CONTROLING BORDERS: THE LOGICS AND POLITICS OF A EUROPEAN IMMIGRATION REGIME

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"It is ironic that at a time when national governments are keen to stress the importance of subsidiarity as a bulwark against the centralizing trends emanating from Brussels, ... [they] should find themselves agreeing to cede ground over immigration policy to the Community inch by inch out of strong practical necessity." (Philip, 1994: 188).

"State-centric theories such as Realism and Neo-realism would suggest that states, as sovereign entities, should be able to decide on the control of their external borders." (Ugur, 1995: 409)

Although pundits and policy practitioners dissent on the details, they nearly universally concur that, during the past decade and a half or so, immigration-related issues have ascended the heights of the public policy agendas of both the individual West European states and the European Union (EU) as a whole. According to this viewpoint, immigration-related issues have recently transcended their historical status as "low" questions of domestic public policy to become decidedly "high" issues of national and, increasingly, supranational policy and politics.[1] Given this perception, it is hardly surprising that the subject of immigration within the context of the European Union's expanding public policy agenda has attracted the attention of a growing number of scholars. Within their burgeoning scholarship a central question is often explicitly or implicitly posed: Why are West European states reluctant to forge and implement a common and comprehensive immigration policy regime? Or to put the issue into sharper focus: In light of their transparent and intractable failure to control effectively their respective national borders, why don't West European states do more to harmonize or communitarize their immigration policies?[2]

The intellectual starting point of this paper is that these questions, while pertinent, neglect the most obvious puzzle that is raised by the immigration-related policy initiatives that have been forged at the intergovernmental and supranational levels since the mid 1980s. Indeed, they neglect a very important

puzzle that necessarily stands these questions on their respective heads. Thus, the important question guiding this paper is not why West European states have hesitated to harmonize their immigration policies, but, rather, why they have chosen to cooperate in this policy area. From both a theoretical and analytical vantage point, the core issue is why they cooperate at all.

This question is a true puzzle in two respects. First, as above quote by Philip suggests, the recent trends toward greater cooperation on immigration policy and the incremental evolution of a nascent European immigration regime seemingly compromise the commitment of EU member states to "subsidiarity," a nebulous but politically lofty principle enshrined in the 1992 Maastricht Treaty that stipulates "the [European] Union would be responsible only for tasks that could be undertaken more effectively in common than by the member states acting independently."[3] At the very least, these trends appear to violate a widely-held assumption among scholars that many important EU member state governments are vigilant in defending this principle.[4]

A second and more important reason why recent developments in the area of immigration policy are puzzling is because they conspicuously depart from the existent state of affairs prior to the mid 1980s, a period when most European states appeared uninterested in cooperating on immigration-related matters and when the preservation of sovereign policy making authority in this area, for both pragmatic and symbolic reasons, seemed of paramount importance.[5] On this score, the recent intergovernmental and supranational initiatives in the area of immigration require explanation because the control of national territorial borders would appear to lie at the very heart of state sovereignty, a hallowed status that, as predicted by the various realist paradigms of international relations, most European Union member states have jealously defended through time.[6]

The main assumption of this paper is that in order to comprehend the puzzle of inter-state

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cooperation on immigration policy within the European Union we must adopt a predominantly rational, state-centered perspective. Our central argument is that the recent initiatives towards greater cooperation on immigration policy among EU states, within the decision making frameworks of both intergovernmentalism and supranationalism, can only be fully understood against the backdrop of the specific national interests and political pressures that are propelling each EU member state along the path of cooperation, collective action and greater policy harmonization. Several observations underpin this argument. First, on immigration-related questions, each member state is self-interested and, thus, motivated by its own peculiar set of policy goals.[7] Second, even when several or more EU member states share the same or similar interests and goals, their order of priority differs from one member state to the next.[8] And finally, the intensity of the political environment in which the respective member state governments define and pursue their national interests and goals significantly varies, thus making the search for common solutions to immigration-related problems more politically urgent in some countries than in others.[9]

The cumulative effect of these realities, as we will argue below, has been slow, but tangible, advancement toward greater cooperation on immigration policy among the member states of the European Union, but only progress of a special kind. Indeed, as we will demonstrate below, this progress exhibits two key features. Reflecting the complex nature of the so-called immigration dilemma confronting Western European policy makers, it is an uneven progress. As we will see below, for example, the immigration-receiving states of Western Europe have been far more inclined to harmonize their asylum laws and visa rules than their labor migration policies. Moreover, it is a progress primarily founded upon the method of intergovernmentalism and, within this decision-making methodology and cooperative framework, the pursuit of nationally-defined interests and policy agendas. Although the European

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Commission, among several EU institutions, has been increasingly active in fostering new, collective

policy initiatives, immigration policy with respect to third country migrants, i.e. persons from outside of

the Union, still mostly remains within the policy making jurisdiction of individual governments and states.

Recent Trends in Inter-State Policy Cooperation

Before describing the various concrete initiatives that have marked the recent progress toward

greater policy cooperation among the immigrant-receiving West European states, we must first underscore

four general trends. First, since the mid 1970s, all of the immigration-receiving countries of Western

Europe have made concerted, unilateral efforts to restrict non-EU immigration. Past and current evidence

of intergovernmental cooperation on immigration policy should thus be considered in light of this long-

lived and overarching commitment.[10] A second trend, already alluded to above, is the ever greater

involvement of the immigrant-receiving states in consultative exercises and forums that disseminate

information and fashion collective policy goals on immigration-related matters. Indeed, these exercises

and forums have proliferated at feverish pace.[11] A third trend is the increasing utilization by West

European governments of EU institutions and fora for the purpose of sharing information and fashioning

collective action strategies on immigration-related questions. And finally, a fourth trend is related to the

third: the increasing propensity of EU institutions, and particularly the European Commission, to assume

the lead in fostering new initiatives to facilitate inter-state cooperation on immigration-related issues.

Intergovernmental Policy Agreements, 1985-1997

For both general reasons and motives peculiar to each country, the immigration-states of Western Europe did not begin to cooperate on immigration-related issues in a systematic or earnest manner until the mid 1980s. It was during this period that the member states began to consider the possibility of more extensive coordination of their national policies "in the context of establishing complementary border-control measures."[12]

One of the earliest initiatives facilitating inter-state policy coordination was the founding in 1986 of the Ad Hoc Immigration Group of Senior Officials (AHIG). The AHIG emerged out of the TREVI Group, an intergovernmental body that was established in 1975 to combat terrorism across the European Community. Eventually the TREVI Group's jurisdiction was expanded to include immigration which, as a security issue, was considered on the same decision-making plane as terrorism.[13] The main goals of the AHIG were to emphasize the importance of each state's external border controls to the security of the Community as a whole and to facilitate the coordination of national policies. The method of the AHIG was to make policy recommendations to the national Ministers whose portfolio on domestic affairs included immigration. The relatively unbureaucratic character of the AHIG and the relative facility by which it tended to reach conclusions made it a preferred option to the drawing up and signing of conventions.[14] The AHIG persevered until 1993, when it was replaced by a Coordinating Committee on immigration matters in the Treaty on European Union (TEU).

Among the most significant intergovernmental policy agreements or parts of agreements that have been forged on immigration-related issues during the past decade and a half are: the *Schengen Agreement* (1985); the *Dublin Convention* (1990); the *Treaty on European Union* (1992); and the *Amsterdam Treaty* (1997). All of these agreements address immigration-related questions to some degree, and every one but the Amsterdam Treaty are currently fully in effect.

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Coming into force on March 26, 1995, some ten years after its political and legal genesis, the Schengen Agreement is now embraced by 13 of the 15 EU member states. Only the United Kingdom and Ireland remain outside Schengen and, thus, exclusively these EU states retain the prerogative to institute checks on all persons entering their respective territories.[15] The primary objective of the Agreement is to allow the unfettered movement of the nationals of the signatory states within the territorial boundaries of so-called "Schengenland." In so doing, it has transformed the adjoining countries into immigration buffer states.

At the core of the Agreement and its Supplementary Convention are commitments by the signatory states to dismantle their internal border controls on the movement of good and services, establish common external borders, adopt a common visa policy for Third Country Nationals (TCNs), strengthen internal controls, and create a common *Schengen Information System* (SIS) in order to facilitate inter-state law enforcement and judicial cooperation.[16] In connection with the third commitment, the Schengen states have constructed a common list that identifies over 125 countries whose citizens require a visa in order to enter the EU. The fourth commitment establishes a common computer bank which monitors the movements of dangerous individuals, traffickers, terrorists and missing persons.

Signed in 1990, the principal aim of the Dublin Convention is to harmonize most asylum procedures across the European Union. Its principal contribution to the construction of a European immigration regime is that it establishes the criteria for determining which member state should assume responsibility for processing an application for asylum made in any one of them. These criteria include such factors as whether the applicant has been issued with a residence permit or visa by a member state, whether a close relative has already been granted refugee status or whether the person has already spent time in a member state where there was an opportunity to apply for asylum there. Once recognized or

rejected by the original state of entry, the outcome is then respected by every member state.

The Dublin Convention has significantly altered the conditions under which third country migrants can apply for and be granted asylum in the European Union in two key respects. First and foremost, it has reduced incidences of "asylum shopping," a previously routinely-utilized practice by which prospective asylees sought asylum from one or more EU states with a particularly generous national asylum regime. In contrast to the past, most prospective asylees may now only request and be granted asylum in the country in which they first entered EU territory. Second, by virtue of the "third country option," third country migrants who request asylum can be returned to the transit non-EU country through which they first traveled, thus placing the burden on the transit state to review their asylum claims. If it is discovered that a claimant passed through a country other than the country of origin in which persecution was alleged, the individual can be returned to the transit state.

Influenced by Britain and several other EU states concerned about its ramifications for national sovereignty, the Treaty on European Union (1992) or the Maastricht Treaty, faces two ways on matters of immigration, effecting a compromise between the principles of intergovernmentalism and supranationalism. On the one hand, the Treaty respects and maintains the traditional authority of national governments by placing immigration matters under the third (intergovernmental) pillar of Justice and Home Affairs (JHA). Under Article K.1 of the Treaty, the following policy areas are identified only as matters of "common interest" in which both the member states of the EU and the Commission share the power of initiative:

1. Asylum policy;

2. Rules governing the crossing of persons of the external borders of the Member States and the exercise of controls therein;

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3. Immigration policy and policy regarding nationals of third countries;

4. Combating drug addiction in so far as this is not covered by 7 to 9;

5. Combating fraud on an international scale in so far as this is not covered by 7 to 9;

6. Judicial cooperation in civil matters;

7. Judicial cooperation in criminal matters;

8. Customs cooperation;

9 Police cooperation for the purposes of combating terrorism, unlawful drug trafficking and other

serious international crime.

In the spirit of intergovernmentalism and, thus, subject to the decision-making rule of unanimity, the TEU

permits the Council of Ministers to adopt joint positions, agree on joint actions or draw up Conventions

based upon international law. Also, under article K.4, the Treaty creates a Coordinating Committee

comprised of senior representatives from each state and a representative from the Commission to advise the

Council on immigration and asylum matters, security and law enforcement and judicial cooperation.

On the other side of the coin, however, and in furtherance of the goal of expanding the

Community's jurisdiction over immigration-related matters, the Treaty transfers new legal competence on

immigration issues to the Community. Most importantly, Article K.9 of the Treaty allows the policy fields

that are subsumed under Article K.1 to be eventually transferred to the Community pillar, thus potentially

extending Community law to asylum policy, the control of external borders, foreign entry and residence

requirements and illegal immigration.

The most recent major EU document pertaining to immigration, the Amsterdam Treaty (1997),

extends the areas covered by the Schengen Agreement and formally incorporates the Schengen

arrangement into the Union's single institutional framework. Under Title IIIa of the Treaty, "Visas,

Asylum, Immigration and Other Policies Related to Free Movement of Persons", Article 73i mandates that matters relating to "asylum, visas, immigration and controls at external borders ... will be brought under Community procedures ... during a transitional period of five years."[17] Moreover, the document foresees improved judicial and police cooperation with respect to "security" and "information sharing." Article 73j of the Treaty recommends the adoption of "measures with a view of ensuring ... the absence of any controls on persons, be they citizens of the Union *or nationals of third countries*, when crossing internal borders."[18] Although it is remains to be seen whether these latter provisions will ever be fully implemented, it is evident that the Treaty attempts to harmonize and possibly communitarize entry policies with respect to third country migrants.

As with the Schengen and other agreements, Britain and Ireland retain the prerogative under the Amsterdam Treaty to implement national border controls. Moreover, the Treaty allows the U.K. and Ireland to "opt out" of any·commitments that are adopted by the signatory states on asylum, immigration and visas. Visas apart, Denmark too retains this prerogative under the Treaty.

In addition to the aforementioned initiatives, the Justice and Home Affairs (JHA) Council, a body that was formed under Pillar III of the TEU and which makes recommendations with respect to immigration and asylum matters, has passed several resolutions during the past several years that deal explicitly with the status of Third Country Nationals within the EU. Although not binding, its resolutions are submitted to (via the K.4 Committee's Steering Group I) and considered by the various national Ministers responsible for immigration.[19]

The Puzzle of Inter-State Policy Cooperation

What explains the proliferation of intergovernmental agreements on immigration-related issues? The prevailing scholarship on this question offers several explicit or implicit hypotheses that purport to explain the recent progress towards greater policy cooperation among West European states and the incremental advance of a nascent European immigration policy regime. Three of these are inspired by the paradigms of *globalization, realism* and *neofunctionalism* that generally fall within the subfield of international relations and a fourth is drawn from the comparative politics paradigm of *political pluralism*. Below, we will summarize the central arguments that have been generated by each of these paradigms. Following this summary, we will briefly describe the hydra-headed nature of the immigration dilemma currently confronting Western Europe and the progression of events, beginning in the mid 1980s and continuing through the present, that have led to the emergence of a nascent European immigration regime. The primary purpose of the latter section is to scrutinize how well the aforementioned paradigms illuminate the question of why policy cooperation is occurring at this particular historical moment in time.

Globalization

In contrast to realist paradigms of international relations, which supposes state sovereignty and the predominance of states in the international system, the paradigm of globalization assumes that state power and authority have substantially waned in recent decades and that the sovereignty of the state has been irreversibly compromised in the face of transnational forces that exceed the individual state's reach and influence. As perceived through the lens of this paradigm, the power of individual states to regulate migration flows has incrementally and severely eroded as the transaction costs of international migration have declined, national borders have become more porous, labor markets have been increasingly liberalized, and basic citizenship rights in the postindustrial polity have been extended to and exercised by

postnational members, including migrant workers and other noncitizens.[20] As Harris characterizes the constraining implications of globalization:

> National economies can be well or badly steered by governments, but not
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> planned in detail, especially now with global integration. The factors of
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> production are not subject to much intersubstitution, particularly in conditions
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> of open competition. As a result, the discussion of alternatives to immigration ...
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> has a utopian character. It is not within the power of government, in an open
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> world system, to make such choices and implement them.[21]

Given the prevailing political consensus among West European governments that non-EU immigration should be restricted, inter-state policy cooperation has emerged, within the assumptions of globalization theory, as a rational, collectivist strategy to compensate for the accelerating deficit of state power and decision making authority in this policy area. According to this viewpoint, West European states are increasingly motivated to cooperate for a compelling pragmatic reason, i.e. in order to regain a greater measure of control over immigration and immigrant policy.

Realism

Although the realist paradigm of international relations has spawned several related schools of thought since WWII, at the core of each are three common assumptions.[22] First, the international system is anarchic and founded upon the principle of self-help. Second, states are unambiguously the dominant actors in the international system. And finally, "because power exists only relationally, it follows that

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world politics is inherently conflictual; all countries cannot increase their power or satisfy their national interests simultaneously." [23] To realist theorists, such as Susan Strange, the trends towards regime creation and collective action are generally inconsistent with the intrinsic nature of the international order.[24] Since states are self-interested and inherently distrustful of other actors within the international system, they will, whenever possible, act unilaterally. Moreover, as Robert Gilpin suggests, states have specific policy preference hierarchies which undermine their pursuit of mutual goals through collective action.[25] Their "choice sets" inevitably diverge, since each state finds itself in a multiplicity of relations (or "nested games") within which its interests are shaped and prioritized.[26] Although states do, in fact, routinely interact and cooperate with one another in intergovernmental fora, from a realist perspective such fora are ultimately utilized and politically useful only in so far as they advance or maximize the national interest.

The realist paradigm offers two related theses that purport to solve the enigma of interstate cooperation on immigration-related issues in Western Europe. The first, which might be usefully labeled the "retention of sovereignty" thesis, argues that since most immigration-related policy initiatives and commitments are, in practice, forged at the intergovernmental level, EU states willingly cooperate in this policy area because, in so doing, they actually cede little sovereign policy making authority. According to this thesis, the benefits of policy cooperation far exceed its costs. Moreover, and most importantly, a significant diminution of national sovereignty is not included among the aforementioned costs. As Ugur explains this perspective:

> State sovereignty implies strategic interaction between equally sovereign units
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> in the international system. One possible outcome of this interaction is the lack
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> or temporary nature of inter-state cooperation. This general conclusion, applied to

the specific case of migration implies that governments would tend to be reluctant to engage in international regulatory arrangements that would compromise their sovereignty.[27]

For adherents of this viewpoint, the decision to cooperate and act collectively on immigration-related questions is a choice to which states commit themselves freely in pursuing their respective national interests. However, because state sovereignty is largely uncompromised by the decision to cooperate, this commitment can be rescinded at any time should circumstances or the national interest change.

A second thesis inspired by the realist paradigm, the "threat of exclusion" argument, builds upon the first. According to this perspective, once a critical mass of states freely chose to cooperate on immigration-related issues and adhere to the rules of a common policy regime, other, more reticent, states are increasingly disposed to follow, fearing that a failure to do so may jeopardize their ability to realize their respective individual goals.[28] In this regard, the fear of exclusion is a particularly powerful motivation for reticent states within the regional context, where the more senior participants of an established policy regime tend to disproportionately reap its benefits. Moreover, the failure of states to participate early within a common regime may precipitate higher membership costs later, as by then the priories and rules of the emerging regime have become well established. Hence, while some EU states are wary of intergovernmental agreements on immigration and reluctant to compromise their sovereignty in this policy area, it is often difficult for them to stand aside and eschew the advantages enjoyed by states that have already acceded to such agreements. As a consequence, once a critical mass of West European states decided to cooperate on immigration-related matters from the mid 1980s forward, others inevitably followed suit.

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Neofunctionalism

Lying somewhere in between the aforementioned paradigms along the strong/weak state sovereignty axis, the neofunctionalist paradigm offers a "pluralist" theory of international relations. In contrast to the realist paradigm, neofunctionalism does not view the state as a monolithic actor; nor does it assume that states alone occupy and operate on the world stage. Rather, integral to the neofunctionalist paradigm are two key concepts. The first term, "spillover," posits the view that inter-state cooperation in one policy field logically, if not always inevitably, leads to cooperation in other, related areas.[29] A core assumption embedded within this concept is that the objectives of more important and/or preceding stages of policy integration and harmonization can often be jeopardized unless and until other, new policy areas are also integrated or harmonized. A second key concept, "supranationalism" implies, among other things, that as inter-state policy cooperation grows and as cross national networks become denser, states are disposed to discover common solutions to mutual problems. Increasingly, they do so by unanimous consent, thus avoiding votes, vetoes and subsequent expressions of antagonism. The strong bias in this process of decision making is in favor of reaching binding policy agreements.

Two major theses have emerged from within neofunctionalist framework to explain why a nascent European immigration regime is emerging at this particular time. The first thesis is that the prior commitment of European Union member states to the free movement of EU citizens within the territorial boundaries of the Single Market, as specified in the 1986 Single European Act, has increasingly compelled them to harmonize their non-EU migration policies in order to maximize the success and benefits of the former, more important commitment. Three independent arguments capture the specific, functional linkage between the completion of the Single Market and the increasing harmonization of immigration policy.

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The first argument is that the failure to harmonize national policies on non-EU immigration threatens to diminish the overall economic returns of the Single Market, as the nationals of some member states are disadvantaged in seeking employment in the labor markets of other member states who pursue relatively permissive policies towards less costly non-EU labor.[30] In order to avoid this negative externality, West European states have increasingly harmonized their immigration policy. A second argument is that the failure to harmonize member state policies on non-EU immigration threatens to distort competition in trade within the Single Market, as those member states with more liberal immigration policies and, hence, access to a cheaper supply of labor, gain an competitive economic edge over member states with less liberal immigration policies.[31] Since such a distortion could undermine the structural integrity of, not to mention domestic political support for, the Single Market, again, the member states have been increasingly motivated to harmonize their immigration policies. Yet a third argument observes that the abolition of most internal border controls, as prescribed by the Single Market program, threatens to jeopardize the ability of EU states to defend themselves adequately against external security threats such as international terrorism and drug trafficking.[32] In order better to secure their borders and maintain their individual security, the EU member states have chosen to cooperate more closely on immigration-related matters.

A second major thesis inspired by neofunctionalist theory is that the decision of the EU to admit Poland, Hungary, the Czech Republic and other CEE states to the European Union in the near future, states with large surplus labor populations, is a prime factor motivating EU member states to cooperate on immigration-related issues. The argument here is that, with the collapse of Communism in the East, West European states have become extremely vulnerable to east-west migration pressures,[33] pressures that could perhaps become more severe as the aforementioned states draw ever closer economically to the existing

Union. Thus, in order to preserve good relations with the Eastern states and maintain a positive political momentum in favor of their eventual admission into the Union, EU member states are motivated to cooperate on immigration issues. In this context, the larger and important goal of drawing the Eastern states into the European Union's orbit outweighs and supersedes any loss of national sovereignty that might follow from inter-state cooperation on immigration.

Domestic Pluralism

In contrast to the previous paradigms, which primarily focus on the motivations of and relations among states within the international arena, the domestic pluralist paradigm concentrates on the endogenous political factors that are inexorably propelling EU governments to cooperate on immigration-related matters. The argument here is that increasing inter-state cooperation on immigration-related issues is largely a function of the political pressures that are brought to bear on national governments by their predominantly illiberal electorates as well as anti-immigration interest groups and political parties.[34] In response to the growing political criticism from xenophobic electorates and anti-immigrant groups, EU governments are increasingly cooperating on immigration-relates questions in an effort to expand their individual and collective capacity to reduce non-EU immigration.

Within the framework of this paradigm it is reasonable to assume, depending upon the configuration of domestic factors, that the greater and more intense the political pressures for restricting new immigration in a given country, the stronger its motivation is to cooperate with other, similarly-pressured states in the international arena. Moreover, the more universal the experience of significant political stress in the domestic context, the greater the number of states that should be motivated to enter into formal, cooperative arrangements and agreements.

Related to this perspective is the view that, irrespective of the intensity of the political pressure that

obtains domestically and which obviously varies from one country to another, many EU governments are

highly motivated to devolve responsibility for immigration policy to higher, bureaucratic levels in order to

remove this nettlesome policy area from their domestic political agendas. According to Papademetriou,

EU governments that are biased toward supranational approaches to immigration-related problems are

especially motivated to devolve policy responsibility to the Union's institutions so that they may "blame

Brussels for politically unpopular--yet necessary--policies on immigration."[35]

The Hydra-Headed Immigration Dilemma

While these paradigms undoubtedly capture important dimensions of the immigration policy

dilemma in Western Europe and, as we shall argue below, each explains part of the puzzle of inter-state

cooperation, all suffer from a common shortcoming: an inability to represent and, thus, fully consider its

complex, multifaceted nature. Indeed, in order to appreciate the distinct challenges raised by the various

dimensions of migration and to understand better how they affect the decision-making calculuses of the

major immigrant-receiving countries, it is necessary first to specify its four major components: labor

migration (permanent and temporary); family reunification; humanitarian or forced migration (asylum-

seekers and refugees); and illegal migration. As we shall see below, the various facets of immigration have

impacted the immigration-receiving countries in somewhat different ways, with the more recent waves of

asylum seekers, refugees and illegal migrants precipitating the most intractable and universal challenges to

policy. Not coincidently, it is these facets of immigration that have more frequently and appropriately

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become the objects of inter-state cooperation.

Labor Migration

The first pillar of the migration dilemma in Western Europe captures the nearly universal experience of

post-WWII labor migration. Primarily unfolding from the end of World War II until the mid to late 1970s,

this first wave of postwar migration to Western Europe was defined and dominated by the mass movement

of surplus workers from the less developed countries of the Mediterranean (e.g. Greece, Italy, Portugal,

Spain, Turkey and Yugoslavia), parts of Eastern Europe (e.g. East Germany and Poland) and, in its latter

stages, select areas of the Third World (e.g. Algeria, India, Morocco, Pakistan, and Francophone West

Africa). The catalyst of this initial wave of mass migration was the postwar economic boom that was

generated within and enjoyed by the advanced industrial states which created acute labor shortages and

rigidities in domestic labor markets. To address these structural economic problems, private employers

and governments across Western Europe actively recruited or abetted the arrival of legions of foreign

workers. Although it is impossible to estimate the exact number of foreign workers who entered Western

Europe during this period, it was substantial according to every account. Fassmann and Münz, for

example, report that the overall number of foreigners residing in the 18 countries of Western Europe grew,

at a minimum, from 5,100,000 in 1950 to 10,900,000 in 1970-71.[36] By the mid 1970s, there were

approximately 185,000 foreign workers resident in Austria, 278,000 in Belgium, 553,000 in Switzerland,

775,000 in the United Kingdom, and some 2 million both in France and West Germany.

Apart from the net benefits it conferred on the domestic economies of Western Europe, the initial

wave of predominantly labor migration had several important features that are pertinent to our discussion.

First and foremost, it was a wave that was highly discriminating. It was discriminating in that each of the

major labor-importing states cultivated and often politically managed its own nearly exclusive stream of immigrant workers, tapping some sources of foreign labor while neglecting or discriminating against other sources. The previous and current strength of these privileged historical relationships are clearly demonstrated in Table 1. Even as late as 1990, when the aforementioned special relationships had weakened, the special links between the respective immigrant-receiving states and their privileged labor sources could still be detected in the contemporary patterns of immigrant residential concentration within Western Europe.

[Table 1 about here]

Second, the "turning point," or the juncture at which governments initiated aggressive efforts to reduce dramatically the influx of foreign labor, arrived at somewhat different moments across countries.[37] In Britain and Switzerland, for instance, the turning point came relatively early. In both countries political demonstrations of mass xenophobia and virulent anti-immigrant popular sentiment persuaded policy makers to curb labor immigration before the first "oil shock" during the early 1970s.[38] For the other immigrant-receiving countries in Western Europe, on the other hand, the turning point came later and was predominantly triggered by pressing economic, and not political, considerations. Specifically, the economic slump and mass unemployment that were caused by the first oil shock of the early 1970s motivated governments to restrict severely the immigration of foreign workers. As a consequence of this mass action, the *organized* flow of foreign labor into the major West European economies ceased, for all practical purposes, by 1979 or so.

Although West European governments could, and effectively did, curtail new legal labor

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immigration after the turning point, they could not conjure away through a simple, unilateral shift in domestic immigration policy the structural dependence of their economies on foreign workers. Indeed, by the mid 1970s, immigrant labor had come to fulfill an indispensable role in the domestic and regional economies by providing a highly flexible, inexpensive and malleable workforce that was almost as essential to fostering economic growth and prosperity during periods of high "native" unemployment as it was during periods of full employment in the advanced industrial societies.[39]

This new economic reality had several long-term implications. First, it meant that the state's post-turning point curbs on new labor immigration would little affect the demand factors in the economy that were attracting foreign labor to West European labor markets. These economic "pull" factors continued to operate independently of state immigration policy. Second, even after the turning point, it meant that foreign workers would continue to be highly motivated to enter the domestic and regional economies and private employers would continue to have strong economic incentives to employ them. In this respect, foreign workers and employers found themselves implicitly allied against the state's increasingly restrictive labor immigration policy. And finally, it meant that, for sound economic reasons, many West European governments would eventually be severely cross-pressured with regard to the issue of new labor immigration. Despite their official, stated opposition to new labor immigration and their formal, post-turning point initiatives to control it, many governments were, in fact, less than enthusiastic about excluding it altogether.

Given the above-cited implications, it is hardly surprising that *unorganized* labor migration to Western Europe, although significantly receding in the years immediately after the turning point, did not cease. Indeed, as Table 2 clearly demonstrates, the dependence of post-WWII West European economies on foreign labor continues through the late 1990s, with new and older foreign workers together comprising

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more than 5 percent of the total labor force in Austria, Belgium, France, Germany, Sweden and

Switzerland.

[Table 2 about here]

Family Reunification: Secondary Immigration and Permanent Settlement

The second wave of postwar immigration, which consists of the secondary migration of family members

and the dependants of the original economic migrants, also commenced during the early postwar period.

However, in contrast to the first wave, the second suddenly accelerated when primary immigration was

curtailed by West European governments during the period of the first oil shock and the attendant

economic recession of the early 1970s. This second wave, having crested by the mid 1980s or so, has not

yet entirely ebbed. As a consequence, it remains a significant source of new immigration to Western

Europe and, thus, an object of active state policy.[40]

The origins and logics of the second wave of migration are relatively straightforward. First of all,

the dependants of some of the original foreign workers began to arrive and settle permanently in Western

Europe during the 1960s as part of the normal dynamics of every historical mass migration of populations

across territorial borders.[41] That is, regardless of the prior intentions of the original economic migrants or

those of their host governments, a substantial percentage of so-called guest workers were destined to be

reunited with their families in the host country.[42]

The second wave of migration was propelled also by the logic of the postwar political-historical

bonds that structured inter-state relations between several of the major immigrant-receiving states and their

respective colonies and former colonies. Put simply, in the Belgian, British, Dutch, and French cases a

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disproportionate number of foreign workers who entered the country during the early stages of the first wave of migration automatically enjoyed many of the rights of full citizenship. As such, it was natural, if not inevitable, that family reunification and, subsequently, permanent settlement on a grand scale among these privileged immigrants would either accompany or result from the first wave of migration.[43]

In all the former colonial powers the second wave of migration was facilitated by the rights and privileges enjoyed by the large population of colonial foreign workers who exercised their prerogatives virtually from the first moment of their arrival in the host "mother" country. The possession of these rights by these privileged foreign workers significantly lowered the barriers to family reunification in the colonial countries. In so doing, they made the second wave of migration more robust and greater in scope.

Were West European governments generally aware that curbing labor immigration would accelerate greater secondary immigration and/or more permanent immigrant settlement? As a rule, they were not. However, it is fair to conclude that the acceleration of secondary immigration and greater permanent settlement were not always unanticipated and/or unwelcome outcomes. Most West European governments reluctantly tolerated and continue to accept relatively high levels of secondary immigration in order to facilitate the social integration of long-settled foreign workers in the host society. Once it became abundantly evident during the late 1970s that most foreign workers did not intend to return to their country of origin in the foreseeable future, West European governments facilitated the process of family reunification in order to stem the spread of social isolation, alienation and deviancy among settled immigrants.[44] As a result, with few exceptions, state family reunification policy remains, relative to the other dimensions of immigration, relatively liberal.

The "Crisis" of Asylees and Refugees

The third and most recent wave of migration to Western Europe, accelerating during the 1980s and persisting through the present, is predominantly comprised of legitimate and illegitimate refugees and asylum seekers. Although the full scope of this migration wave is impossible to ascertain, its origins are not. These origins are rooted in two distinct but, ultimately, intersecting historical moments: the decision of West European governments to impose severe restrictions on legal, and especially labor, immigration during the turning point; and the economic, political and social convulsions associated with the East European revolutions of the late 1980s and early 1990s.

The tendency of labor and other forms of immigration to persist and even accelerate after the turning point is best demonstrated by the post-1980 explosion of asylum seekers and refugees gaining entry into Western Europe (Table 3). As with seasonal and illegal immigration, refugee and asylum status had always been an indirect route to permanent labor immigration in Western Europe. Indeed, nowhere was this trend more prevalent than in West Germany, where an influx into the country during the early postwar period of more than eight million expellees and displaced persons from Germany's ceded eastern territories and four million political refugees and defectors from the German Democratic Republic provided the economy with a large and invaluable pool of skilled labor.[45] However, from a modest trickle during the 1960s and 1970s, the flow of asylum seekers and refugees into Germany and the other immigrant-receiving countries in the 1980s and 1990s was rather abruptly transformed into a flood. During a span of only seven years (1988-1994) more than three million persons sought asylum in Western Europe, including a million and a half in Germany, 280,000 in France, 245,000 in Sweden and 235,000 in the United Kingdom.

[Table 3 about here]

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What triggered this surge of persons seeking refugee and asylum status in Western Europe? The long fuse of the contemporary asylum "crisis" was ignited when the immigrant-receiving countries adopted measures to curb legal, permanent immigration during and after the turning point. According to Thränhardt, "[an] effect of closing the "main gate" of immigration was the enhanced importance of 'backdoors,' especially the quest for political asylum and illegal immigration."[46] Hollifield concurs, arguing that "with the closing of front-door immigration in the 1970s, political asylum became an increasingly attractive mode of entry for unwanted migrants who would come to be labeled 'economic refugees'."[47] For humanitarian reasons and as consequence of international treaty obligations, the immigrant-receiving states had far less latitude in the early 1990s to restrict the flow of asylum seekers and refugees than other immigrants. Particularly in West Germany, but also in Austria, the Netherlands and Switzerland, potential immigrants recognized that permanent immigrant status could be obtained far more easily after the turning point via the route of asylum than through other, traditional immigration channels. Not surprisingly, they increasingly seized this option when legal, economic immigration status became difficult to obtain.

However attractive the asylum route was immediately after the turning point to thousands of aspiring immigrants, it was not until the political revolutions which swept through Eastern Europe during the late 1980s and early 1990s that this backdoor channel to permanent immigration status in Western Europe became both intensively used and widely abused. Indeed, it is estimated that in 1989 alone some 1.2 million persons migrated to Western Europe from Eastern Europe and the former Soviet Union.[48] Of all the major immigrant-receiving states, none was more burdened by this mass migration than Germany. Given the country's proximity to Eastern Europe and its ultra permissive asylum laws, Germany inevitably became the favorite destination in Western Europe of prospective immigrants.[49]

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What must be said of this particular stream of the third wave of migration, of course, is that only a small fraction of all asylum seekers in Germany and elsewhere in Western Europe were and still are, in the end, officially granted asylum or permanent immigration status; indeed, of the 1.6 million requests for asylum to the states within the European Community and the European Free Trade Association between 1983 and 1990 approximately 80 percent were denied.[50] Moreover, although trends within countries vary, the rate at which refugee status was accorded to asylum seekers declined across Western Europe as a whole during this decade.[51] Nevertheless, what also must be recognized is that, despite the current trend of relatively low recognition rates, the pool of asylum seekers continues to supply the immigrant-receiving states with a large and seemingly inexhaustible supply of permanent immigrants. It is estimated, for example, that as many as 75 percent of those who survive the initial screening process continue to reside in Western Europe under either one of several legal statuses or illegally.[52]

Illegal Migration

While significant, the size of this post-turning point pool of migrants pales in comparison to that created by the influx of illegal aliens into the immigrant-receiving states during the 1970s, 1980s, and 1990s.[53] According to one conservative estimate, approximately 600,000 illegal foreign workers were employed within the states of the European Community during the early 1970s, an economically active population comprising at least 10 percent of the total immigrant workforce.[54] In 1976, this population is estimated to have expanded to between one and two million. By 1991, 14 percent of all foreign residents, or some 2.6 million persons, in Western Europe were believed to be irregular.[55] Other, more up to date, estimates put the total illegal population between three and four million persons, with between 150,000 and 300,000 arriving in Western Europe annually.[56] Of the latter population, at least two hundred thousand of these

illegal aliens are employed or residing in France, 650,000 in Germany, 600,000 in Italy, 300,000 in Spain and 100,000 in Switzerland.

The growing presence of illegal foreign workers and other irregular aliens in Western Europe, a phenomenon predating the early 1970s and necessarily embedded in all waves of legal migration, was nevertheless accelerated by the initiatives of the immigrant-receiving states to regulate new immigration after the turning point. Specifically, as legal entry for new foreign workers or the dependents of settled workers was made more difficult, aspiring immigrants increasingly chose irregular routes of entry into the country or violated the terms and exceeded the tenure of their restrictive residence and/or work permits.

Irregular aliens are implicitly encouraged to pursue these extra-legal courses by several favorable environmental factors operating within the immigrant-receiving countries. First, despite the ever present threat of government sanctions, private employers are often quite ready to employ and economically exploit illegal foreign labor.[57] The demand for illegal foreign workers after the turning point was especially robust in the primary and tertiary sectors of the French and Swiss economies and, later on, in Italy, Portugal and Spain. Second, since a substantial percentage of the new illegals are, in fact, not new migrants but, rather, old migrants whose residency and/or work privileges had expired, governments often quietly tolerate, for humanitarian reasons or to prevent labor market dislocations, their continued presence in the country and the economy.[58] Indeed, periodic government amnesties eventually and somewhat predictably afford many long-established illegals the opportunity to regularize their immigration status and put them on a more secure and permanent legal footing. And finally, illegal immigration was and is facilitated by the fact that undocumented aliens can often easily settle and find employment within the residential immigrant communities that had been previously established as a consequence of the first and second waves of migration. As predicted by globalization theory, the existence of established immigrant

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communities in the host countries act as an economic, cultural and social magnet for both further legal and illegal immigration after the turning point.

The immigrant-receiving states do not, course, entirely tolerate illegal immigration nor have they officially resigned themselves to its continuance. At one time or another virtually every state after the turning point has initiated special measures to discourage illegal immigration, and many states routinely and regularly deport over stayers and other irregular aliens. German policy makers in particular have pursued a highly-publicized, official policy of zero tolerance of illegal immigration.[59] Nevertheless, whatever the underlying intentions of these unilateral state efforts and the sincerity and vigor with which they were pursued, it is fair to conclude that they have barely put a dent in the illegal foreign population either domestically or regionally.

Explaining Inter-State Cooperation

In light of the complex and multifaceted nature of the contemporary immigration dilemma in Western Europe described above, the following section revisits the international relations and comparative politics paradigms that purport to explain why a nascent European immigration regime is slowly, but surely, evolving. Although, on their face, these structurally-based paradigms appear to conflict with one another, it is at the point of their intersection where a credible and comprehensive explanation of inter-state cooperation on immigration in Western Europe must necessarily begin.

Globalization

As we defined it above, globalization theory partially overlaps with the neo-liberal concept of "complex interdependence," a state of affairs, according to Keohane and Nye, in which the primacy of states has receded in favor of the growing importance of non-state actors in the international arena; issue-areas, once perceived as of second order importance to inter-state relations, have ascended the ladder of the international political agenda; and the threat of coercion no longer primarily governs inter-state relations and behavior.[60] As a consequence of these trends, a collective approach to the resolution of problems or concerns of international importance increasingly displaces and, ultimately, prevails over unilateral state initiatives.

It is in this relatively new and changing international environment that immigration, in fact, has emerged as a salient regional and international policy concern and the object of increasing inter-state cooperation within Western Europe during the past two decades. Immigration is, most obviously, a transnational and transregional phenomenon. The increasing facility with which third country migrants are able to leave their country of origin and transverse national territories; the explosion of technological and communication advances that facilitate the flow of information about the benefits or returns of migration to potential migrants; and the establishment and maintenance of extensive migration networks in the established host societies have all now converged, as predicted by globalization theory, to erode the ability of EU states to control their national borders and to elevate immigration-related issues onto the regional and international policy agendas.

It is also in this new context, in harmony with globalization theory, that some measure of collective action is now widely perceived by the immigration-receiving states as both desirable and imperative. As we have seen above, the major public good that is potentially distributable by a nascent European immigration regime, a reduction in the number of potential migrants seeking entry to Western Europe as

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well as more enforceable restrictions on those who are allowed to enter, are both universally embraced by the immigration-receiving states. Even in its the least ambitious and comprehensive form, a European immigration regime is obviously a valuable asset to those states willing to respect and obey its rules.

EU member-states are also transparently motivated, in concert with realist assumptions, to cooperate with one another within the context of a nascent immigration regime because of the diminished transaction costs effected by such a regime, as the burden (border control, deportation, asylum processing and data collection to name a few) associated with unwanted immigration in particular is more broadly and evenly distributed. Several of the intergovernmental agreements that have been struck since 1985, indeed, have already begun to deliver this public good.[61] The Dublin Convention, for example, eliminates the potential costs of processing the same asylum claim in several receiving states by respecting, across all states, any one member-state's asylum decision. A reduction in the transaction costs of migration to individual members is also effected by the common border control mechanisms specified in the Schengen Convention. Although some signatory states, and particularly France, remain skeptical of the efficiency and efficacy of coordinated police and judicial action, most recognize the advantages of more evenly distributing the growing costs associated with controlling territorial borders.

Largely in response to the phenomenon of globalization, then, the member states of the European Union have been motivated to coalesce around a set of common goals with respect to immigration. Their discovery of shared problems, in turn, has led them to pursue a set of common policies. Through their adherence to a succession of intergovernmental agreements the member states have already begun to reap the benefits of collective action. Having identified shared problems and pursued a set of common solutions on immigration-related matters, the question is then whether these same states perceive the cooperative agreements they have already struck as but first steps toward the construction of a fuller and

deeper immigration policy regime. It is with regard to this question that we must next consider, within the

context of realist theory, the motivations of the individual member states to enter into arrangements that

potentially and significantly compromise their decision making sovereignty.

Realism

Despite the pressures visited upon all states by globalization and the trends towards greater policy

cooperation cited above, it is quite evident, on the basis of the previous discussion and in harmony with

realist perspectives, that the major immigration-receiving states, and particularly Denmark, France and the

United Kingdom, are deeply reluctant to proceed too far or too fast less in the direction of yielding further

decision making sovereignty.[62] Although concrete commitments within the Amsterdam Treaty promise the

transference of some migration-related matters from intergovernmental (Pillar III) to Community

jurisdiction (Pillar I), many experts in the field of migration studies, including some EC policy makers, are

skeptical that these treaty commitments will ultimately be honored.[63] Their skepticism is founded on the

perception that, in those areas where policy cooperation and supranationalism are currently farthest

advanced, primarily in the areas of asylum, illegal immigration and border control policies, the member

states of the EU have been motivated to cooperate primarily on the basis of convergent national interests.

Wherever and whenever their interests *do not* self-evidently coincide, as they largely do not with respect to

primary and secondary migration issues, little in the way of policy harmonization or communitarization

has, in fact, been proposed or achieved.

Although the threat of exclusion may be encouraging some degree of inter-state cooperation with

respect to the restriction of the access of third country migrants to the EU (in the form of participation in

the Schengen Information System, for instance), this motive, to date, has been insufficiently powerful to

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compel otherwise recalcitrant states to yield all, or even most, of their national prerogatives on immigration matters. Along these lines Moravscik has persuasively argued that, historically, the member states of the EU have acted in concert only in those instances when the costs of sovereignty compromised clearly outweigh the benefits of collective action.[64] Short of this point, inter-state policy cooperation and, ultimately, Community policy has largely converged around the lowest common denominator. Moreover, Moravscik's reference to the practice of policy "flexibility," a practice whereby recalcitrant states have historically been offered "opt out" options in order to permit their participation in otherwise unattractive or unacceptable agreements, applies well to the specific case of immigration. In the case of the Schengen Convention, for example, significant concessions, including an "island exclusion" clause were generously offered to the UK, Ireland and Denmark in order to facilitate their participation, an offer that they ultimately rejected. In an example of convoluted logic that could only be founded and justified on the basis of neofunctionalist expectations, this exclusion would permit the so-called island states to participate in Schengen without having to adopt its principal imperative – the elimination of external borders.

Neofunctionalism

As the member states of the European Union draw ever closer together under the umbrella of economic and monetary union and as they cautiously forge closer political ties and a common foreign and security policy at century's end, it is consistent with the assumptions of the neofunctionalist paradigm that immigration policy has become the object of increasing inter-state cooperation. In harmony with this perspective, each major intergovernmental agreement on migration has spawned another during the past decade and a half, as the anomalies or weaknesses of previous agreements have been systematically addressed and corrected by subsequent ones. As predicted by neofunctionalist theory, the habit of

cooperation has become routinized and its fruits embedded in a series of EU treaties and institutions. With each new major agreement, the member states have devolved more of their traditional authority and responsibility for immigration-related matters to intergovernmental and, subsequently, supranational institutions.

Having said this, however, the progress of a European immigration policy regime has been painfully slow and uneven, closely resembling the "stop and go" cycle of regional integration described by Corbey.[65] As we argued above, until the mid 1980s, few member states were willing to commit themselves to binding resolutions regarding migration,[66] choosing instead to strike a series of largely voluntary, non-binding agreements. Even at the beginning of 1990s, the immigration-receiving states were extremely reluctant to establish an over-arching regulatory mechanism in this policy area.[67] Although several major intergovernmental agreements were eventually struck, none significantly compromised the member states' national prerogatives on immigration policy.

In an apparent contradiction to this trend, the Amsterdam Treaty does promise that some entry-based migration policies will, in a few years' time, be communitarized. Yet, even now after its ratification, several states are visibly reluctant to follow through on their commitments under the Treaty, with some refusing, for example, to abandon important national prerogatives on visa policy.[68]

Indeed, although the Schengen states have seemingly compromised the most potent symbol of their national sovereignty -- control of their territorial boundary -- and adopted a common external border, their commitment to the Convention is transparently revocable, as demonstrated by the example of those states that have, on several occasions, reinstituted their territorial border checks for real or imagined reasons of national security.[69] Similarly, although, under the Dublin Convention, the member states are formally committed to sharing the burden of processing and adjudicating asylum claims, they have not

significantly abdicated their right to interpret and apply international conventions on asylum as they have historically and, ultimately, as they see fit. Flying in the face of the spirit, if not the letter, of the Dublin agreement, the major immigration-receiving states have steadfastly refused to harmonize fully their asylum determination procedures, agree upon a common definition of a refugee or submit to an authoritative supranational body that would make binding asylum-related decisions for all. Even a decade removed from the Dublin Convention coming into force, the contours of a comprehensive European *asylum* regime, let alone a full-blown *immigration* policy regime, are but barely visible.

Domestic Pluralism

In contrast to international relations paradigms which, as we argued above, primarily focus on the motivations and incentives of states within the international area, the political pluralist paradigm privileges domestically-based factors. However, despite originating from a different vantage point, it neither denies nor necessarily contradicts international relations-inspired theories but, rather, it compliments these theories by constructively illuminating the domestic variables and environments that must be considered in constructing a comprehensive account of inter-state policy cooperation on immigration-related issues.

That the various member state governments of the European Union are subject to different societal pressures to restrict or halt new immigration has long been implicitly assumed and can, in fact, be verified empirically.[70] A public opinion survey conducted in fall, 1997, for example, measured the comparative strength of anti-immigrant, public feeling across the European Union. Disaggregating the data along national lines, Table 4 rank orders the member countries on the question of whether or not its population felt that there were "too many" non-national residents. Greece, with 71 percent of its general population who thought there were too many foreigners, occupied the pinnacle of the EU opinion scale, while Finland,

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with only 10 percent of the population resenting the presence of non-EU nationals, was located at the lowest, most tolerant, end of the opinion continuum. In addition to Greece, half or more of respondents in Austria, Denmark, Germany and Belgium expressed the view there were too many immigrants in their country.

[Table 4 about here]

In the same survey respondents across the EU were also asked to recommend an appropriate state policy response to persons fleeing human rights abuses in their country of origin and seeking asylum in the European Union (Table 5). As was the case with the previous question, the center of gravity of public opinion widely varied across countries. On this question, the Spanish were the most munificent, with 45 percent of respondents agreeing with the statement that political asylum seekers should be welcomed without restrictions. The Spanish population's generous lead was followed by the Dutch (35%), the Portuguese (28%) and the Italians (24%). Among the least favorably inclined toward political asylum seekers, and well below the EU opinion mean, on the other hand, were respondents in Belgium and the U.K. In these two major immigration-receiving countries, a quarter or more of those surveyed endorsed the view that persons fleeing from human rights abuses in their home country should not be granted political asylum.

[Table 5 about here]

Additional, although somewhat less direct, empirical evidence that the member state governments

of the European Union are subject to different levels and intensities of societal pressures is also evident in the uneven electoral performance of far right political parties across the EU. These are parties that, to different degrees and with different levels of effectiveness, articulate, aggregate and politically represent anti-immigrant public sentiment in their respective countries. Updating Kitschelt's data to include electoral outcomes and changes in the number of foreign born persons in the immigration-receiving countries during the 1990s,[71] Table 6 clearly demonstrates that a wide gap exists in the electoral support for anti-immigrant parties across Western Europe. In Britain, Germany, the Netherlands and Sweden, for example, electoral support for anti-immigrant parties in national elections is, and has been historically, extremely low (i.e. <2 percent). In Austria, Denmark, France, Italy and Norway, on the other hand, electoral support for these parties is relatively high, as anti-immigrant parties can and do routinely garner more than 6 percent of the national vote in each of these countries.

[Table 6 about here]

At minimum, the above data yields two conclusions about the domestic context within which state strategies to cope with immigration-related challenges are considered and forged. First, and most importantly, these contexts vary significantly from state to state. In Belgium, France, Germany and Greece, for example, public opinion is obviously very unfavorably disposed towards immigrants in general and political asylum seekers in particular. A milder and more inclusive public opinion environment, on the other hand, generally prevails in Finland, Portugal and Spain. Given these differences, it is not unreasonable to assume that the governments of the former states are under greater domestic political pressure than the latter to restrict new immigration and to adopt every means possible to restrict it

effectively, including means that logically lead to cooperation with other EU states.

Second, and despite the aforementioned differences of domestic environments, the center of

gravity of public opinion within the European Union as a whole is predominantly exclusionary and

illiberal. Indeed, given the public opinion data cited above and the proliferation and relative political

success of far right political parties across the European Union, it is not difficult to see why a nascent *and*

narrow European immigration regime is emerging at this time that is almost exclusively concerned, indeed

obsessed, with restrictionist measures. It is also not difficult to comprehend why the option of devolving

decision making authority and, hence, responsibility for some dimensions of immigration policy (such as

asylum seekers and illegals) to the European Union would be a seductive one for those governments that

feel particularly besieged by illiberal public opinion and the activities of domestic anti-immigrant parties

and groups.

Conclusions: The Limits of Supranationalism

Where do immigration-related questions then stand on the agenda of the European Union after a

decade and a half of rather expansive activity, only some of which is described above?[72] Even the most

skeptical interpretation of the aforementioned events and trends must allow that immigration-related

matters are slowly, but surely, proceeding along the path from intergovernmental to supranational

competence. Since the mid 1980s the European Community, and particularly the European Commission,

have acquired, or will acquire in the foreseeable future, expansive competence over immigration-related

matters, particularly in the areas of asylum and refugee policy and border security.

Nevertheless, having conceded the point, the significance and pace of this trend should not be exaggerated. As Favell persuasively argues in his analysis of the Amsterdam Treaty:

What actually came out of the Amsterdam Treaty in formal terms was rather limited.

As yet, then, the crystallization of a truly distinct European "immigration regime"

is on hold. ... Little substantive has been shifted formally to the European level,

and that which has, does not seem to be particularly progressive. ... Immigration-related

issues, therefore, will remain relatively insulated from the progressive-minded influence

of the Commission or Parliament, who have been making strong efforts to push new

thinking in this area in recent years.[73]

Ardittis and Riallant agree, arguing further that a "comprehensive and sustainable European policy on immigration will probably not result from the Amsterdam Treaty, since 'national exceptions' will continue to nullify any future, embryonic policy."[74] Indeed, a fair summary of the recent trends in the evolution of a European immigration policy regime inevitably yields the following conclusions: 1) most of the recent major breakthroughs on policy harmonization since 1985 have been intergovernmental in nature; 2) several initiatives that significantly advance immigration policy further in the direction of supranationalism have yet to be fully ratified or implemented; 3) the policy areas that are covered by these initiatives are far from comprehensive; and 4) in harmony with the most universally-embraced policy preference among EU member states prior to 1985 and since, the central thrust of these initiatives, virtually to the exclusion of all other possible objectives, is the reduction of non-EU immigration.

The most important and universal thread running throughout all of the major intergovernmental

policy initiatives on immigration since 1985 is, indeed, a transparent bias in favor of restricting the flow of third country migrants. Consistent with the assumptions of the globalization thesis, all EU member states have conceded, to different degrees, that they cannot achieve their restrictionist policy objectives by acting unilaterally. As a consequence, they have voluntarily adopted a variety of collective measures to diminish the flow of persons entering their respective societies and the European Union as a whole. As predicted by neofunctionalist theory, their initial efforts at cooperation have precipitated further cooperative initiatives, as their pursuit of common goals has become increasingly routinized and its fruits embedded in a series of EU treaties and institutions.

Having conceded this, however, none of these paradigms illuminate the important nuances of this cross regional restrictionist policy consensus and nascent immigration policy regime. Specifically, none adequately explains, for example, the rather advanced state of inter-state cooperation on asylum and border controls and the corresponding lack of significant cooperative initiatives on labor or secondary migration policy.

As we argued above, any comprehensive explanation for why inter-state cooperation is much farther advanced in some areas of migration than others must incorporate an appreciation of the complex and multifaceted nature of the so-called immigration dilemma in Western Europe. Given this nature, it is both reasonable and logical to assume that the immigration-related policy agendas of the member states only partially overlap. In those policy areas where agreement among the member states is wider and deeper, as it obviously is in the areas of asylum, border controls and illegal migration, significant progress has been achieved in forging common policies. On those dimensions of migration where individual state objectives do not apparently converge very much, as they appear not to do with respect to labor and secondary migration issues, little policy cooperation among the member states is evident.

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Such an explanation must also take into account the domestic contexts in which individual state policy preferences are forged. Specifically, it must recognize that the intensity of the domestic political environment in which the respective member state governments define their national interests and goals significantly varies. This environment has three implications for the progress of a European immigration policy regime. First, the incentive to pursue common solutions to immigration-related problems is stronger and more politically urgent in some countries than in others. Second, it implies that inter-state cooperation is at least partly a product of domestic political pressures. And third, and most importantly, it implies that the domestic context can act either as a drag on or an accelerator of inter-state cooperation. In this last respect, the more universal the experience of significant political stress in the domestic context, the greater the number of states, *ceteris paribus*, that are motivated to cooperate with others on immigration-related issues.

Inter-state cooperation in this context, however, does not imply the irresistible erosion or irrevocable loss of national decision-making sovereignty. Nor does it necessarily imply, as globalization theorists contend, that the traditional authority of the state has significantly waned in the face of transnational forces, including migration, that are beyond its reach and influence. Rather, what it implies is that as the member states of the EU identify and seek to achieve their migration-related goals in an increasingly interdependent regional and international environment, they are proceeding rationally and in the spirit of "guarded multilateralism."[75] In so doing, they are ceding their respective decision-making prerogatives but slowly, compromising only as much sovereignty as is necessary to achieve the objectives they cannot otherwise accomplish by acting unilaterally.

Table 1. Percent distribution of foreign residents by country of origin within the total foreign population, 1990.

	COUNTRY OF RESIDENCE					
Country of origin	Belgium	France	Germany	Netherlands	Sweden	Switzerland
Algeria	1.7	97.3	1.1	-	-	-
Finland	-	-	7.9	-	92.1	-
Italy	16.6	17.5	37.8	1.2	0.3	26.7
Morocco	14.9	61.5	7.1	16.5	-	-
Portugal	2.0	76.8	10.1	1.0	-	10.2
Tunisia	2.6	85.6	10.7	1.1	-	-
Turkey	3.8	8.9	74.3	9.0	1.1	2.8
Yugoslavia	0.6	5.7	72.1	1.5	4.5	15.5

Source:

Table 2. Foreign or immigrant population and labor force in selected West European countries, 1996.

Country	% of total pop.	% of total labor force
Austria	9.0	10.0
Belgium	9.0	8.1
Denmark	4.7	3.0
France	6.3	6.3
Germany	8.9	9.1
Netherlands	4.4	3.1
Norway	3.6	2.6
Sweden	6.0	5.1
Switzerland	19.0	17.9
United Kingdom	3.4	3.4

Source: OECD SOPEMI (1998) *Trends in International Migration, Annual Report* (Paris: OECD), p. 31.

Table 3. Inflows of asylum seekers into select Western European countries, 1980-94 (thousands)

Country	1980-87	1988-94	Peak year
Austria	90.0	108.7	1991
Belgium	33.7	98.8	1993
Denmark	26.1	56.9	1993
France	187.6	280.4	1989
Germany	480.3	1,561.6	1992
Netherlands	32.9	172.5	1994
Norway	12.9	41.6	1993
Sweden	63.2	245.4	1992
Switzerland	62.8	177.3	1991
United Kingdom	40.6	235.9	1991
Western Europe	**1,048.9**	**3,040.3**	**1992**

Source: OECD SOPEMI (1995) *Trends in International Migration, Annual Report 1994* (Paris: OECD), p. 195.

Table 4. Anti-immigrant public sentiment in the European Union (1997)

COUNTRY	NUMBER OF FOREIGNERS		
	Too Many	*A Lot, But Not Too Many*	*Not Many*
Greece	71	27	1
Belgium	60	32	3
Italy	53	35	9
Germany	52	39	4
Austria	50	40	5
France	46	40	7
Denmark	46	37	15
EU	**45**	**40**	**10**
Britain	42	40	12
Netherlands	40	51	8
Sweden	38	50	10
Luxembourg	33	57	6
Portugal	28	41	20
Spain	20	47	23
Ireland	19	41	34
Finland	10	34	53

Source: European Commission, *Eurobarometer*, No. 48 (Autumn, 1997), p. 71.

Table 5. Public acceptance of persons seeking asylum in the European Union (1997)

COUNTRY	RECOMMENDATION		
	Accept Without Restrictions	*Accept With Restrictions*	*Not Accept*
Spain	45	41	4
Netherlands	35	54	9
Portugal	28	49	13
Italy	24	55	13
Denmark	23	63	12
Austria	23	54	15
Finland	22	64	11
France	21	53	21
EU	**20**	**55**	**18**
Luxembourg	16	55	21
Ireland	13	62	12
Germany	13	61	21
Greece	13	59	24
Sweden	12	70	9
Britain	10	56	25
Belgium	10	51	32

Source: European Commission, *Eurobarometer*, No. 48 (Autumn, 1997), p. 70.

Table 6. Size of foreign born population and anti-immigrant party mean electoral performance (1980-98)

ELECTORAL SUPPORT	FOREIGN BORN POPULATION (1997)	
	< 5 Percent	*5-10 Percent*
Average > 6%	Denmark (3.7)	France (8.0)
	Norway (3.4)	Austria (6.3)
	Italy (2.6)	
Average > 2%		Belgium (9.8)
Average < 2%	Netherlands (4.8)	Germany (8.2)
	Britain (4.2)	Sweden (5.9)

Sources: Herbert Kitschelt, *The Radical Right in Western Europe: A Comparative Analysis* (Ann Arbor, MI: University of Michigan Press, 1995), p.61; and various national election results in the 1990s.

NOTES

1. See Rey Koslowski, "European Union Migration Regimes: Established and Emergent," in Christian Joppke, ed., *Challenge to the Nation-State: Immigration in Western Europe and the United States* (New York: Oxford University Press, 1998), p. 153; and Adrian Favell, "The Europeanization of Immigration Politics," *European Immigration Online Papers* 2/8 (1998), p. 2.

2. See, for example, Sarah Collinson, *Beyond Borders: West European Migration Policy Towards the 21st Century* (London: Royal Institute of International Affairs, 1993), pp. 100-104; Demetrios G. Papademetriou, *Coming Together or Pulling Apart? The European Union's Struggle with Immigration and Asylum* (Washington, D.C.: Carnegie Endowment for International Peace, 1996), p.12; and Cornelis D. deJong, "European Immigration Policies in the Twenty-First Century?" in Emek M. Ucarer and Donald J. Puchala, eds., *Immigration into Western Societies: Problems and Policies* (Pinter: London, 1997), p. 323.

3. Desmond Dinan, *An Ever Closer Union?* (Boulder, CO: Lynne Rienner, 1994), p. 124.

4. Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (Ithaca, NY: Cornell University Press, 1998), p. 455.

5. Denmark, Germany, France, the Netherlands, and the United Kingdom, for example, somewhat successfully challenged, in the European Court of Justice, the European Commission's decision in 1985 to compel member states to give the Commission advance notice of any draft measures they intended to implement toward Third Country Nationals living and working within their territory. For a description of this conflict see Papademetriou, *Coming Together*, p. 21.

6. Myron Weiner, *The Global Migration Crisis: Challenge to States and Human Rights* (New York: Harper Collins, 1995), p. 9.

7. On this point see Gallya Lahav, "Ideological and Party Constraints on Immigration Attitudes in Europe," *Journal of Common Market Studies* 35 (September, 1997), pp. 378-379.

8. Ibid., pp. 391-394.

9. On this point see Bernhard Santel, "European Community and Asylum Seekers: The Harmonization of Asylum Policies," in Dietrich Thraenhardt, ed., *Europe: A New Immigration Continent* (Munich: Lit Verlag, 1992).

10. See, for example, the various case studies in Wayne A. Cornelius, Philip Martin, and James F. Hollifield, eds., *Controlling Immigration: A Global Perspective* (Stanford, CA: Stanford University Press, 1994).

11. For a comprehensive description of these exercises and fora see Emek M. Ucarer, "Europe's Search

for Policy: The Harmonization of Asylum Policy and European Integration," in Ucarer and Puchala, eds., *Immigration into Western Societies*, pp. 284-304.

12. Papademetriou, *Coming Together*, p. 25.

13. Ibid., p. 32.

14. Daniele Joly, *Migration, Minorities and Citizenship* (London: Macmillan Press, 1996) p. 52.

15. Britain has recently signaled its interest in signing on to some parts of the Schengen Agreement, i.e., those which allow European law enforcement to pool information on criminal gangs, drug smuggling and illegal immigration.

16. Papademetriou, *Coming Together*, pp. 26-27.

17. *Treaty of Amsterdam Amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts*, (http://ue.eu.int/Amsterdam/en/treaty/main.html).

18. Ibid.

19. In June 1994, for example, the JHA Council adopted the *Resolution on Limitations on Admission of* (TCNs) *to the Member States for Employment*, which noted that, because of high unemployment levels throughout Europe, "Community employment preference (should) be put properly into place." The Resolution suggested that TCNs should be employed only in instances where EU or EFTA nationals or long-term TCN residents were not available to fill employment vacancies. Two other resolutions on migration matters were also adopted by the JHA Council in 1994: a resolution relating to limitations on the admission of (TCNs) to the territory of the Member States for the purpose of pursuing activities as self-employed persons and a resolution on the admission of Third Country Nationals to the EU for study purposes.

20. See James F. Hollifield, "Migration Trade and the Nation-State: The Myth of Globalization," unpublished paper presented to the 39th Annual Meeting of the International Studies Association (March, 1998).

21. Nigel Harris, *The New Untouchables: Immigration and the New World Worker* (New York: I.B. Tauris, 1995), p. 213.

22. David A. Lake, "Realism," in Joel Krieger, ed., *The Oxford Companion to the Politics of the World* (New York: Oxford University Press, 1993), pp. 771-772.

23. Ibid., p. 772.

24. "Cave! Hic dragones: A Critique of Regime Analysis," in Stephen Krasner, ed., *International Regimes* (Ithaca, NY: Cornell University Press, 1983), pp. 337-355.

25. Robert Gilpin, *War and Change in World Politics* (Cambridge, Cambridge University Press, 1981), p. 19.

26. George Tsebelis, *Nested Games: Rational Choice in Comparative Politics* (Berkeley, CA: University of California Press, 1990), p. 69.

27. Mehmet Ugur, "The Immigration Policy of the European Union: The Inadequacy of Structural Explanations," in Mehmet Ugur, ed., *Policy Issues in the European Union* (Dartford, Kent: Greenwich University Press, 1995), p. 409.

28. With respect to this general argument see Andrew Moravcsik, "Negotiating the Single European Act," in Robert O. Keohane and Stanley Hoffman, eds., *The New European Community: Decision making and Institutional Change* (Boulder, CO: Westview Press, 1991), pp. 56-57.

29. This concept was first introduced by the founding father of neofunctionalism, Ernst B. Haas, in his study of the European Economic Community, *The Uniting of Europe: Political, Social and Economic Forces, 1950-1957* (Stanford, CA: Stanford University Press, 1958).

30. Ugur, "The Immigration Policy of the European Union," p. 410.

31. Ibid.

32. See, for example, Sarah Collinson, "Coherent Interests? Coherent Policies? The Development of a 'Common' Policy in the European Union?" unpublished paper presented to the conference, *Europe: The New Melting Pot?* University of Notre Dame (March 23-24, 1998).

33. Koslowski, "European Union Migration Regimes," p. 169.

34. This argument is captured, in part, in Jeannette Money, "No Vacancy: The Political Geography of Immigration Control in Advanced Industrial Countries," *International Organization* 51 (Autumn, 1997).

35. Papademetriou, *Coming Together*, p. 52.

36. Heinz Fassman and Rainer Munz, " Patterns and Trends of International Migration in Western Europe," in Heinz Fassman and Rainer Munz, eds., *European Migration in the Late Twentieth Century* (Brookfield, VT: Edward Elgar, 1994), p. 6.

37. Ibid., p. 7.

38. See Anthony M. Messina, *Race and Party Competition in Britain* (Oxford: Oxford University Press, 1989), pp. 34-44; and Hans-Joachim Hoffmann-Nowotny, "Switzerland," in Hammar, *European Immigration Policy*, p. 217.

39. On this point see Harris, *The New Untouchables*, pp. 175-185; and OECD SOPEMI (1998) *Trends in International Migration, Annual Report 1998* (Paris: OECD), p. 36.

40. OECD SOPEMI, *Trends in International Migration, Annual Report* (Paris: OECD, 1998), p. 31.

41. Stephen Castles and Mark J. Miller, *The Age of Migration: International Population Movements in the Modern World* (New York: Guilford, 1993), pp. 78-79.

42. Muhammad Anwar, *The Myth of Return: Pakistanis in Britain* (London: Heinemann, 1979).

43. The ranks of this group were substantially swelled after 1970 by thousands of postcolonial immigrants from Surinam and the Dutch Antilles. See Han B. Entzinger, "The Netherlands," in Hammar, ed., *European Immigration Policy*, p. 52.

44. For a vivid description of these problems see Stephen Castles and Godula Kosack, *Immigrant Workers and Class Structure in Western Europe* (London: Oxford University Press, 1973), pp. 356-373.

45. Fassman and Münz, "Patterns," in *European Migration*, p. 9.

46. "Europe," in *Europe - A New Immigration Continent*, pp. 38-39.

47. James A. Hollifield, "The Migration Challenge: Europe's Crisis in Historical Perspective," in Christian Soe, ed., *Annual Editions: Comparative Politics 95/96* (Guilford, CT: Dushkin, 1995), p. 112.

48. Fielding, "Migration," p. 44.

49. Germany changed its constitution and its asylum laws in a more illiberal direction in 1993.

50. Fielding, "Migration," p. 56.

51. OECD SOPEMI, *Trends in International Migration, Annual Report 1994* (Paris: OECD, 1995), p. 18.

52. Jonas Widgren, "Movements of Refugees and Asylum Seekers: Recent Trends in a Comparative Perspective," in Organization for Economic Co-operation and Development, *The Changing Course of International Migration* (Paris: OECD, 1993), p. 92.

53. Miller and Martin define illegals in Western Europe as those individuals: "who have entered outside of recruitment procedures, those who were entitled to legal residency but have overstayed their permits, those who have valid residency permits but have taken up employment illegally, and those who possess work permits but have abused them by working at unauthorized jobs. A final category of illegal aliens includes those who have migrated without documents and then have taken up employment." Mark J. Miller and Philip L. Martin, *Administering Foreign Worker Programs* (Lexington, MA: Lexington Books, 1982), p. 59.

54. Jonathan Power, *Migrant Workers in Western Europe and the United States* (Oxford: Pergamon Press, 1979), p. 27.

55. Martin Baldwin-Edwards and Martin A. Schain, "The Politics of Immigration: Introduction," in Martin Baldwin-Edwards and Martin A. Schain, eds., *The Politics of Immigration in Western Europe* (Portland, OR: Frank Cass, 1994), p. 5.

56. The Economist, *Millions Want to Come* (April 4, 1998).

57. Henk Overbeek, "Towards a New International Migration Regime: Globalization, Migration and the Internationalization of the State," in Robert Miles and Dietrich Thränhardt, eds., *Migration and European Integration: The Dynamics of Inclusion and Exclusion* (London; Pinter, 1995), pp. 31-32.

58. On this point see Alec G. Hargreaves, *Immigration, 'Race' and Ethnicity* (New York: Routledge, 1995), p. 7.

59. Power, *Migrant Workers*, p. 30.

60. Robert O. Keohane and Joseph S. Nye, "Complex Independence and the Role of Force," in Robert Art and Robert Jervis, eds., *International Politics: Enduring Concepts and Contemporary Issues* (3rd edition) (New York: Harper Collins, 1992).

61. Papademetriou, *Coming Together*, p. 51.

62. On this point see Colleen V. Thouez, "Applying Regime Analysis to Migration in the EU," *International Politics: A Journal of Transnational Issues and Global Problems*, forthcoming.

63. Thouez interview with Jan de Ceuster, DG XV, Interior Market and Financial Services, European Commission (October 14, 1998).

64. Andrew Moravcsik, " Europe's Integration at Century's End," in Andrew Moravcsik, ed., *Centralization or Fragmentation? Europe Facing the Challenges of Deepening, Diversity and Democracy* (New York: Council on Foreign Relations, 1998), p. 11.

65. Dorette Corbey, "Dialectical Functionalism: Stagnation as a Booster of European Integration," *International Organization* 49 (Spring, 1995).

66. Papademetriou, *Coming Together*, pp. 12-13.

67. Ibid., pp. 50-51.

68. Le Monde (Paris), *Patrick Weil defend son approche*, (August 8, 1997).

69. France, for example, unilaterally reintroduced border controls for a brief period in the spring of 1995.

In January, 1998 the German government tightened controls on its southern and western borders to stem a possible influx of Kurdish refugees from Italy and Greece.

70. For a discussion of the relevance of the differences of cross national, inter-elite attitudes on immigration see Lahav, "Ideological and Party Constraints."

71. Herbert Kitschelt, *The Radical Right in Western Europe: A Comparative Analysis* (Ann Arbor, MI: University of Michigan Press, 1995), p.61.

72. See Ucarer, "Search for Asylum Policy," pp. 302-303.

73. "Europeanization of Immigration Politics," p. 4.

74. Solon Ardittis and Cecile Riallant, "Issues and Prospects of a Common European Immigration Policy," unpublished paper presented to the conference, *Europe: The New Melting Pot?* University of Notre Dame (March 23-24, 1998).

75. Ucarer, "Search for Asylum Policy," pp. 281-309.

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