizations, trade unions and the Christian churches supported the demand for an immigration law and more comprehensive sustainable solutions for Germany’s immigration policy.<sup>72</sup> A second factor that increased the dimensions of this debate was the disagreement between the two governing parties. The Greens used the debate about the Green Card to start a public debate in Germany about an immigration law.<sup>73</sup> But the SPD did not take account of these demands at the beginning of the debate. The pronounced political will was to limit the debate on the question of high-skilled migrants for the ICT. It was Chancellor Schröder in particular who consistently rejected any debate on immigration law. He argued for a pragmatic solution of temporary working permits for computer experts, and he put off more fundamental discussions (FAZ 22.03.2000). However, the SPD proved unable to control the political process. In June 2000, after the CDU changed political course as well and demanded a more comprehensive solution, the SPD agreed on the wish to discuss immigration in an all-including process.<sup>74</sup> The fact that the SPD made concessions in this discussion can be traced back to two factors: (1) the general receptiveness of the SPD concerning this issue; (2) the interest groups, particularly the employer organizations, trade unions and churches, that built an alliance which had great influence on the politics of the SPD.<sup>75</sup> Therefore, this section has shown the crucial influence of interest groups on the building of the political agenda.<sup>76</sup> Without their political mobilization the debate about the Green Card would not have been extended to the larger project of an immigration law.

#### 4.4.3 A Coalition for Reform

The preceding sections argued that the new master frame, the change in government and the interest groups’ access to the political agenda are crucial variables to explain shifting policies of immigration. In particular the last section analysed how the debate about the recruitment of highly-skilled workers was successfully expanded to a debate about a comprehensive reform of Germany’s immigration policy. The focus of this final section is the factor which explains how political initiatives from outside the political system finally resulted in a change of policy. Here, the availability of influential allies, of a coalition between actors

inside and outside the polity are analysed. In Sidney Tarrow's assessment "reform is most likely to result when challengers from outside the polity provide a political incentive for minority elites within it to achieve their own policy goals. Reform often results less from the direct demands of individual protest movements than from a subjective or objective coalition between reformers within the polity and challengers who initiate collective action from outside it" (Tarrow 1996:60). The largely successful creation of a coalition for reform in the political process about immigration policy in Germany is analysed by its contribution to explaining the policy change.

The importance of scientists, the churches, the trade unions and the employer organizations for placing the issue of an immigration law on the agenda has already been analysed in the preceding section. However, support for a more comprehensive legal framework quickly emerged from a broad range of actors. It included all political parties in the German parliament, welfare organizations, immigrant organizations and also a range of other non-governmental organizations. The political strategy of the government, what Dietrich Thränhardt (2002:247) called the "consensus card" (Konsenskarte), was to organize a political consensus that would support a new immigration law.<sup>77</sup> The key institution that helped to organize this coalition was the "Independent Commission of Migration to Germany". Also, a range of other commissions by different political parties, employer organizations, trade unions, and the Christian churches accompanied the work of the Independent Commission.<sup>78</sup> Altogether the time between September 2000 and July 2001 witnessed an informed and sound public and political discourse about Germany's future immigration policy (Angenendt 2002:32).

The outcome of the work by the different commissions was that in July 2001 for many questions a broad political consensus could be found. An initial agreement was reached on the case of the former doctrine "Germany is not a country of immigration." By November 2000 all political parties had already given up this self-definition.<sup>79</sup> Aside from this rather symbolic abandonment, the asylum policy was a highly disputed topic across the political spectrum. Nevertheless, a compromise was reached which accepted that for humanitarian migration quota regulations should not be introduced, that the basic law on asylum should be maintained, and that methods to tighten the asylum procedures should be found.<sup>80</sup> A further consensus concerned the regulations governing labour migration. Here, the introduction of a point system to select potential immigrants was supported by CDU, SPD and the Greens.<sup>81</sup> This broad political consensus on many questions finally encouraged the government to introduce an immigration law. The Independent Commission can take much of the credit for this result. The high credibility and reputation of its chairwoman and members allowed them to bring different points of view closer together. It was the composition of the commission,



which allowed for the creation of this consensus.<sup>82</sup> Most of the important societal groups were represented, ranging from the political parties, employers and employees and the Christian churches to a representative of the immigrants themselves.<sup>83</sup> The participation of and the support for the results from all members made it difficult to break off this consensus afterwards.

However, aside from the great importance of this coalition for reform and the significant compromises reached between the different parties and interest groups, differences remained. Particularly questions of family unification, non-governmental and sex-specific persecution, and different views over the need for labour migrants remained in dispute (Angenendt 2002:48-51). In general, the readiness of the political parties for a political consensus decreased during the legislative process. The remaining differences started to dominate the political debate and prevented an even larger majority from passing the law in March 2002. Nevertheless, the analysis has identified the important role of the commission in organizing majority support for a new legal framework for Germany's immigration policy. The changing government in 1998, the debate about the Green Card, and the broad alliance supporting this project increased the political space for sweeping changes in this policy area. The combination of all three political opportunity structures opened a window of opportunity that can account for the final policy outputs and its timing. Together with the newly established master frame they offer a thorough understanding of the role of the political processes for immigration policies.

## 5 Conclusion

This study has examined the changes in Germany's immigration policy between 2000 and 2002. During this time two regulations in particular were passed which have received major attention in this inquiry: (1) first, the introduction of the Green Card in August 2000, which allowed 20,000 computer experts to work and live in Germany; (2) second, the passing of the Immigration Act in June 2002. This was the first comprehensive legislation for immigration to Germany. It introduced a point system for the selection of labour migrants, offered a supply-side instrument for the recruitment of migrants depending on the situation of the labour market and ended Germany's focus on temporary labour migration.

The starting point for this dissertation was the realization that today it is the immigration policies of nation states which largely determine the scope of global migration. Therefore, it argues that Geographers studying international migration need to take politics more seriously. Following the differentiation between policy outcome and policy output studies, this examination followed the latter type. It addressed the factors shaping the recent policy shifts in Germany. In particular two questions were at the centre of this study. (1) What kind of influence did the political process have on the actual policy output? (2) What role did economic and national identity elements play in the changes in Germany's immigration policy?

In contrast to structural, institutionalist and pluralist theories, this study developed a theoretical framework which focuses in particular on the political process to understand policy changes. It is argued that the political process itself is a crucial variable that affects policy outputs. Furthermore, the political process is seen as the filter transforming structural determinants – economy and national identity – into actual policy. To better understand the role of the political process the study adopted two theoretical concepts from the study of contentious politics – the Political Opportunity Structure (POS) and the Framing approach.

In considering the ability of the political process to explain changing policies, the theoretical concept developed points to four independent variables: (1) the availability of an attractive master frame; (2) shifting ruling alignments in the government; (3) access of interest groups to the political system; and (4) the coalition of societal and political actors supporting the reform. For the analysis of Germany's changing immigration policy between 2000 and 2002, five propositions were derived from these variables:

- (1) The first proposition argued that master frames are an important precondition for decisive policy changes. In the analysis of the political process in Germany it could be

demonstrated that in the debate about the Green Card a master frame was constructed based upon demographic and especially economic arguments.

- (2) The resonance of the new master frame was the concern of the second assumption. It was argued that these framing efforts can only be politically influential if they receive a high level of support in the public and in politics. The analysis demonstrated that for example all political parties, except the PDS, supported the new master frame. They all based their demands for reform in this policy area on economic and to a lesser degree on demographic arguments. Furthermore, the analysis clarified that at the same time the older, restrictive, and ethno-culturally based master frame lost its support (examples were the failed “Kinder statt Inder” campaign and the debate about a “German guiding culture”).
- (3) The third proposition was concerned with the distribution of power between the different political parties as an important condition for the political mobilization of actors outside the political system. The analysis showed in a first step the generally more reform-oriented stance of the incoming government of SPD/Greens in 1998. This in itself is an important factor for explaining the policy change. However, of equal importance was the fact that the new government had a positive effect on the political mobilization of interest groups. Those groups favouring the introduction of a comprehensive and more expansive immigration legislation felt encouraged to increase their efforts to promote reforms in this policy area.
- (4) A fourth issue referred to interest groups and their access to the political system. At the beginning of the legislative period in 1998, the new government agreed that no large-scale reform of the immigration system would be introduced. The analysis demonstrated that it was interest groups who put the debate about an Immigration Law on the political agenda. It was these actors outside the political system who were responsible for the expansion of the debate from the marginal policy change of the Green Card to a far-reaching reform of the whole immigration policy area. The SPD initially resisted these debates. However, the analysis showed that pressure, particularly from the employer organizations, trade unions and churches, was responsible for the concessions from the SPD toward finding a political solution for these demands.
- (5) The last proposition concerned the role of influential allies in the political process and the question of how this policy initiative from outside the political system finally resulted in a change of policy. The analysis demonstrated how the interest groups who provoked this policy change found influential allies (other interest groups and political parties) who supported this project as well. The analysis focused on the construction of

a coalition including a broad range of societal and political actors as the central explanatory factor for the actual policy change. Finally, the analysis pointed to the “Independent Commission on Migration to Germany” as the central institutional structure that organized this broad consensus and support.

The preceding summary proved that all five propositions could be verified in the empirical analysis. Combined they can account for the opening of a *window of opportunity* which explains this profound shift in Germany’s immigration policy. Furthermore, the combination of several variables that together explain policy changes can account for the particular *timing* of this reform project.

The second research question of this dissertation concerned the impact of economy and national identity on the policy results. This question followed Aristide Zolberg’s argumentation that although the economy and national identity are fundamental social forces for the formation of immigration policy, neither influence policy directly but rather are mediated by the political process. Concerning the impact of economic conditions on the changing immigration policy, the study examined the labour shortage in the ICT as the central structural condition which provoked the introduction of the Green Card. Further developments, however, were largely dependent on the dynamics and contingencies of the political process itself. The successful public announcement of the Green Card during the CeBIT and the extension of the debate around a more comprehensive reform in this policy area were both largely independent of actual economic conditions. Nevertheless, in the case of the Immigration Act the analysis demonstrated the great salience of economic arguments and the general support of employers and employees as decisive preconditions for the policy change. What remains is an investigation of the minor role the national identity factor played during this political process. The frame analysis demonstrated that counterframings, which referred to national identity claims, actually existed (for example, the “guiding culture debate”). But it also examined how the salience of these arguments dropped during the political process. The study showed that the decreasing credibility of the CDU/CSU as the main actor which still referred to these claims, as well as the difficulties of the old frame in aligning itself to changed economic, social and historical conditions, are major explanatory variables for this decreased resonance. A further reason needs to be added: the government, in anticipating some of the oppositional criticisms, both introduced generally very strict regulations and brought about changes only gradually. Both these factors meant only minor worries emerged among the population, compared to immigration debates in the decades before.

In conclusion, this dissertation has demonstrated that the political process – understood as a framing contest and a particular structure of actors and their interactions – has a decisive

impact on the shape of immigration policies. Furthermore, the investigation has shown the importance of economic conditions and particularly economic arguments and actors in the political process and in shaping the policy output. Finally, it has offered explanations for the minor influence of the national identity in the process of changing Germany's immigration policies. What are the implications of these results? (1) The new Immigration Act will have decisive impacts on the volume and composition of future migration to Germany. The study explained which factors induced these changes. (2) The examination demonstrated that analyses studying immigration policies need to take the political process as an important independent variable into account. (3) The study developed an alternative theoretical framework. Compared to the pluralist accounts, which dominate this field of research today, this framework offers a better understanding of the intricate processes shaping immigration policies by combining ideational and structural factors and focusing on a broad range of participating actors. Apart from these results and implications the study gained insights into the processes structuring policy-making today. The necessity of robust, complete and thorough framing efforts to shape profound policy reforms includes negative aspects as well: those issues that do not fit the established master frame fall by the way. In the recent immigration policy reform in Germany it was the issue of illegal migrants that receded from view. Mainly discussed as a topic of border control by the public, it includes far-reaching social and humanitarian questions. Those people without legal residence permits are excluded from the welfare state and medical welfare services and their children cannot attend school. The political parties and interest groups – in particular the Christian churches – are aware of this issue and several solutions to solve parts of the problem are already proposed. However, because of its political sensitivity the issue was excluded from the discussions for an Immigration Act. It ought to be one of the issues which is placed at the top of the political agenda on future immigration policy.<sup>84</sup>

## Notes

### 1 Introduction

<sup>1</sup> The use of the term immigration policy refers to the popular distinction by Tomas Hammar, who argues that immigration policy consists of two interrelated but distinct fields of policy: immigrant and immigration control policy. The former refers to the integration of immigrants into the host society, the latter “to the rules and procedures governing the selection, admission and deportation of foreign citizens. It also includes such regulations which control foreign citizens (aliens) once they visit or take residence in the immigration country, including control of their employment” (Hammar 1985:7). This study focuses only on the field of immigration control policies. However, the term immigration policy is adopted because of linguistic simplicity.

<sup>2</sup> In spite of Germany’s status as an immigration country in a statistical sense, its government and policy continuously contradicted this situation in the 1980s and 90s (Bade 1992; Bade 1996; Heckmann 1995; Martin 1994; and Thränhardt 1995). This relationship of tension between the social reality on the one side and the political negation on the other was the focus of most writing and scholarly analyses of Germany’s immigration policy so far.

<sup>3</sup> Cf. for example Joppke’s (1998) study on asylum policies of Germany, Britain and the USA; Rotte’s (2000) study about Germany’s successful immigration control policy, which was able to drastically reduce immigration flows during the 1990’s; and Zolberg’s (1999) analysis of the US case.

<sup>4</sup> For a similar argument see also Portes (1997:817). For geographical studies dealing with the politics of international migration see Money (1999) and Leitner (1995).

<sup>5</sup> For studies that include political variables in their explaining models see Ardittis (1994); Kemper (1996); and Kritz/Zlotnik (1992). Furthermore, see Zolberg (1989) and Faist (2000) who argue that immigration policies are one of the explanatory variables that answer the question why so few people migrate compared to predicted numbers in econometric analyses.

<sup>6</sup> Hollifield points to his own approach to get a better grasp of policy outcomes of immigration policies. He focuses on the extension of rights as the central factor, which explains the ongoing immigration into countries although the governments are opposed to these immigrations (Hollifield 1992, 1999).

### 2 Theories of Immigration Policies

<sup>7</sup> During the last years both concepts received increasing attention in the study of immigration policy (cf. Feldblum 1999; Koopmans/Statham 2000; and Karapin 2000). A theoretical framework in Policy Studies with a range of similarities to the one constructed here is the Advocacy Coalition Framework (ACF) with its focus on policy subsystems and belief systems (Sabatier/Jenkins-Smith 1999). For an empirical study which links POS an ACF see Kübler (2001).

<sup>8</sup> For the importance of these two approaches see Heinelt (1994); Leitner (1995); Meyers (2000); Money (1999); and Zolberg (1999).

- <sup>9</sup> Brubaker argues for the close relationship between citizenship and immigration, which makes his account important for the study of immigration policies; see Brubaker (1992:34) and Meyers (2000:1252).
- <sup>10</sup> The distinction between settler societies and Western Europeans “reluctant lands of immigration” is an already classical one used in many analyses (Wayne/Martin/Hollifield 1994). For an empirical example of the national identity approach in the German context see Kurthen (1995).
- <sup>11</sup> For empirical examples see Brubaker (1992) and Castles (1995).
- <sup>12</sup> Cf. Money (1999) for a similar conclusion. For an account that does not only focus on economic and national identity interests see Brochmann (1999:6-7). She argues that four rationales or interests are shaping immigration policies: To the already mentioned she adds the *national security* and *demography*. In this study about Germany’s changing immigration policies all four interests were part of the political process. The demographic interests will be included in the frame analysis in Chapter 4. The security issue affected the debate in particular after 11 September 2001. However, the study argues that the interplay of economic and national identity arguments played the most important role in the years 2000 to 2002.
- <sup>13</sup> Hubert Heinelt (1994:12-22) argues in a similar direction. For him immigration control policy is the result of a whole cluster of influencing variables. Specifically, he is focusing on economic and cultural variables but adds the influence of parties and the structures that mediate political interests as well. See also Money (1999:42) who explains her ‘non-results’ with an inadequate understanding of the mediating structures, which translate societal pressures into policy outputs (Money 1999:42).
- <sup>14</sup> This disregard can be explained by the low politicisation of the field just twenty years ago. Immigration policy was handled behind closed doors, between the state, employers associations and trade unions (cf. Hammar 2001; Baldwin-Edwards/Schain 1994b).
- <sup>15</sup> Hammar (2001) stresses the growing refugee flows, the intensified cooperation within the EU, structural unemployment in many countries, the realization that large immigrant groups settled for good, and the evolving of anti-immigrant groups as factors for the politicisation of the field.
- <sup>16</sup> For a critique see Bovenkerk/Miles/Verbunt (1991). For examples see the cross-national volumes by Baldwin-Edwards/Schain (1994a); Fassmann/Münz (1996) and Thränhardt/Miles (1995).
- <sup>17</sup> For an empirical example see Simmons/Keohane (1992).
- <sup>18</sup> Cf. Yasemin Soysal’s (1994) work on integration regimes; Patrick Ireland’s (1994) study on the integration and political participation of immigrants in their host countries; or Adrian Favell’s (2001) work on “philosophies of integration” in France and Britain.
- <sup>19</sup> For the differences between immigrant policy and immigration control policy see the explanations in Endnote 1.
- <sup>20</sup> Virginie Guiraudon (1998:307) points to the problem that the social impact of immigration on wage costs, welfare distributions, housing etc. is still subject to debate. Her argument is that it is the perception of these costs and benefits that matter in the political process. This argument is closely related to the framing approach, which focuses on the ways problems are constructed as problems. Furthermore, the approaches stress the fact that favourable situations need to be framed as such. Otherwise they would not be realized as structures which offer an opportunity to act (Gamson/Meyer 1996:283-285).
- <sup>21</sup> Freeman (1995:886). The remaining two modes of politics are *entrepreneurial politics* when benefits are diffuse and costs are concentrated or *majoritarian politics* in situations when both benefits and costs are diffuse.
- <sup>22</sup> Cf. Simon/Lynch (2001) for an assessment of public opinion in several liberal democracies and Guiraudon (1998), who argues that the involvement of the public is one of the crucial variables for understanding policy outputs of immigration policies.
- <sup>23</sup> See Joppke (1997, 1999) for a further line of critique and modification of Freeman’s “modes of politics” approach. Joppke argues that Freeman’s approach “fails to identify

the legal process as a separate source of expansiveness and inclusiveness toward immigrants” (Joppke 1999:18). However, one of the reasons for Joppke’s different approach is its interest in the explanation of policy outcomes and the “gap hypotheses” (Cornelius/Hollifield/Wayne 1994). In the context of this study here, the focus on the legal system is of minor importance. For other aspects on Freeman’s approach see also Fitzgerald (1996) or Brubaker (1995).

24 For a similar argument see also Thranhardt (1993) and Hardcastle et al. (1994).

25 For the suggestion to represent Freeman’s “modes of politics” approach and its extensions in form of this triangle I am thankful to Bernhard Santel.

26 Another example for the interconnectedness between political parties, interest groups, social movements and the mass media can be found in analyses of the mediation of interests between citizens on the one hand side and the political system on the other (Rucht 1993).

27 The main focus in the study of social movements is the political mobilization by social movements. So far, the literature has largely neglected the consequences of social movements action. The lack of theoretical as well as empirical analyses of social movement outcomes is primarily the result of a number of methodological difficulties:(1) the problem of defining and measuring social movement success; (2) the most fundamental obstacle to research on outcomes is the problem of causality, that is the difficulty of assessing the extent to which the movement has contributed to producing a certain effect (Kriesi et al. 1995). Nevertheless, during the last years several studies emerged which try to analyse the outcomes of social movements. In these studies, the concepts of framing and political opportunity were famously used.

28 In migration studies, the concept of political opportunity structures became established in the context of the politics of integration. See Geddes (1998) who used the concept of political opportunity structures to explain the political participation of immigrants. Danese (2001) applied the approach to the political participation of migrant associations in France and Spain. The question of changing policies also started to be studied in theoretical concepts from the field of social movements. The most comprehensive attempt is Miriam Feldblum’s (1999) study about the changing French citizenship and immigration politics in the 1980s and 1990s.

29 What needs to be considered is their predominate focus on immigrant politics instead of immigration control politics. Furthermore, their theoretical concept is focused more on the political mobilization of immigration issues. Nevertheless, the concept offers numerous possibilities to transfer it to the study of policy outputs.

30 During the last years, Geography is getting involved in social movements research in general and the application of the political opportunity structure approach in particular. See for example Miller (2000) and Miller (1994).

31 See McAdam (1996) for a more exhaustive overview of the different dimensionalizations of the political opportunity structures which coexist.

32 It is argued that this concept is equally applicable if a political party or an interest group started the initiative for policy change.

33 Discursive approaches already play an important role in the context of migration. Traditionally, there is the work on migration discourses by Teun van Dijk and his collaborators (1997) and in the German context by the ‘Duisburger Institut für Sprach- und Sozialforschung’ (Jäger 1999; Jung 1997). For an empirical example see Triandafyllidou (2000). However, their work focuses more on the constructions of the immigrant as the ‘Other’ and expressions of racism in these discourses. Therefore, it is of little help when discourses are integrated as an independent variable into a theoretical framework to explain immigration policies. For a recent comparative study which particular focuses on discourses on immigration in Britain and Germany see Schönwälder (2001). However, also in her study discourses are not directly used as independent variables to explain immigration policies. For a study, which originates from classical discourse analysis but uses the discourse in an attempt to explain Dutch



immigrants policy see Jacobs (1998). Despite the different theoretical starting points the frame analysis in this study has many similarities to Jacobs' study. Finally, see also Eder (1998) and Lutz/Koser (1998) for further arguments for the importance of discursive approaches in the study of migration.

<sup>34</sup> The concept of framing and the use of the term 'master frame' resemble the work by Adrian Favell (2001). In his study he describes "public philosophies of integration" which are embedded in nationally specific sets of language and symbols. These public philosophies are constructed in the political discourse and used to justify the underlying policy frameworks. These public philosophies are similar to the use of the concept master frame in this study. However, Favell is less specific in defining the dependent and independent variable in his study.

### 3 Immigration Policy in Germany

<sup>35</sup> In the years after 1950, the immigration of ethnic Germans changed when bilateral agreements were passed between the FRG and the Soviet, Polish and Romanian state. Between 1950 and 1987 altogether 1.4 million ethnic Germans immigrated to the FRG (Münz/Ulrich 1997:69).

<sup>36</sup> The GDR run a labour recruitment program as well. It started in the 1970s with the recruitment of workers from other Central and Eastern Europe countries, Cuba, Mozambique, and Vietnam. But employment of foreigners in the GDR never played the role it did in West Germany. Even in the late 1980s the number of foreigners did not exceed 200,000 (1.2 percent of the total population) (Münz/Ulrich 1997:80).

<sup>37</sup> In the case of asylum seekers, the first years of the republic saw only meagre streams of refugees applying for asylum in Germany. The total number between the years 1953 and 1978 was only 178,000 (BAFL 2002; Bundesverwaltungsamt 2002).

<sup>38</sup> The seasonal workers (with 80% the highest share of this new labour migration) are restricted for a three-month period. Consequently the actual volume of this migration is still rather small (Seifert 2000:74).

<sup>39</sup> Before the year 2000, this system was based on legal regulations concerning mainly eight distinguishable groups: (1) the free movement inside the European Union for citizens of a member state; (2) family unifications from third country citizens; (3) ethnic Germans (Aussiedler); (4) Jews from the CIS; (5) asylum seekers; (6) refugees; (7) labour migration from non-EU states and (8) foreign students (Thranhardt 1999:45; Ausländerbeauftragte 2001:19).

<sup>40</sup> In 1966 when an economic crisis caused disruptions and some unemployment, the Federal government stopped the recruitment and approximately 30 percent of workers returned home (Esser/Korte 1985:170-172).

<sup>41</sup> In 1990, the Ethnic Germans Reception Law (Aussiedleraufnahmegesetz) introduced significant procedural restrictions on the immigration of ethnic Germans. In 1993, the Law Dealing with Late Consequences of the Second World War (Kriegsfolgenbereinigungsgesetz) set an end to this form of immigration. It introduced an annual immigration quota of 220,000 (110,000 from the year 2000 on) and limited the status of ethnic Germans to those born before 1993 (Münz 2000:50-56; Marshall 2000; Green 2001).

<sup>42</sup> It needs to be mentioned that between 2000 and 2002 other policy changes concerning immigration were introduced too (for example, the lifting of the ban to work for persons seeking political asylum). The Green Card and in particular the Immigration Act are the most sweeping ones (cf. Angenendt 2002 and a series of issues Migration und Bevölkerung).

<sup>43</sup> In July 2002, some of the German Länder submitted their complaints about an infringement concerning the vote in the Bundesrat in March 2002 to the constitutional court. These legal proceedings will not affect that the Immigration Act will become law in

January 2003. In the case that the law will later on judge the new Act as not in conformity with the constitution see Feldblum's (1999) study on citizenship policy in France for an account about the importance of failed political reform processes for latter policy processes.

44 Examples are the subsequent immigration of children (Kindernachzugsalter). Here, the cut off point was reduced from 16 to 12 years (§§ 27-36 Residence Act.). It is expected that the differences between the former regulation and the new does only affect approximately 6,000 people (Bundesministerium des Innern 2002). Furthermore, the asylum rules were tightened. Until now approved asylum seekers automatically received an unlimited residence permit. However, in the case of the new law approved asylum applicants will only receive temporary residence permits. After three years, authorities will determine whether the requirements for the approval are still being met; and unlimited residence permit will be issued only if this is still the case.

#### 4 Political Process Dynamics shaping Germany's Immigration Policy

45 For similar accounts see Brochmann (1999:25) and Feldblum (1999:17-18).

46 Originally, my intention was to conduct a quantitative content analysis focusing on the different frames involved, the actors who used the different frames and the development of references made to these frames during the research period. However, this research design was too ambitious for the available time of this research project. For examples of those kinds of research project see Gerdes and Rieple (2003) and Kriesi (2001).

47 The analysis is based on the FAZ and the FR. A study about the political positions of five German national newspapers showed that the FR obviously covers the political „left“ positions. Instead, the FAZ tends clearly to the „right“ positions (Eilders 2001). The analysis used the CD-ROM archives of the years 2000 and 2001 and searched for all articles including one of the following search terms in the full-text: 'Green Card', 'Migration\*', 'Asyl\*', 'Zuwanderung\*' (in-migration), 'Einwanderung\*' (immigration), 'Ausländer\*' (foreigner), and 'Leitkultur' (guiding culture).

48 The frame analysis offers data about the opinion concerning particular issues in the public. It is argued that this strategy is more informative than the use of aggregated individual preferences in opinion polls (Rucht 1999). For a discussion of the interrelatedness of opinion polls and frames see Gamson/Modigliani (1989).

49 The Alliance for Labour, Education and Economic Competitiveness (Bündnis für Arbeit, Ausbildung und Wettbewerbsfähigkeit) is an institution introduced by the new government in 1998 consisting of the government, trade unions and employer organizations.

50 Norbert Walter, economist of the Deutsche Bank, Dieter Hundt, president of the BDA, and Johann Hahlen, head of the Federal Statistical Office, all argued for an increasing number of immigrants to weaken the problems of an aging society (FR 04.04.2000; FR 25.04.2000; FR 20.07.2000).

51 Another line of critique concerned the question whether a lack of labour in this economic sector would actually exist (FR 26.06.2000; FAZ 04.04.2000; Greifenstein 2001:10).

52 The use of the asylum issue for strategic political aims has a long tradition in the immigration politics of the FRG (cf. Thränhardt 1993; Faist 1994).

53 Cf. FR (21.06.2000); FR (28.06.2000); FR (04.07.2000); FR (11.10.2000); FR (03.11.2000); FR (07.11.2000); FR (14.11.2000); FAZ (23.06.2000); FAZ (14.11.2000); FAZ (20.11.2000).

54 FR (20.11.2000); FR (30.11.2000); FAZ (04.08.2000); FAZ (05.12.2000); FR (12.10.2000).

55 FR (20.11.2000); FR (11.12.2000); FR (21.04.2001); FR (24.04.2000); Interkultureller Rat (2000); FDP (2000).

56 The churches were a further important actor which put additional pressure on the  
CDU/CSU (Interview with Cornelia Bührle; 08.08.2002)

57 SPD (2001); Bündnis 90/DIE GRÜNEN (2001a); FDP (2001); CDU (2001); CSU (2001);  
CDU/CSU (2001); PDS (2001).

58 Shortly after the change in government in October 1998, the new government introduced  
a new citizenship law. The announcement lead to fundamental disagreement by the  
CDU/CSU opposition parties who launched a petition against the new law, collecting  
more than five million signatures. The campaign was successful and lead to a revised  
law as well as the defeat of SPD and Greens in the following elections in Hessen (one of  
the German Länder) (Münz/Bade 2002:12; Joppke 2000:155-156).

59 The term 'Leitkultur' was not used in the concept by the CDU (2001) as well as in the  
joint paper by CDU and CSU (2001). Only the concept by the CSU (2001) continued to  
use the term.

60 FAZ (05.12.2000); FAZ (31.07.2001); EFMS Migration Report (7/2001); Migration und  
Bevölkerung (2/2001).

61 See Brubaker (1992:114-137) and Bade (1996:414-416) for an analysis of the  
development of Germany's ethnocultural self-definition in Wilhelmine Germany

62 Tarrow (1996:42-43) differentiates between group specific and policy-specific  
opportunity structures. Group specific approaches analyse the changing political  
opportunity structure for one specific group over time. Instead, policy specific  
approaches focus on the opportunity structures around a particular issue. This analysis  
applies a policy specific approach.

63 CSU-Positionpaper quoted in Migration und Bevölkerung (2/1998). Although, it needs to  
be acknowledged that different to the election in 1994, the election program of  
CDU/CSU for the Federal election in 1998 did not include the slogan „Germany is not a  
country of immigration“.

64 SPD (1998); Bündnis 90/DIE GRÜNEN (1998).

65 CDU (1998); see also EFMS Migration Report (1/1998; 5/1998; 7/1998).

66 Interview with Mark Holzberger (24.07.2002); SPD, Bündnis 90/DIE GRÜNEN (1998).

67 Interview with Pro Asyl (8.07.2002) and DGB 24.07.2002).

68 Bundesregierung (23.02.2000) and Footnote 36.

69 Studies of immigration (control) policy often pay to little attention to this group of actors.  
For example in Murray's (1994) study about citizenship law in Germany only the political  
party system was analysed. The result was an inadequate understanding of the factors  
which induced the changes in the 1980s.

70 Rat der Evangelischen Kirche Deutschlands und der Deutschen Bischofskonferenz  
(1997). I thank Cornelia Bührle for helpful explanations of the role of the Christian  
churches in Germany's immigration policy.

71 See Kriesi/Wisler (1999) for an analysis that points to the great importance of prognostic  
frames for policy changes.

72 Cf. Jürgen Peter (IG-Metall) and Dieter Schulte (DGB) who argued that “the Green Card  
would not make any sense in the long run, what is really needed is an immigration law”  
(FR 03.05.2000; FAZ 02.05.2000).

73 FR (01.04.2000; FR 03.03.2000). See also the demands by the Federal President  
(Bundespräsident 2000) and the Commissioners of Foreigners in the Länder (FAZ  
15.04.2000).

74 Already in April 2000, SPD and Greens agreed on a common working group to discuss  
the necessity of an immigration law (FR 25.04.2000).

75 Interview with Dieter Wiefelspütz (31.07.2002).

76 Cf. Roth (2001:243) for a general argument on the agenda building capacities of social  
movements and interest groups.

77 Cf. the interview with Dietrich Wiefelspütz (31.07.2002).

78 CDU (2001); CSU (2001); Bündnis 90/DIE GRÜNEN (2001a); SPD (2001); DGB (2001);  
FDP (2001); PDS (2001); Niedersächsisches Innenministerium (2001); BDI (2001).

<sup>79</sup> Only minor differences remained between the different actors. For example the DGB (2001) explicitly argued that Germany is an immigration country. Instead, the CDU and CSU (2001) stated that Germany is not a “classical” immigration country because of historical, geographical and social conditions.

<sup>80</sup> It was only the Greens which on a party conference voted for the complete retention of the right of asylum. However, the party executive did not push this decision ahead and it did not lead to any large scale political debate (Bündnis 90/DIE GRÜNEN 2001b).

<sup>81</sup> However, different definitions remained what kind of labour migrants are needed.

<sup>82</sup> Members of the Independent Commission on Migration to Germany: Prof. Rita Süssmuth (Member of the German Bundestag and Chairperson); Dr. Hans-Jochen Vogel (Member of the SPD and Deputy Chairperson); Horst Eylman (Solicitor and Notary Public); Ralf Fücks (Member of the Executive Board of the Heinrich-Böll Foundation); Prof. Kay Hailbronner (Chair for Public Law, International and European Law, University of Konstanz); Dr. Hans-Olaf Henkel (President of the Scientific Community Gottfried Wilhelm Leibniz e.V.); Hajo Hoffmann (President of the German Convention of Municipal Authorities); Roland Issen (Chairperson of the German Employees’ Union); Christoph Kannengiesser General Manager of the Confederation of German Employers’ Associations); Bishop Karl Ludwig Kohlwege (Member of the Council of the Protestant Church in Germany); Dr. Gerd Landsberg (German Association of Towns and Municipalities); Prof. Rainer Münz (Chair for Population Science at the Humboldt University of Berlin); Dr. Frank Niethammer (Honorary President of the Chamber of Industry and Commerce Frankfurt/M.); Vural Öger (Managing partner of the travel company Öger-Tours); Heinz Putzhammer (Member of the Federal Executive Board of the German Confederation of Trade Unions); Roland Schilling (Deputy Chairperson of UNHCR Germany); Cornelia Schmalz-Jacobsen (Former representative of the German Federal Government for matters relating to foreigners); Dr. Jürgen Schmude; Dr. Herbert Schnoor (Former Minister of the Interior of the State of North-Rhine-Westphalia); Paul Spiegel (President of the Central Council of Jews in Germany); Suffragan Bishop Dr. Josef Voss (Chairperson of the Commission for Migration-Related Matters of the German Conference of Bishops).

<sup>83</sup> However, the offer of Vural Öger provoked critique particular by the immigrant organizations. The reason was that Vural Öger, although a migrant himself and a successful employer in Germany, was not a legitimate representative of an immigrant organisation (Interview with Memet Kilic; 29.07.2002).

## 5 Conclusion

<sup>84</sup> Cf. Alt/Cyrus (2002); Unabhängige Kommission “Zuwanderung” (2001); Bündnis 90/DIE GRÜNEN (2000); FDP (2001); PDS (2001); SPD (2001); Sekretariat der Deutschen Bischofskonferenz (2001).

## Appendix - List of conducted interviews

Rainer Münz, Humboldt-University to Berlin, 16.07.2002.

Bernd Mesovic and Karl Koppe, Pro Asyl, Frankfurt, 18.07.2002.

Mark Holzberger, Adviser for Refugee- and Immigration Policy of the Parliamentary Group Bündnis 90/Die Grünen, Berlin, 24.07.2002.

Volker Roßocha, DGB, Advisor for Immigration Policy, Berlin, 24.07.2002.

Bernhard Schwarzkopf, BDA, Berlin, 24.07.2002.

Memet Kilic, Chairman of Federal Committee of Foreigners (Bundesausländerbeirat), Heidelberg, 29.07.2002.

Christian Storr, Commissioner of Foreigners Baden-Württemberg, Stuttgart, 30.07.2002.

Dieter Wiefelspütz, Spokesman for Home Affairs of the Parliamentary Group SPD, Lünen, 31.07.2002.

Günther Schultze, Friedrich-Ebert-Foundation, Bonn, 01.08.2002.

Bernhard Santel, Center for Immigration in North Rhine-Westphalia (Landeszentrum für Zuwanderung), Solingen, 05.08.2002.

Marion de Wyl, Advisor of the Working Group Home Affairs of the Parliamentary Group CDU, Berlin, 08.08.2002.

Cornelia Bührle, Archiepiscopal Representative for Immigration in the Archdiocese of the Catholic Church Berlin, Berlin, 08.08.2002.

Dietrich Thränhardt, Westfälische-Wilhelms-University Münster, 29.08.2002.

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