British immigration policymaking and European integration, 1973-1990.

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This thesis is submitted for the degree of Doctor of Philosophy.

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This thesis is the result of my own work and includes nothing which is the outcome of work done in collaboration except as declared in the preface and specified in the text.

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Research Impact Statement Form

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Abbreviations

AHC	Archives d'histoire contemporaine
AN	Archives Nationales (France)
CAB	Cabinet Office
CAP	Common Agricultural Policy
CHSP	Centre d'histoire de Sciences Po
EC	European Community
ECJ	European Court of Justice
ECHR	European Convention on Human Rights
EID-I	European Integration Department, Internal
EID-E	European Integration Department, External
EU	European Union
FCO	Foreign and Commonwealth Office
FRG	Federal Republic of Germany
FNSP	Fondation nationale des sciences politiques
HO	Home Office
IND	Immigration and Nationality Directorate
MP	Member of Parliament
MVD	Migration and Visa Department
NPE	No Passport Excursions
NTD	Nationality and Treaty Department
OECD	Organisation for Economic Co-operation and Development
OFPRA	Office Français de Protection des Réfugiés et Apatrides
ONS	Office of National Statistics
PAF	Police aux Frontières
PS	Parti Socialiste
SEA	Single European Act
SGCI	Secrétariat général du comité interministériel
TNA	The National Archives, Kew (UK)
UNHCR	United Nations High Commissioner for Refugees
WED	Western Europe Department
WHO	World Health Organisation

Introduction

In June 2016, the United Kingdom voted to leave the European Union (EU), and on 31 January 2020 became the first country ever to do so.[1] The vote represented what was perceived at the time as the most significant collective decision for generations, an event that fundamentally altered British politics.[2] The UK had arrived late and left early, joining the European Community (EC) - as the EU was then known - in 1973, sixteen years after its foundation.

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[1] Greenland actually left in 1985, but it had never elected to join, having been a dependent territory of Denmark at the time of its accession in 1973.

[2] As in the British archives themselves, I will use Britain and the UK largely interchangeably, unless specified otherwise.

Introduction

One of the main drivers of the Brexit vote was the presumed link between European integration and unwanted immigration.[3] According to Leavers, EU membership had led to a loss of sovereign control over British borders, which in turn had led to an influx of undesirables: Britain was at 'breaking point', a slogan printed on billboards against the backdrop of a seemingly endless queue of migrants.[4] Indeed, half of voters considered either sovereignty or immigration to be the single most important factor determining their vote (a third cited the economy). The majority thought a 'leave' vote would lead to less immigration to Britain.[5] It was time to 'take back control' from Brussels.

Yet worries about immigration, construed sometimes as an existential threat, have been a feature of British politics for decades, well before European membership. In 1902, a Conservative MP lamented that 'Not a day passes but English families are ruthlessly turned out to make room for foreign invaders ... It is only a matter of time before the population becomes entirely foreign'.[6] In 1968, Enoch Powell's inflammatory 'Rivers of Blood' speech warned that, a few years hence, 'the black man would have the whip hand over the white man' if nothing was done to curb immigration.[7] In 1978, Mrs Thatcher declared that British people feared they might be 'rather swamped by people of a different culture'.[8] Forty years after that, David Cameron described 'a swarm of people coming across the Mediterranean' to Britain.[9] Yet while

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[3] Public debates seldom referred to the 300,000 or so French citizens living in London. Rather, it centred on 'Polish plumbers', Roma gypsies, and 'bogus refugees'. For the link between immigration and the Brexit referendum, see: S. Gietel-Basten,'Why Brexit? The Toxic Mix of Immigration and Austerity', *Population and Development Review,* 42:4 (2016), 673-80; G. Evans and J. Mellon, 'Immigration, Euroscepticism, and the Rise and Fall of UKIP', *Party Politics,* 25:1 (2019), 76-87; T. Bale, 'Policy, Office, Votes - and Integrity. The British Conservative Party, Brexit, and Immigration', *Journal of Ethnic and Migration Studies* (2021), 1-20.

[4] A UNHCR report singled out the British press for its negative and polarized coverage, highlighting the role of anti-European and anti-immigration tabloids such as the *Daily Mail* and the *Sun*. See: M. Berry, I. Garcia-Blanco, K. Moore, 'Press Coverage of the Refugee and Migrant Crisis in the EU: A Content Analysis of Five European Countries', Report prepared for the United Nations High Commission for Refugees (December 2015) [https://www.unhcr.org/56bb369c9.pdf, accessed 31 March 2021].

[5] YouGov/Times Survey Results, (20-22 June 2016), 'Eve of poll voting intentions' [https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/atmwrgevvj/TimesResults_160622_EVEOFPOLL.pdf, accessed 31 March 2021].

[6] William Evans Gordon, MP (*Hansard*, 1902.01.29), quoted in S. Cohen, 'Anti-Semitism, Immigration Controls and the Welfare State', *Critical Social Policy,* 5:13 (1985), 73-92.

[7] Enoch Powell was a Conservative MP, best known for his anti-immigration opinions.

[8] Margaret Thatcher, TV interview for Granada, 'World in Action', 1978.01.27 [https://www.margaretthatcher.org/document/103485, accessed 5 May 2021].

[9] BBC, 2015.07.30, 'David Cameron criticised over migrant 'swarm' language' [https://www.bbc.com/news/uk-politics-33716501, accessed 31 March 2021].

Thatcher had campaigned for Britain's membership to the European Community, Cameron called and lost a referendum on it, and Boris Johnson promised to 'get Brexit done'.[10] How did European membership come to be associated with unwanted, unconstrained immigration?

Although the full answer lies beyond the scope of this research, I suggest it can partly be understood by looking at the evolution of British immigration policymaking during the first two decades of European membership. Charting the evolution of domestic policymaking after accession contributes to the academic literature, which is just taking off for the period as historians access newly released archives. It also provides empirical evidence in terms of the EU's effect on British borders and the state's ability to manage them. Finally, it brings to the foreground the realities of immigration control in an era of globalised, open economies. Answering this question also requires us to touch upon the origins between the association of immigration and security questions, and the effect of European integration on security and border issues. At a time when the EU funds militias in Libya and governments in Turkey to keep migrants at bay, a clear understanding of the origins of these policies and linkages is crucial.[11]

At its core, this thesis is therefore an archival investigation into British immigration policy in the 1970s and 1980s, and an attempt to untangle the threads of European integration and domestic policymaking. My guiding questions are:

(i) What impact did European integration have on British immigration policymaking?

(ii) How did immigration become a security, rather than labour or humanitarian, issue?

(iii) Are these phenomena linked?

These questions matter. First, in terms of understanding contemporary Britain. This thesis was researched and written as Brexit (and later, covid) was unfolding. The referendum had just occurred and had taken many people, none least a significant proportion of Britons themselves, regardless of vote, somewhat by surprise. The backdrop against which this research came together was therefore one of public debate over the meaning of Englishness, Britishness, and Europeanness, as well as attempts by politicians, officials, and the public to make sense of what 'Brexit' actually entailed. While this history does not cover the period up to the referendum, and certainly does not pretend to explain its outcome, it does provide a

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[10] David Cameron (PM from 2010-2016) called the referendum in 2016, while Boris Johnson's campaign slogan for the 2019 general election was 'Get Brexit done'.

[11] P. Müller and P. Slominski, 'Breaking the Legal Link but Not the Law? The Externalization of EU Migration Control through Orchestration in the Central Mediterranean', *Journal of European Public Policy,* 28:6 (2021), 801-20; Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorisation, OJ L 134, 7.5.2014, pp. 3–27.

glimpse into the ways in which British immigration policymaking and European integration actually interacted. It does so for a particularly interesting time, namely, the first decades of Community membership.[12] So doing, this history hopes to provide one small piece to the very great puzzle of contemporary British approaches to immigration.

This research also took place amidst the Home Office's stated policy of 'hostile environment'.[13] Announced under the Conservative-Lib Dem coalition in 2012, this policy aims to make staying in the UK as difficult as possible for people without leave to remain. This would, in theory, lead to their leaving voluntarily, thus reducing immigration figures (a key promise of the 2010 Conservative party election manifesto). The Windrush scandal of 2018, during which West Indians were deported after not being able to prove their right to remain (despite many arriving as children at a time when the requisite documents had yet to exist), was a result of this policy.[14] In 2021, EU citizens arriving in the UK were also being locked up and expelled.[15] Meanwhile, the Office of the High Commissioner for Human Rights (UN Human Rights) found that 'Firmly entrenched in UK law … is an understanding of racial inequality and racial discrimination that operates structurally or indirectly' and that Afro-Caribbean British citizens had suffered 'gross human rights violations and indignities' as a result of the policy.[16] How did the obsession with immigration reach such a fever pitch as to enable the deportation of British citizens? Understanding the changes under way in the Home Office in the preceding decades, which this thesis hopes to contribute towards, might provide some enlightenment.

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[12] Before becoming the European Union in 1993, the polity was known as the European Economic Community (EEC) or simply European Community (EC).

[13] M. Griffiths and C, Yeo, 'The UK's Hostile Environment: Deputising Immigration Control', *Critical Social Policy*, Jan. 2021.

[14] An independent review, which interviewed those affected, found 'many stories of injustice and hardship' with 'untold damage done to so many individuals and families'. The report found the Home Office guilty of 'institutional ignorance and thoughtlessness'. W. Williams, 'Windrush Lessons Learned Review', Independent Review, 19 March 2020 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/876336/6.5577_HO_Windrush_Lessons_Learned_Review_LoResFinal.pdf, accessed 3 June 2021].

[15] G. Tremlett and L. O'Carroll, 'EU citizens arriving in UK being locked up and expelled', *Guardian*, 13 May 2021 [https://www.theguardian.com/politics/2021/may/13/eu-citizens-arriving-in-uk-being-locked-up-and-expelled, accessed 3 June 2021].

[16] 'End of Mission Statement of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance at the Conclusion of Her Mission to the United Kingdom of Great Britain and Northern Ireland', OHCHR [https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23073&LangID=E, accessed 3 June 2021].

Second, the period from 1973 to 1990 is only just beginning to be explored by British immigration historians, as the archives are gradually released.[17] Building on the work of Spencer, Hansen, Paul and others, this thesis aims to contribute to scholarship by conducting an empirical investigation into the years that followed the 1971 Act, where most of the recent scholarship tapers off.[18] Spencer, Hansen, and Paul provide in-depth archival explorations of post-war British immigration policymaking, but their research either focuses more on citizenship, does not have an explicitly European angle, or tapers out in the 1970s.[19] In France, by contrast, different rules surrounding the release of government archives mean that historians such as Weil, Viet, and Laurens have written detailed historical analyses on national immigration policymaking up to the 1990s, as well as drawn explicit links to Europe.[20] An exploration of British immigration policymaking and how it connects to European integration in the 1970s and 1980s therefore makes a useful, if modest, standalone contribution to existing historiography.

Finally, this research matters in terms of better understanding how European dynamics may or may not have shaped the immigration policies of its member states. Why Britain? Surely given its late entry into and early exit from the EC/EU; its two referendums on membership (1975; 2016); its never having joined Schengen; and Mrs Thatcher's combative 'I want my money back', Britain might not be the ideal candidate in which to observe the effects

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[17] E. Smith, 'Creating the National/Border Security Nexus: Counter-Terrorist Operations and Monitoring Middle Eastern and North African Visitors to the UK in the 1970s–1980s', *Terrorism and Political Violence*, 31:3 (2019), 595-614; R. Karatani, 'Britishness Reconsidered: Interplay Between Immigration and Nationality Legislation and Policymaking in Twenty-first Century Britain', *The Journal of Imperial and Commonwealth History*, 47:5 (2019), 1021-1042.

[18] For the 1905 Act, see: A. Bashford and C. Gilchrist, 'The Colonial History of the 1905 Aliens Act', *The Journal of Imperial and Commonwealth History,* 40:3 (2012), 409-437; J. Pellew, 'The Home Office and the Aliens Act, 1905', *The Historical Journal,* 32:2 (1989), 369-385. For the 1962 Act, see: N. Deakin, 'The Politics of the Commonwealth Immigrants Bill', *The Political Quarterly,* 39:1 (1968), 25-45; D. Dean,'The Conservative Government and the 1961 Commonwealth Immigration Act: The Inside Story', *Race & Class,* 35:2 (1993), 57-74. For the 1968 Act, see: R. Hansen, 'The Kenyan Asians, British Politics, and the Commonwealth Immigrants Act, 1968', *Historical Journal,* 42:3 (1999), 809-834. For the 1971 Act, see: C. Williams, 'Patriality, Work Permits and the European Economic Community: The Introduction of the 1971 Immigration Act', *Contemporary British History,* 29:4 (2015), 508-538; E. Consterdine, 'Community Versus Commonwealth: Reappraising the 1971 Immigration Act', *Immigrants & Minorities*, 35:1 (2017), 1-20.

[19] I. Spencer, *British Immigration Policy since 1939 the Making of Multi-racial Britain* (New York: Routledge, 1997); K. Paul, *Whitewashing Britain: Race and Citizenship in the Postwar Era* (Ithaca, NY: Cornell University Press, 1997); R. Hansen, *Citizenship and Immigration in Postwar Britain*, (Oxford: Oxford University Press, 2000).

[20] Though French national archives tend to be closed to the public for longer than in Britain, special permission can be obtained in the form of *demandes de dérogation*.

of European integration. Quite the contrary: either because our investigation will reveal that British exceptionalism was overblown, or because, assuming Britain really was an outlier, its 'awkward partner' reputation may serve as a control variable of sorts.[21] There are many reasons, geographical and institutional, why European integration may play out differently in British, rather than French or German, immigration policymaking. Indeed, Britain was, until the 2016 referendum, one of Europe's largest economies and political heavyweights, albeit one whose commitment to the European project was often more instrumental than idealistic.[22] It is also a country which has historically advocated for a flexible approach to European integration and was never shy to opt out of European *acquis.*[23] This reluctance to fully commit to the European project should facilitate the observation, in distilled form, of the effects of European integration on domestic policymaking. If there is indeed a British specificity, then what European influence there was should stand out all the more. If not, then we can perhaps more clearly see the similarities in approach to immigration policymaking with other major EC countries. It is for this reason that I often refer to parallel developments in France and draw on French archives, though strictly speaking this is not a comparative work.

In terms of sources, I combine two approaches: first, I draw on British government archives held at the National Archives in Kew to follow Cabinet and other discussions on immigration policy, chronicling their evolution and identifying moments in which a European dimension might appear. I draw on records from the Home Office (HO), the Foreign and Commonwealth Office (FCO), and the Cabinet Office (CAB) to determine how 'Europe', understood both as a set of institutions and more broadly as a geopolitical orientation, permeated the domestic immigration policymaking process. Crossing sources from a variety of UK government ministries should correct the most obvious biases such as finding that the Foreign Office was indeed concerned with Europe, and the Home Office with law and order. I also interviewed seven former senior Home Office officials, whose combined experience ranges from 1961 to 2015, from Immigration Services to the legal department to asylum. Interviews were conducted in June and November 2020, during the covid-19 pandemic. They took place over Zoom as two one-hour, semi-structured conversations. I was kindly introduced

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[21] Though the theory has since been both developed and critiqued, Stephen George is largely held as having coined the approach in *An Awkward Partner: Britain in the European Community* (New York: Oxford University Press, 1990). For a critique, see: J. Buller, 'Britain as an Awkward Partner: Reassessing Britain's Relations with the EU', *Politics,* 15:1 (1995), 33-42.

[22] For a lively insider account of British diplomacy in the EC, see: Stephen Walls, *A Stranger in Europe: Britain and the EU from Thatcher to Blair* (Oxford: Oxford University Press, 2008).

[23] The *acquis* refer to the EU's body of common rights and obligations binding member states.

to the first interviewee by Dr Mike Slaven; after which each interviewee referred others to me (in what is known as the snowball technique).

Second, I turn to European discussions, focusing on meetings between member state interior ministers and their officials to see how an immigration dimension might have emerged in a European context. Indeed, an important body of political science literature identifies the semi-formal meetings of European security professionals as the origin of a Europe-wide tendency towards increasingly repressive immigration policies, which is why I focus there rather than on social affairs.[24] For this I draw on French government archives held at the Archives Nationales in Pierrefitte-sur-Seine. These contained extremely detailed minutes and notes of the meetings, as well as providing an alternative, comparative perspective on discussions. I do not use European, or Commission, archives for two reasons. First, because these meetings were strictly intergovernmental, meaning the Commission was not actually present for most of them. Second, to the extent that it did try to influence proceedings, it did so from the periphery, frequently rebuffed by member states. As such, an examination of Commission archives would tell us less about how immigration emerged on the European scene, than about how the Commission tried to encroach into intergovernmental spheres, a different history altogether.

No story that claimed to examine European integration would be complete without speaking parts for France and Germany, though this warrants some explaining. While this work is not strictly comparative, I do draw heavily on French archives. This provides a necessary corrective to the methodological nationalism so pervasive in modern British histories (on which more anon).[25] Such a corrective is indispensable, especially when the topic at hand is explicitly related to Europe. Drawing on French archives therefore provides another perspective on European developments as well as British ones. Indeed, they were an especially rich source of information on the meetings of European security and police professionals, more so than the British ones. The records of these semi-formal meetings between senior interior ministry officials from across the EC allow me to trace how immigration played out in a European and security context. They also allow me to set Britain in a European landscape, and check

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[24] Key texts on the origins of the securitisation of immigration in Europe include: D. Bigo, 'Europe passoire, Europe fortress. La sécurisation et humanitarisation de l'immigration', in *Immigration et racism en Europe,* ed. A. Rea (Brussels: Complexe, 1998), 203-41; D. Bigo, 'Enjeux du troisième pilier du traité sur l'Union européenne', *Politique étrangère*, 1 (1996), 125-138; O. Waever, 'Insecurity, security, and asecurity in the West European non-war community' in *Security Communities,* eds. E. Adler and M. Barnett (Cambridge: Cambridge University Press, 1998) 69-118; Huysmans, J., 'The European Union and the Securitization of Migration', *Journal of Common Market Studies,* 38:5 (2000), 751-777.

[25] French histories, by contrast, seem to more readily refer to how European dynamics influenced domestic thinking. See, the works of Weil, Viet, and Laurens.

Britain's own view of itself against how its major Continental counterparts saw it. (In addition to records from the French Interior Ministry, I also draw on the private papers of Patrick Weil, who before becoming one of France's foremost immigration historians held a number of senior posts in government.)

Why French archives, and not German or Belgian? After all, all were founding members of the European Community, had had colonies, and struggled with immigration in the later twentieth century. West Germany, while indisputably one of the key architects and leaders (however reluctantly) of the European Community, did not have a settler colonial empire however, nor indeed a very long lived one in the way that Britain and France did. This meant that after the Second World War, immigration to West Germany was not made up of former colonial subjects, something which on the contrary had crucial ramifications in Britain and France. For West Germany, where necessary and possible, I therefore draw instead on analyses made by British and French officials, and secondary literature. As for Belgium or the Netherlands, compared to Britain and France, they are simply much smaller countries, whether in terms of population size, economic clout, or diplomatic reach. The archives confirm this: while Britain, France, and Germany frequently looked to each other, they did not look to the smaller countries. France therefore stands out once more as the best foil to Britain, a conclusion reached by many before me.[26]

I do not pretend to have exhausted the available archives, even for my quite specific, European, focus. However, I hope that my use of as broad a base as possible within the British archives, and the use of French archives at the European level (these meetings were strictly informal and outside the scope of formal EC institutions, so there are no 'European' archives per se), allow me to state my conclusions with relative confidence. These are, that:

(i) **British immigration policies were formed and implemented independently of European interference.** The overarching trend of discouraging migration from the (poor, South Asian) New Commonwealth while maintaining ties with the (wealthy, white) Old Commonwealth remained a key feature of British immigration policy, independently of EC membership. As imperial ties faded, this preference evolved into

[26] E. Bleich, *Race Politics in Britain and France: Ideas and Policymaking since the 1960s,* (Cambridge: Cambridge University Press, 2003); A. Favell, *Philosophies of Integration: Immigration and the Idea of Citizenship in France and Britain,* (Basingstoke: Palgrave, 2001); G. Freeman, *Immigrant Labor and Racial Conflict in Industrial Societies: The French and British Experience, 1945-1975,* (Princeton: Princeton University Press, 1979); L. Germain and D. Lassalle, *Les politiques de l'immigration en France et au Royaume-Uni: Perspectives historiques et contemporaines*, (Paris: L'Harmattan, 2006); C. Puzzo, 'Instruments of British and French Immigration Policy in the 1970s: A Comparative Analysis', *Contemporary European History*, 12:1 (2003), 71-92; M. Schain, *The Politics of Immigration in France, Britain, and the United States: A Comparative Study,* (New York: Palgrave Macmillan, 2008).

discouraging migration from (poor, non-white) Third World countries, while promoting ties with (wealthy, white) Western nations, including EC partners.

(ii) **The key dilemmas confronting British immigration policymakers were due to globalisation, not European membership.** The most difficult consequences British policymakers had to grapple with in terms of immigration were the consequences of globalisation: cheap travel, global inequalities, the domestic need for low-skilled labour. Membership to the EC did not confront British officials with such steep trade-offs, nor did it result in a feeling of powerlessness or inability to effect change.

(iii) **European cooperation in immigration, security, and border issues emerged organically as states realised they faced similar structural problems, which a measure of coordination could help solve.** Formal European institutions had little impact, and member states were unanimous in their broad opposition to excessive Commission involvement. Semi-formal meetings emerged organically, primarily for information-sharing. This contributed to gradual harmonisation, but a harmonisation that occurred at states' own pace, and one driven by key structural similarities in terms of economic growth and unemployment.

(iv) **One key driver of change was administrative overheating.** The gradual criminalisation of immigration was a result of administrative expediency rather than design. Standard law enforcement procedures were resource intensive in a way that administrative sanctions were not. Yet national administrations were under pressure and felt unable to cope with rising numbers of asylum-seekers. Increasing the severity and scope of administrative sanctions was therefore a cost- and labour-efficient way of addressing the problem.

(v) **The importance and agency of 'security professionals' in bringing about more repressive immigration policies has been overstated in the political science literature.** In 1970s Britain, the Home Office was actually more progressive than other departments. Harsher immigration policies occurred against the backdrop of a broader shift to law-and-order approaches to social problems and strained administrative apparatuses. The semantic slide to viewing immigration as a security issue resulted from the fact that the border - which European states were in the process of removing, at least among themselves - served as a chokepoint for immigration, criminal, and terrorist purposes. Not because immigration was intrinsically linked to either or because policymakers believed it to be.

The rest of this introduction fleshes out the key terms and parameters of this thesis, and situates it in the literature. It closes with a summary of each of the PhD's three substantive chapters.

I. Terms of enquiry

1.1. Definitions and concepts

Immigration is a vast subject, an umbrella term for everything from local housing projects, to anti-racism campaigns, to visas and foreign policy, to asylum and refugee rights, to extradition laws and terrorism. The definition of 'immigrant' is highly political, and immigration policy, despite being something of a poor man's department in government, highly charged. Within and between countries, the definition of who is or is not an immigrant changes. Until 1998, for instance, the British government's official definition of *foreign* was simply 'non-Commonwealth'. In 1999, it was changed to non-Commonwealth and non-EEA (European Economic Area) – despite Commonwealth citizenship having been largely hollowed out by then, and despite Britain having been a member of the EC since 1973.[27] In France, however, *foreign* is 'a person who resides in France and does not possess French nationality.'[28] A further complication, the categories of *foreign* and *immigrant* are usually different, though they overlap.[29] In the UK, *migrant* is 'a person who moves to a country other than that of his or her usual residence for a period of at least a year (12 months), so that the country of destination effectively becomes his or her new country of usual residence.'[30] In France, meanwhile, an *immigrant* 'is a person who is born a foreigner and abroad, and resides in France. … certain immigrants may have become French while others remain foreign. ... Immigrant status is

[27] Home Office, 'Control of Immigration: United Kingdom, Glossary of Terms'. [https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/116013/immigration_glossary.pdf, accessed 2 April 2021].

[28] Insee, 'Definitions, methods and quality: Definitions, Foreigner'. [https://www.insee.fr/en/metadonnees/definition/c1198, accessed 2 April 2021].

[29] I use immigrant and migrant interchangeably.

[30] The Office of National Statistics (ONS) uses the UN's recommended definition for long-term international migrant. ONS, 'International migration – terms, definitions and frequently asked questions'. [https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/methodologies/longterminternationalmigrationfrequentlyaskedquestionsandbackgroundnotes#migration-terms-and-definitions, accessed 2 April 2021].

permanent: an individual will continue to belong to the immigrant population even if they acquire French nationality.'[31]

Several scholars have explored the limits of government definitions.[32] To begin with, they rarely travel well across space and time. They tend to be biased towards 'problem' groups and very specific kinds of migration.[33] They feed a certain number of contestable assumptions on the history of human movement, such as norm of 'sedentariness', or the qualitative uniqueness of the mass migration of the late twentieth century.[34] These limits are simply illustrated: what if the UK were to change the residency requirement from 12 months to 24, or 6? Why is a nineteenth century French-speaking farmer moving 10 km from Belgium to France a migrant, but a contemporaneous Russian moving 7,000 km from Vladivostok to Kiev, not? The crucial difference is the state, and the crossing of a state boundary. These illustrations show that government definitions might be less useful as a true measure of movement than as a mirror of shifting government priorities, a mirror into the history of statecraft, and a focal point for the shifting politics of belonging.[35] As far as this thesis goes, however, while we are interested in how and why policymakers might decide to change definitions, the content of the definitions themselves is of secondary importance.

Defining immigration *policy* is our concern – and no easier task. Though all policy areas must balance contrary imperatives, whether short- or long-term, national or international, immigration is unique in that for all the passions it stokes in native populations, for all the reliance of Western economies on cheap, flexible labour, it is not usually the purview of a single ministry, but many. Interior ministries, foreign affairs ministries, treasuries and labour ministries, all are involved in the crafting and implementation of immigration policy. In addition to balancing complex and contrary imperatives across a decentralised decision-making structure,

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[31] Insee, 'Definitions, methods and quality: Definitions, Immigrant'. [https://www.insee.fr/en/metadonnees/definition/c1328, accessed 2 April 2021].

[32] K. Akoka, *L'asile et l'exil: Une histoire de la distinction réfugiés/migrants*, (Paris: La Découverte, 2020).

[33] Think only of the different images that 'expat' and 'migrant' conjure up, or how poorly returning populations are measured. For further discussion, see L. Lucassen and J. Lucassen, 'Quantifying and qualifying cross-cultural migrations in Europe since 1500', in *The History of Migration in Europe: Prospectives from economics, politics and sociology*, ed. F. Fauri (London: Routledge, 2014).

[34] J. Lucassen and L. Lucassen, 'The mobility transition revisited, 1500–1900: What the case of Europe can offer to global history', *Journal of Global History,* 4:3 (2009), 347-377; J. Lucassen and L. Lucassen, 'Theorizing Cross-Cultural Migrations: The Case of Eurasia since 1500', *Social Science History: Official Journal of the Social Science History Association,* 41:3 (2017), 445-475.

[35] N. Yuval-Davis, *The Politics of Belonging: Intersectional Contestations* (Los Angeles: Sage, 2011).

immigration policy also stands out for the considerable discretion exercised at all levels.[36] Legislation – and therefore Parliamentary scrutiny – is relatively rare, and much effective policymaking takes places through administrative and other non-legal practices.[37] This discretion is consciously exploited by policymakers. In post-war Britain, for instance, the overarching goal, regardless of the party in power, tended to be to limit the number of (ex)colonial immigrants admitted for settlement.[38] As government would not bear the political costs of proper legislation, unwanted immigration was stymied by making the rights of certain groups more expensive and difficult to apply in practice than others.[39] This discretion, if not downright arbitrariness, is inherent to immigration policymaking. It runs from the top, where legislation is comparatively rare, to the bottom, where as non-citizens, foreigners are by definition excluded from the 'natural' rights and protections afforded to members of the community.[40]

So what do we mean by immigration policy? Bjerre et al. take immigration policy to mean 'government's statements of what it intends to do or not do (including laws, regulations, decisions or orders) in regards to the selection, admission, settlement and deportation of foreign citizens residing in the country'.[41] This is perhaps too restrictive: Kukathas and Schain both show how different dimensions of control exist, all conjured up by the term 'immigration policy': access to the physical territory, but also access to social institutions such as the labour

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[36] C. Puzzo, 'Instruments of British and French Immigration Policy in the 1970s: A Comparative Analysis', *Contemporary European History,* 12:1 (2003), 71-92; N. Fischer, 'The detention of foreigners in France: Between discretionary control and the rule of law', *European Journal of Criminology,* 10:6 (2013), 692-708.

[37] C. Dauvergne, *Making people illegal: What globalization means for migration and law* (Cambridge: Cambridge University Press, 2008).

[38] The Colonial Office was more concerned with anything that might have been perceived as a colour bar. To the extent they did fight for the promotion of colonial, rather than Irish or European labour, however, they were overridden (Spencer, *British immigration policy since 1939*, chapters 1 and 2).

[39] I. Spencer, *British immigration policy since 1939: the making of multi-racial Britain*, (London: Routledge, 1997); Consterdine, 'Reappraising the 1971 Immigration Act'.

[40] For a discussion of the paradox of democratic equality and plurality, see: A. Buonfino, 'Between unity and plurality: the politicization and securitization of the discourse of immigration in Europe', *New Political Science*, 26:1 (2004), 23-49. For a more prosaic investigation into 'street-level' bureaucrats and immigration, see: A. Spire, *Accueillir ou reconduire. Enquête sur les guichets de l'immigration* (Paris: Raisons d'agir, 2008).

[41] L. Bjerre, M. Helbling, F. Römer, and M. Zobel, 'Conceptualizing and Measuring Immigration Policies: A Comparative Perspective', *The International Migration Review,* 49:3 (2015), 555-600.

market or welfare state, access to citizenship, and yet fuzzier notions of belonging.[42] Policy along these dimensions is linked, and a tightening in one sphere may compensate loosening in another.[43] Weil meanwhile considers citizenship a social institution among others, using returns and expulsions as his third pillar instead.[44] Unlike Weil, I consider citizenship and belonging to the national narrative as warranting separate study: citizenship touches upon the very principles governing how outsiders are turned into insiders. As the ultimate social institution granting access to every other, it cannot be put on the same plane as access to the workforce or welfare state. Though in theory citizenship once granted is permanent, the shifting goalposts of returns, expulsions, and the stripping of nationality are a constant reminder of the precariousness under which access to a national community is granted.

For the purposes of this thesis, I borrow Puzzo's definition, defining immigration policy as 'the sets of decisions and actions that … governments have adopted when seeking to regulate migration across their borders and control migrants inside their national territories.'[45] I focus especially on admission, or access to physical territory – the most obvious aspect affected by the rethinking of the borders within and without Europe.

Regarding Europe, matters are barely more straightforward. The European Economic Community (EEC), became the European Community (EC) in 1993, which ceased to exist when it was incorporated into the European Union (EU) in 2009. However, the European Community, or Common Market, was used as shorthand for the EEC well before then. For the purposes of this research, however, these distinctions are largely academic; the terms are used interchangeably unless otherwise specified. Specific European institutions are referred to in full, except the European Commission, where merely 'Commission' suffices. 'Europe', however, is used to cover a broad political, economic, and strategic orientation beyond formal EC institutions, on par with entities such as the Commonwealth, the USA, or the Soviet Union.

The United Kingdom and Britain are used interchangeably (as they frequently are in government archives), except when explicitly stated.

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[42] Prof. Chandran Kukathas (LSE) lecture of 26 January 2018, 'Immigration and Freedom', part of the Darwin College Lecture Series; M. Schain, *The Politics of Immigration in France, Britain, and the United States : A Comparative Study*, 1st ed. (New York: Palgrave Macmillan, 2008), pp. 28-29.

[43] See the review of France and Britain's major pieces of immigration and citizenship legislation in Schain, *The politics of immigration*, p. 41 and p. 121 respectively.

[44] P. Weil, *La France et ses étrangers : L'aventure d'une politique de l'immigration, 1938-1991,* (Paris: Calmann-Lévy, 1991), pp. 36-37.

[45] Puzzo, 'Instruments of British and French Immigration Policy', p. 90.

1.2. Chronology: 1973-1990

I begin my investigation in 1973, the date the UK formally joined the EC, and end in 1990 with the Dublin Convention, which formalised the first pan-European procedure for processing asylum requests. The 1970s and 1980s were a busy period. Beginning in the late 1970s and accelerating throughout the 1980s, there was a burst of activity at the European level, from the informal, intergovernmental cooperation between interior ministers of the TREVI group (who first met in 1976 to discuss common issues such as terrorism); to the Schengen agreements, which abolished internal borders for participating countries (1985); to the Single European Act (1986), which set the goal of a single internal market by 1992. This period also sealed the end of the post-war boom years, both in terms of economic growth and political consensus, heralding a new, market-oriented era.[46] In the UK, the period marked the beginning of the Thatcher era, which spanned from her first election in 1979, to her resignation in 1990.

This is a period which historians are only beginning to investigate, as archives are gradually released. For the moment, the link between immigration policy and European integration has tended to remain the purview of political scientists. My research seeks to contribute to both literatures.

1.3. Policymakers

Finally, a brief word on the choice of angle, that is, the choice to study policymakers rather than the immigrants most affected by their decisions. There is a major historiography pushing back against elite-centred political histories as exclusionary and incomplete.[47] The field of immigration history, however, is rather recent. It has tended to bypass elites, focusing instead on the immigrants themselves, not the state officials tracing (or attempting to trace) the contours of their migratory paths. This has been extremely valuable insofar as it has helped make sense of the long-term factors driving human movement, as well as give a voice to traditionally marginalised communities. In immigration as in other fields, recent research has tended to investigate the 'objects' of policy – immigrants, prisoners, or school children for instance – rather than the 'subjects' of policy, namely policymakers.[48] Studies of British post-

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[46] Martin Conway singles out 1973 as the end of Western Europe's post-war 'democratic age'. M. Conway, 'The Rise and Fall of Western Europe's Democratic Age, 1945-1973', *Contemporary European History,* 13:1 (2004), 67-88.

[47] Beginning perhaps with E.P. Thomson's *The Making of the Working Class* (1963).

[48] See K. Duke, 'Getting Beyond the 'Official Line': Reflections on Dilemmas of Access, Knowledge and Power in Researching Policy Networks', *Journal of Social Policy,* 31:1 (2002), 39-59.

war immigration policy have likewise tended to favour the study of legislation, specific groups of immigrants, or cultural politics more broadly.[49] Studies of policymakers' attitudes to immigration, meanwhile, have favoured the immediate postwar decades and eschewed Europe; while studies of policymakers and Europe begin in the 1990s and eschew immigration.[50]

However, paying attention to the motivations and complexities guiding official policy matters, which I propose to do for the 1970s and 1980s. Though policy may not shape reality as much as officials should wish, it nonetheless contributes to creating the categories through which reality is understood. Foucault, Derosières, Scott, and others show how the very act of defining and measuring something brings it into existence though it may not have existed as such before.[51] The state is unique in its quasi-monopoly of such a power. At the very least, states have the monopoly of enforcement and coercion, which makes the study of how and why they chose to deploy it worthwhile. On a more prosaic level, official policy is often the result of compromises and contingencies it does well to unpack, both when attempting to reconstitute the past, and when attempting to influence present policy for the future. As Duke argues:

> The lack of knowledge and research on the powerful contributes to mystifying their roles and therefore maintains their position of privilege in society. Research on these groups has the potential to expose the reach of power, so that those subject to it can understand and challenge it. There is therefore a need to impose academic scrutiny upon elite populations.[52]

This dearth of knowledge also exists in the history of immigration policymaking. Slaven and Boswell bemoan the lack of 'fine-grained analysis of the deliberations underpinning decision-making in bureaucracies' which would 'produce more nuanced accounts of political

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[49] Hansen and El-Enany emphasize legal and legislative evolutions, for instance, while Gilroy explores cultural politics. See also, S. Ward, *British culture and the end of empire* (Manchester: Manchester University Press, 2001).

[50] For postwar studies of immigration policymaking, see Hansen, Spencer, and Hampshire. For studies on British policymakers and Europe, see S. Bulmer, and M. Burch, *The europeanisation of Whitehall UK central government and the European Union* (Manchester: Manchester University Press, 2009); J. Young, *Britain and European unity, 1945-1992* (Basingstoke: Macmillan, 1993).

[51] A. Derosières, 'How real are statistics? Four possible attitudes', *Social Research,* 68:2 (2001), 339-355; M. Foucault, Michel, and C. Gordon*, Power/knowledge : Selected Interviews and Other Writings, 1972-1977* (Harlow: Longman, 1980); J. Scott, *Seeing Like a State : How Certain Schemes to Improve the Human Condition Have Failed* (New Haven ; London: Yale University Press, 1999).

[52] Duke, 'Researching Policy Networks', p. 41.

rationalities in the area of immigration policy'.[53] Consterdine talks of the 'black box' of immigration policymaking.[54] The focus on policymaking elites, however, should not be taken to mean that their policies necessarily had the desired effect, nor that structural forces bigger than the agency of any single Cabinet were not at play.

So what did this elite look like? In the 1980s, the senior civil service in Britain was much as it had ever been: mostly white, male, and middle or upper class.[55] A social and educational elite.[56] In Britain, in 1994, over 50% of the senior-most civil servants were Oxbridge educated, while nearly half of all grade 1 to 3 officials were privately educated.[57] Anecdotally, this portrait corresponds to that of my interviewees: all white; men, but one; humanities degrees from Oxford or Cambridge. In France too, the further up the civil service hierarchy, the narrower the range of social origins.[58] This was somewhat less the case in Germany, though senior civil servants were invariably university educated.[59] In addition to their similar socio-economic makeup, British and French public administrations had a similar history as formidable colonial administrations managing two of the nineteenth century's most expansive empires. French reformers even looked directly to Britain for inspiration: Joseph Caillaux, of the prestigious *Inspection des Finances*, commented in his memoirs on the generalist training British civil servants received, noting that 'This is how the British civil service, which has provided the

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[53] M. Slaven and C. Boswell, 'Why symbolise control? Irregular migration to the UK and symbolic policy-making in the 1960s', *Journal of Ethnic and Migration Studies*, 45:9 (2019), 1477-1495.

[54] Consterdine, 'Reappraising the 1971 Immigration Act'.

[55] On the makeup of senior civil servants in the 1980s, see: C. Dargie and R. Locke, 'The British Senior Civil Service', in *Bureaucratic Elites in Western European States: A Comparative Analysis of Top Officials,* eds. E. Page and V. Wright (Oxford: Oxford University Press, 1999), p. 192. Though this has greatly changed since: S. Greer and H. Jarman, 'What Whitehall?', *Public Policy and Administration*, 25:3 (2010), 251-270.

[56] On how 'whiteness' is conflated with civil service values of objectivity and neutrality in a way 'blackness' is not, see: N. Puwar, 'The Racialised Somatic Norm and the Senior Civil Service', *Sociology*, 35:3 (2001), 651-670.

[57] C. Dargie and R. Locke, 'The British Senior Civil Service', p. 192.

[58] L. Rouban, 'The Senior Civil Service in France', in *Bureaucratic Elites in Western European States: A Comparative Analysis of Top Officials,* eds. E. Page and V. Wright (Oxford: Oxford University Press, 1999), pp. 78-79.

[59] K. Goetz, 'Senior Officials in the German Federal Administration: Institutional Change and Positional Differentiation' in *Bureaucratic Elites in Western European States: A Comparative Analysis of Top Officials,* eds. E. Page and V. Wright (Oxford: Oxford University Press, 1999).

British Empire with a first-rate structure, is constituted'.[60] Incidentally, my British interviewees often described feeling a more natural kinship with their French counterparts, also trained generalists, than with their German ones, more often lawyers and engineers.

A final note on the civil service before moving on, and that is the changes that it was undergoing during our period. The continuity in the origins, recruitment, and training of the British civil service is one of its more remarkable features.[61] The 18 years of Conservative government (1979 to 1997), however, correspond to a period of upheaval and reform, with a marked shift in power from 'wait-a-minute' advisers to 'can-do' managers, from the experienced career civil servant to the amateur politician.[62] Dargie and Locke emphasize four key changes, begun by Thatcher and pursued by Major, namely, the advent of a managerial culture, marketisation, the use of outsourcing and agencies, and increased politicisation of the civil service. The heightened political atmosphere that permeated the civil service is important to bear in mind as we explore immigration policy, which was gaining salience as a political issue.[63] There were also drastic cuts in the number of civil servants from 750,000 in 1979 to 474,800 in 1996.[64] In France, a similar drive towards 'new public management' would only occur some 10-15 years later.[65]

II. Literature review

The main contribution of this thesis is to investigate, for the first decades of British membership to the European Community, the nature of the relationship between domestic immigration policymaking and European integration, and the extent to which the UK was

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[60] J. Caillaux, *Mes Mémoires*, *I. Ma jeunesse orgueilleuse, 1863-1907* (Paris: Plon, 1942), p. 74 in E. Suleiman, *Politics, Power and Bureaucracy in France: The Administrative Elite* (Princeton: Princeton University Press: 1974), p. 44.

[61] On the effects of this socio-economic and educational homogeneity on democratic engagement, see: M. Sandel, *The Tyranny of Merit: What's Become of the Common Good?* (New York: Farrar, Straus and Giroux, 2020).

[62] C. Dargie and R. Locke, 'The British Senior Civil Service', p.181.

[63] C. Dargie and R. Locke, 'The British Senior Civil Service', p.181.

[64] C. Dargie and R. Locke, 'The British Senior Civil Service', p.183.

[65] P. Bezes, 'Le modèle de "L'Etat-stratège" : genèse d'une forme organisationnelle dans l'administration française', *Sociologie du Travail,* 47 :4 (2005), 431-450. For a comparison of both public administrations, see: P. Hall, 'Policy Innovation and the Structure of the State: The Politics-Administration Nexus in France and Britain', *The Annals of the American Academy of Political and Social Science*, 466:1 (1983), 43-59.

constrained in its ability to formulate and carry out its immigration policy goals. A secondary contribution is to address questions raised by political scientists regarding the impact of European integration on immigration policymaking, using historical tools.[66] In this section, I first give an overview of postwar British immigration policy, culminating in the 1971 Act, the last major piece of British immigration legislation to have been studied by historians. I then turn to the historical literatures on immigration policy in Western Europe, and European integration, showing that few historical studies have so far sought to join the two. Finally, I discuss the political scientists whose intuitions prompted my initial curiosity, and outline certain areas where a historical approach might be valuable.

2.1. Postwar British immigration policy

i. Unwinding Empire

The history of British immigration policy is broadly one of attempting to limit, as discreetly as possible, the settlement of 'undesirables', especially non-whites.[67] (I stress settlement, rather than entry, as there were times when the British economy demanded labour.) Regarding the use of 'non-white', this is because the concept of 'race' (and therefore white and non-white) is a social construct that, in Britain, had significant social and political currency in the period under study: 'race relations' was the key paradigm used to frame, understand, and legislate people with an imperial connection, but whose ancestry was not traceable to the British Isles.[68] This also explains contemporaneous and historiographical ambivalence towards the Irish, who

[66] Using an approach not dissimilar to Slaven and Boswell in "Symbolic policy-making in the 1960s'.

[67] P. Gilroy, *'There ain't no black in the Union Jack': The cultural politics of race and nation* (London: Hutchinson, 1987); K. Paul, *Whitewashing Britain: Race and Citizenship in the Postwar Era* (Ithaca, NY: Cornell University Press, 1997);. Spencer, *British immigration policy since 1939: the making of multi-racial Britain*, (London: Routledge, 1997); A. Dummett and A. Nicol, *Subjects, Citizens, Aliens and Others: Nationality and Immigration Law* (London: Weidenfeld and Nicolson, 1990), p. 201; J. Solomos, 'Racism and anti-racism in Great Britain: historical trends and contemporary issues', in *Racism and Anti-Racism in World Perspective*, ed. B. Bowser (Thousand Oaks, CA: Sage, 1995), 157-80.

[68] It had also been used by academics such as Paul in *Whitewashing Britain* and A. Messina, in 'The Impacts of Post-WWII Migration to Britain: Policy Constraints, Political Opportunism and the Alteration of Representational Politics', *The Review of Politics*, 62:2 (2001), 259-285.

were considered ‘white people moving to a white country’.[69] As El-Enany and others show, the term, while out of fashion, still unhappily captures much existing inequality in Britain.[70]

Discretion was an important condition: as the 'older brother’, John Bull did not have the political latitude of the settler colonies (Canada, Australia, New Zealand, and South Africa) to implement explicitly racial immigration criteria.[71] Not only would such restrictions offend liberal opinion at home, abroad they would undermine Britain’s moral leadership of the emerging Commonwealth, threaten the sterling area, and provide dangerous ammunition, in a Cold War context, for anti-West sentiment.[72] However reluctantly, therefore, Britain refrained from overtly limiting the freedom of movement of its colonial subjects.

Indeed, in the immediate postwar years, the myth of common subject-hood in the British Empire, not to mention dire labour shortages, precluded an openly racial approach. As the Minister of State at the Colonial Office declared in 1954: ‘Any British subject from the colonies is free to enter this country at any time … We still take pride in the fact that a man can say *civis Britannicus sum* whatever his colour’.[73] Churchill’s private secretary, Sir David Hunt, put it somewhat more candidly: ‘The minute we said we’ve got to keep these black chaps out, the whole Commonwealth lark would have blown up.’[74] France followed a similar pattern: any overtly nativist strain to immigration was tempered by a buoyant economy, labour shortages, and the need to (re)affirm French colour-blind, Republican ideals after the horrors of Vichy.[75]

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[69] J. Corbally, ‘The Othered Irish: Shades of Difference in Post-War Britain, 1948-71’, *Contemporary European History*, 24:1 (2015), 105-125.

[70] R. Ford, ‘Acceptable and Unacceptable Immigrants: How Opposition to Immigration in Britain is Affected by Migrants' Region of Origin’, *Journal of Ethnic and Migration Studies*, 37:7 (2011), 1017-1037.

[71] These countries were also referred to as the Old Commonwealth, or Old Dominions. A. Bashford and C. Gilchrist ‘The Colonial History of the 1905 Aliens Act’, *The Journal of Imperial and Commonwealth History,* 40:3 (2012), 409-437.

[72] Sterling was used as a reserve currency by most Commonwealth countries, in much the same way as the American dollar is used today.

[73] House of Commons Debate of 5 November 1954, quoted in I. Spencer, *British Immigration Policy Since 1939: The making of multi-racial Britain*, (London and New York: Routledge, 1997), p. 23. Dean argues that however ‘nebulous and ill-defined’, the Commonwealth was an important ideal, and free movement within it, an important cornerstone. D. Dean, ‘The Conservative Government and the 1961 Commonwealth Immigration Act: The Inside Story’, *Race & Class,* 35:2 (1993), p. 59.

[74] Quoted in K. Paul, *Whitewashing Britain: Race and Citizenship in the Postwar Era* (Ithaca, NY: Cornell University Press, 1997), p. 142.

[75] V. Viet, *La France immigrée: Construction d’une politique, 1914-1997*, (Paris: Fayard, 1998), p. 241. For a catalogue of how these tensions played out in France with each new wave of immigrants since the 1800s, see: G. Noiriel, ‘Immigration : le fin mot de l’histoire’, *Vingtième Siècle, revue d'histoire*, 7 (1985), 141-150.

The Constitutions of the fourth and fifth Republics thus proclaimed, again, that 'every human being, without distinction of race, religion, or belief, possesses inalienable rights'.[76]

Yet the aftermath of the Second World War and the loss of empire had dislocated national identities.[77] In an effort to make sense of the seismic shifts around and within them, focus turned to ethnic homogeneity as a marker of continuity and solidarity.[78] Gilroy describes a Britain in which 'The black presence is … constructed as a problem or threat against which a homogeneous, white, national 'we' could be unified'.[79] In Britain, the 'representation of Black migrants to Britain as un-British helped to reconfigure and secure the imagined community of the nation during a period of rapid change and great uncertainty'.[80] As Waters argues:

> [the] shifting contours of the nation's imperial mission, the uncertainty of Britain's role in post-war Europe, the demise of the nation as a world power (graphically illustrated by the Suez crisis of 1956), concern about the effects of American forms of mass culture on social stability, and, finally, anxieties generated by the advent of the "affluent society" in the later 1950s lead to intense questioning about what it now meant to be British.[81]

A similar process occurred in France, where the humiliation of occupation and the turmoil of the immediate after-war years prompted de Gaulle to proclaim the myth of '*la France résistante*'.[82] A similarly urgent reinvention was required only a few years later as Algerians

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[76] The very concept of a national identity is a recent and contested one. Despite publishing *L'identité nationale* in 1986, Braudel himself admitted that 'though the word had seduced me, it has tormented me for years' ('l*e mot m'a séduit, mais n'a cessé, des années durant, de me tourmenter.*') quoted in T. Wieder, 'Aux racines de l'identité nationale', *Le Monde*, 6 November 2009.

[77] B. Schwarz, *Memories of Empire, Volume I: The White Man's World*, (Oxford: Oxford University Press, 2011).

[78] On the myths and mis-memories following the war, see: T. Judt, 'The Past Is Another Country: Myth and Memory in Postwar Europe', *Daedalus,* 121:4 (1992), 83-118. On the racial dimension of this post-was and post-imperial reconfiguration, see: Schwarz, *The White Man's World*; El-Enany, *(B)ordering Britain*.

[79] P. Gilroy, *There Ain't No Black in the Union Jack the Cultural Politics of Race and Nation* (London: Routledge Classics, 2002), p. 49.

[80] C. Waters, '"Dark Strangers" in our Midst: Discourses of Race and Nation in Britain, 1947-1963', *Journal of British Studies*, 36:2, (1997), 207-238.

[81] Waters, 'Dark Strangers', p. 214-15. See also: E. Pilkington, *Beyond the Mother Country : West Indians and the Notting Hill White Riots* (London: I.B.Tauris & Co., 1988).

[82] Whereby France had been united in its resistance against German occupation, despite copious evidence of collaboration.

demanded their independence in an increasingly violent and protracted war.[83] Algeria was unique among French colonies in that it was considered not a colony, but part of France proper. As François Mitterrand, then interior minister and future president, declared in 1954: 'Algeria is France, and France will not recognise any other authority there but her own'.[84] The only way to make sense of the war and Algerian independence was to recast Algerians, not as the 'French muslims' they had been, but as foreigners.[85]

Spencer gives a compelling and archivally rich account of twentieth century British immigration policy from the 1930s to the early 1980s (though the archival research extends only as far as the 1960s).[86] Building up to the 1962 Commonwealth Immigrants Act, which he considers a crucial turning point, Spencer shows the extent of inter-ministerial competition and tension, also stressing the reliance on administrative, rather than legal, means of implementation. Despite the occasionally competing concerns of the Colonial, Commonwealth, and Home Offices, Spencer shows the remarkable continuity of postwar British immigration policy inasmuch as the overall objective has unfailingly been to limit poor, non-white settlement in Britain, while keeping exits open for British emigration to the Old Dominions.[87] He shows how until the 1962 Act, the political cost-benefit analysis precluded any formal, legal, overt restrictions on immigration from the West Indies or the Indian sub-continent. Instead, while the myth of *civis Britannicus sum* was loudly proclaimed by government, the common subject-hood that was the practical expression of the Commonwealth gradually became more difficult and expensive for poor, non-whites to exercise.[88]

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[83] T. Shepard, *The Invention of Decolonization: The Algerian War and the Remaking of France,* (Ithaca: Cornell University Press, 2006).

[84] '*L'Algérie, c'est la France, et la France ne reconnaîtra pas chez elle d'autre autorité que la sienne'*. M. Tandonnet, '19 mars: quand François Mitterrand déclarait, "l'Algérie, c'est la France…"', *Le* Figaro, 18 March 2016 [http://www.lefigaro.fr/vox/histoire/2016/03/18/31005-20160318ARTFIG00198-19-mars-quand-francois-mitterrand-declarait-l-algerie-c-est-la-france.php, accessed 5 April 2021].

[85] For further reading on Algeria, citizenship, and immigration in France, see: B. Stora, *La gangrène et l'oubli*, (La découverte: Paris, 1991), ch. 20 'Derrière l'immigration, la guerre d'Algérie'; Y. Gastaut, 'Le racisme anti-maghrébin et les séquelles de la guerre d'Algérie', *Hommes & Migrations*, 1174 (1994), 35-42; A. Spire, 'Semblables et pourtant différents. La citoyenneté paradoxale des "Français musulmans d'Algérie" en métropole', *Genèses*, 53:4 (2003), 48-68.

[86] Spencer, *British immigration policy since 1939*.

[87] Though at times the British economy demanded labour, *settlement* was never something authorities were keen to promote.

[88] For a discussion of the internal contradictions of Commonwealth citizenship, see: K. Paul, *Whitewashing Britain* (Ithaca: Cornell University Press, 1997).

1962 marked a break with this tradition of imperial free movement.[89] For the first time in the history of the British empire, the movement of British subjects was subject to immigration and labour market controls.[90] As R. A. Butler, then Home Secretary, put it to Cabinet colleagues in 1961: 'We could not legislate openly on ground of colour and our best public stand would be, as the Working Party proposed, on employment, although we must recognize that reference to employment would be the *means* of controlling immigration and not the *grounds* for doing so' [emphasis added].[91] Employment was the pretence, the excuse, for limiting non-white Commonwealth settlement. In practice, what the Act meant was that henceforth one of three categories of job voucher would be needed to gain admittance to the UK.[92] People born in the UK, or people whose passports had been issued by the British (rather than colonial or Commonwealth) government were not restricted under the Act. As El-Enany argues,

> The abstraction of day-to-day life in Britain from its colonial history means that immigration law and policy, whether in the form of the hostile environment, visa requirements or other external border controls, are not seen as ongoing expressions of empire. Yet this is what they are; part of an attempt to control access to the spoils of empire which are located in Britain. … It is Britain that has been unjustly enriched through centuries of colonialism, and immigration law is the tool that ensures that dispossessed peoples have no claim over what was stolen from them.[93]

From 1962 onwards, various immigration and nationality acts made the right to travel, work, and settle in Britain increasingly contingent on an individual's skill set and their 'ancestral ties' to Britain. Slaven and Boswell show how immigration policy in the 1960s was largely symbolic, a finding that my own research confirms for the 1970s.[94] They show that decisions by the Home Office to crack down on irregular migration were 'concessions to simplistic notions of control that did not chime with official views of what would work'. In fact, anti-evasion measures were considered by officials to be very marginal to the goal of decreasing

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[89] N. Deakin, 'The Politics of the Commonwealth Immigrants Bill', *The Political Quarterly,* 39:1 (1968), 25-45; D. Dean,'The Conservative Government and the 1961 Commonwealth Immigration Act: The Inside Story', *Race & Class,* 35:2 (1993), 57-74; Spencer, *British Immigration Policy since 1939*.

[90] For further reading on the 1962 Act, see: Dean, 'The Conservative Government and the 1961 Commonwealth Immigration Act'; Deakin, 'The Politics of the Commonwealth Immigrants Bill'; Spencer, *British Immigration Policy Since 1939,* chapters 4 and 5.

[91] PRO, CAB 134/1469, 1961.07.31, quoted in Dean, 'The 1961 Commonwealth Act', p. 64.

[92] Spencer, *British Immigration Policy Since 1939*, p. 129.

[93] N. El-Enany, *Bordering Britain: Law, race and empire*, (Manchester: Manchester University Press, 2020), p. 2.

[94] Slaven and Boswell, 'Symbolic policy-making in the 1960s'.

immigrant numbers, which were driven by the arrival of the families of settled workers. Such measures were nonetheless adopted (albeit half-heartedly and patchily applied) purely to satisfy public pressure, which officials regarded as misguided and unhelpful. Making an offence of illegal entry might be pointless, 'But it would be sufficient for the purposes of public presentation, and might not make all that difference to the number of clandestine immigrants caught'.[95]

Slaven and Boswell show how difficult it was for officials to counter widespread, punitive accounts of immigration, and how, in a bid to be seen to be doing something, the best officials could do was attempt to stem the tide of arrivals, not reverse it. Indeed, in 1968, senior Conservative politician Enoch Powell gave a speech (later known as the Rivers of Blood speech) in which he painted a bleak picture of multiracial Britain, where 'the black man [would have] have the whip hand over the white man'. 'We must be mad, literally mad as a nation', he continued, 'to be permitting the annual inflow of some 50,000 dependants … it is like watching a nation busily engaged in heaping up its own funeral pyre'.[96] Though Heath immediately sacked him from the shadow cabinet, Powell received over 100,000 letters (only about 800 of which took issue against his position). Dockers and meat packers went on strike in his defence, marching from the East End to Westminster to protest his firing.[97] While the mainstream political class took their distances, the speech marked a change both in Conservative party history and in racial discourses.[98]

For daily news reports were coming in from the United States about racial upheaval, as civil rights protests escalated, Black liberation movements mobilised, and Martin Luther King was assassinated. The link with Britain, where Sikh bus drivers were protesting for the right to wear beards and turbans, was made directly.[99] The *Times* ran the headline 'Birmingham is no

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[95] TNA, HO 344/182, 1968.02.16, FitzGerald to Pile, in Slaven and Boswell, 'Symbolic policy-making in the 1960s', p. 1488.

[96] Enoch Powell, 'Rivers of Blood' speech, 20 April 1968 in Birmingham. [Full text available: https://www.telegraph.co.uk/comment/3643823/Enoch-Powells-Rivers-of-Blood-speech.html, accessed 5 April 2021].

[97] For a discussion of the liberal origins of Powell's philosophy, see: P. Brooke, 'India, Post-Imperialism and the Origins of Enoch Powell's 'Rivers of Blood' Speech', *The Historical Journal*, 50:3 (2007), 669–87.

[98] P. Gilroy, *'There ain't no black in the Union Jack': The cultural politics of race and nation* (London: Hutchinson, 1987); J. Ramsden, *The winds of change: Macmillan to Heath, 1957–1975* (London: Longman, 1996).

[99] For an interesting take on British multiculturalism, see: D. Feldman, 'Why the English like turbans: a history of multiculturalism in one country', in *Structures and Transformations in Modern British History,* eds. D. Feldman and J. Lawrence (Cambridge: Cambridge University Press, 2011), 281-302.

Detroit, but there are storm signals', in reference to the race riots shaking the US, and the Joint Parliamentary Secretary at the Home Office warned that 'the Government did not intend to permit the racial violence now sweeping America to happen in Britain'.[100] By 1969, Slaven and Boswell conclude,

> the onus had shifted from adjusting quotas and criteria of admission to reduce numbers, to a policy focused on addressing the individual transgression of rules. The Home Office considered an individualised and punitive approach resource-intensive and ineffective – but this appeared to be demanded by public narratives of the problem.[101]

ii. Pivot to Europe

So this was the climate in which the 1971 Immigration Act was introduced. The Act's main innovation was the introduction of the concept of 'patriality'. It marked an explicit pivot towards Europe - coming into force the day Britain joined the EEC - and introduced 'patriality' to justify the exclusion of New Commonwealth citizens from Britain. So doing, it left aliens - including citizens of the European Community Six - 'largely unaffected'.[102] Non-patrials, that is, those without a 'close connection' to Britain in the form of a British parent or grandparent, were subject to work permits, used as a covert proxy for ethnic quotas.[103]

Indeed, a European dimension began to emerge in British immigration policymaking as soon as accession negotiations took off in earnest following de Gaulle's death in 1970.[104] De Gaulle had twice vetoed British application for membership, in 1963 and 1967, but Pompidou, his successor, was more amenable. Britain joined the EEC on 1 January 1973, the same day as the new Immigration Act came into effect. British immigration policy in the 1970s must therefore be understood in the context of a broader, strategic re-orientation away from a Commonwealth which had never truly delivered on expectations, towards a prosperous,

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[100] *Times*, 'Birmingham is no Detroit, but there are storm signals', 27 July 1967, p. 2, *The Times Digital Archive* [http://tinyurl.galegroup.com/tinyurl/9DKZo7, accessed 5 April 2021]; *Times*,'Ennals warning on race violence', 25 July 1967, p. 2, *The Times Digital Archive* [http://tinyurl.galegroup.com/tinyurl/9DKZr1, accessed 5 April 2021].

[101] Slaven and Boswell, 'Symbolic policy-making in the 1960s', p. 1491.

[102] E. Heath, 'Realism in British Foreign Policy', *Foreign Affairs,* 48:1 (1969), 39-50, quoted in Williams, 'The Introduction of the 1971 Immigration Act', p. 514.

[103] Patrials also included those born, adopted or naturalized in Britain, and included all those lawfully settled in Britain before the Act came into effect on 1 January 1973.

[104] Williams, 'The Introduction of the 1971 Immigration Act', p. 513.

proximate European Community.[105] On 1 January 1973, the *Daily Mail* cheerfully headlined 'Europe, Here We Come!', reminding the reader they had 'campaigned for this day' for 10 years.[106] The *Times* meanwhile said 'there is every reason to be delighted that this is the day Britain joins the European community'.[107]

Indeed, more important to policymakers than any racial prejudice was the imperative for Britain to turn decisively towards Europe.[108] While the racial undertones of British immigration policy have been one if its most consistent features, recent scholarship has shown not only the geopolitical significance of the 1971 Act, but the multitude of complex and contradictory pressures the Act was attempting to quell.[109] Smith and Malmo sum it up neatly when they say that:

> the immigration control system was not as steadfast as has been portrayed, but a flexible and adaptable junction that acted as a filter to keep out 'undesirable' migrants, while allowing entry for others, depending on a range of socio-economic, political and legal factors that shifted the criteria for what was determined as an 'undesirable' migrant.[110]

Williams shows that while Enoch Powell's agitating certainly had fostered the feeling that 'something must be done' to curb (non-white) immigration, any attempt to limit alien

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[105] When US statesman Dean Acheson remarked in 1962 that 'Great Britain has lost and empire and has not yet found a role', he continued his indictment by describing the Commonwealth as something 'which had no political structure, or unity, or strength, and enjoys a fragile and precarious economic relationship by means of the Sterling area and preferences in the British market', quoted in D. Brinkley, 'Dean Acheson and the 'Special Relationship': The West Point Speech of December 1962', *The Historical Journal,* 33:3 (1990), 599–608.

[106] *Daily Mail*, 'Europe, Here we Come!', 1 January 1973, [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/EE1861812671/DMHA?u=cambuni&sid=DMHA&xid=8981d930, accessed 5 April 2021].

[107] *Times*, 'A Great Day For Europe', 1 January. 1973, p. 15, *The Times Digital Archive* [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/CS251885601/TTDA?u=cambuni&sid=TTDA&xid=7dc59409, accessed 5 April 2021].

[108] For recent scholarship on the 1971 Act, see: E. Consterdine, 'Community Versus Commonwealth: Reappraising the 1971 Immigration Act', *Immigrants & Minorities,* 35:1 (2017), 1-20; E. Smith and M. Marmo, 'The myth of sovereignty: British immigration control in policy and practice in the nineteen-seventies', *Historical Research,* 87:236 (2014), 344-369; Williams, 'The Introduction of the 1971 Immigration Act'.

[109] For a detailed account of British immigration policymaking in the 1950s and 1960s, see: I. Spencer, *British Immigration Policy Since 1939: The making of multi-racial Britain,* (London: Routledge, 1997); Dean, 'The Conservative Government and the 1961 Commonwealth Immigration Act'; Hansen, 'The Commonwealth Immigrants Act, 1968'.

[110] Smith and Marmo, 'British immigration control in policy and practice in the nineteen-seventies', p. 346.

immigration would 'engender resentment and suspicion from Britain's prospective EEC partners'.[111] (Alien at the time referred to non-British, non-Commonwealth citizens, and included EEC nationals. As French officials were wont to observe, however, British nationality and citizenship laws were notoriously convoluted.)[112] Nor could British officials limit Old Commonwealth migration, which was equally politically costly: not only did British accession threaten the economic interests of the Old Commonwealth more than it did the New; but according to a 1972 Foreign Office circular, Canada, Australia and New Zealand also formed, 'by any reckoning, the most important members of the Commonwealth: economically, in terms of political reliability, as potential military allies and because of the close ties of kinship and culture which linked their peoples with those of Britain'.[113] Who then remained as a plausible target for decisive government action? The New Commonwealth.

Non-white immigrants were already the fairly explicit targets of the panic surrounding immigration.[114] Their numbers had also been falling since Wilson introduced work vouchers in 1965, restricting their annual issue to 8,500.[115] Furthermore, New Commonwealth governments had traditionally been reasonably accommodating of British requests to limit migration: Britain still provided financial aid to a number of governments as part of independence arrangements, which in a Cold War context, were necessary to avoid 'social revolution and a Castro-like situation'. Discreet cooperation, through the creation of administrative backlogs for instance, was for all concerned parties preferable to any explicit anti-immigration legislation on Britain's part. Finally, emigration relieved pressure on fragile economies while providing much needed remittances.[116] Economically, neither New Commonwealth nor British officials anticipated any fallout from EEC membership, though in the buildup to the Act, political relations were strained

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[111] Williams, 'The Introduction of the 1971 Immigration Act'.

[112] One French memo stressed the 'variety and vagueness' ('*variété et flou*') of British citizenship and nationality. Fondation nationale des sciences politiques, Centre d'histoire de Sciences Po, Archives d'histoire contemporaine, fonds Patrick Weil, WE2, 1983.08.12, Ambassade de Londres à Ministère des affaires extérieures, 'Contrôle aux frontières - correspondance reçue à l'Ambassade'.

[113] TNA, FCO 49/504, 1972.12.05, circular, no author, quoted in Williams 'The 1971 Immigration Act'.

[114] As a *Times* article noted in 1965, 'immigration has become synonymous with coloured immigration, [though] coloured newcomers are still a minority even among minorities'. R. Glass, 'Census Casts Light on Social Change', *Times*, 30 June 1965, p. 13. *The Times Digital Archive* [http://tinyurl.galegroup.com/tinyurl/9RT966, accessed 5 April 2021].

[115] Williams, 'The 1971 Immigration Act', p. 510.

[116] For further reading on the cooperation of New Commonwealth governments in slowing - but not halting - emigration, see: Dean, '1961 Commonwealth Immigration Act', p. 60; Spencer, *British immigration policy since 1939,* pp. 103-7 and pp.121-3.

by the resumption of British arms sales to South Africa.[117] With EEC and Old Commonwealth nationals out of bounds, and large swathes of public opinion stubbornly suspicious of 'coloureds', the political cost of clamping down on New Commonwealth immigration was positive indeed.[118] The Act thus represented a geopolitical choice, and 'the final dismantling of universal Commonwealth citizenship and, in this sense, a definitive acceptance of the end of Empire'.[119]

To sum up, by the time Britain joined the European Community, as one of its poorer nations no less, it had already largely severed its political ties to the Commonwealth, and was looking optimistically ahead to Europe. This change was reflected in the free movement rights granted to different groups.

Before examining borders in Europe more generally, a final note on Britain. Though political and economic ties to the Commonwealth had all but distended by the 1970s, many scholars have emphasized the continuity, rather than rupture, in Britain, between the imperial, Commonwealth, and current eras, in terms of how deeply Empire still suffuses British culture and politics. Gilroy talked about 'postcolonial melancholia'; MacKenzie about 'popular imperialism'; Gildea about an 'empire of the mind'.[120] Sèbe and Saunders both argue that the 'persisting influence of the imperial experience on the DNA of British culture and politics' is so deep, it informed the 2016 Brexit referendum, whether its proponents - or opponents.[121] This

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[117] Heath was under intense scrutiny, and occasionally vitriol, at the January 1971 Commonwealth Heads of Government meeting in Singapore, see: Williams, 'The 1971 Immigration Act', p. 524.

[118] Gallup polls conducted quasi yearly from 1965 to 1978 showed that the percentage of respondents agreeing that 'immigration; coloured persons' posed 'very serious social problems' never dipped below 52%, rising as high as 71% in 1976, in M. Collins, 'Immigration and opinion polls in postwar Britain', *Modern History Review*, 18:4 (2016), 8-13. For further reading into the social psychological potential causes of xenophobia, see: J. Faulkner et al., 'Evolved Disease-Avoidance Mechanisms and Contemporary Xenophobic Attitudes', *Group Processes & Intergroup Relations*, 7:4 (2004), 333–353; D. Abrams, M. Hogg and J. Marques (eds.), *Social Psychology of Inclusion and Exclusion*, (Hove: Taylor and Francis, 2004).

[119] Consterdine, 'Reappraising the 1971 Immigration Act'.

[120] P. Gilroy, *Postcolonial Melancholia*. Wellek Library Lectures, (New York: Columbia University Press, 2005); J. MacKenzie, *Imperialism and Popular Culture* (Manchester: Manchester University Press, 1992); Gildea, R., *Empires of the Mind*. The Wiles Lectures (Cambridge University Press, 2019).

[121] B. Sèbe, "'*Showcasing* Empire' Past & Present Or A Brief History of Popular Imperialism, from Britannia to Brexit", *Cahiers victoriens et édouardiens*, 93 Printemps (2021); R. Saunders, 'Brexit and Empire: 'Global Britain' and the Myth of Imperial Nostalgia', *The Journal of Imperial and Commonwealth History*, 48:6 (2020), 1140-1174.

continuity seems to have mattered more as a diffuse cultural backdrop, than as a coherent or even fixed set of beliefs for policymakers or the 'public'.[122]

Scholars such as Marmo, Paul and El-Enany have identified continuities between Empire and Commonwealth in contemporary British immigration and border policies specifically.[123] Paul argues in *Whitewashing Britain* that:

> The game was the same, but the rules had changed: the empire/commonwealth had to be preserved as a basis for international prestige and economic fortune, but gunboat diplomacy and outright domination were to be replaced by colonial economic development and equality among dominion nation-states.[124]

El-Enany takes the argument even further, arguing that contemporary immigration laws and practices are but the latest, direct, iteration of colonial practices of exclusion and dispossession: the primary purpose of both colonialism and immigration laws being to 'control access to the spoils of empire which are located in Britain', whether through conquest abroad, or border control at home.[125] 'British immigration law, in serving to legitimise ongoing theft of colonial wealth, must therefore be understood as being on a continuum of colonialism'.[126] She examines the colonial roots of legal categories such as 'alien' and 'subject', tracing the decline of imperial conceptual categories and their replacement by others that serve a similar purpose.

Instead of looking at the evolution of legal categories over a century, as El-Enany does, I examine official records for the two decades between 'post-war' and 'post-Cold War'. My research confirms the broad thrust of these arguments, showing how between the early 1970s and the early 1990s, the language of 'race relations' gradually gave way to the language of immigration control, though both paradigms ultimately served the same purpose: to prevent, or at least control, the ability of colonial or neo-colonial people to make claims on the British state. This was less of an issue during the postwar golden years, where labour was scarce and the economy growing. By the 1980s, however, the domestic conjuncture had taken a turn for

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[122] Saunders shows how imperial frames of reference suffused both sides of the Brexit debate; while Porter shows how distant it was for most ordinary nineteenth century Britons. B. Porter, *The Absent-Minded Imperialists: Empire, Society, and Culture in Britain*, (Oxford: Oxford University Press, 2004).

[123] M. Marmo, 'Continuity and Durability of Violent Border Policies and Practices Directed at Undesirable Migrants in Britain and Australia: Some Reflections on the Past–present Continuum', *Immigrants & Minorities* (2021).

[124] Paul, *Whitewashing Britain,* p. 3.

[125] El-Enany, *(B)ordering Britain,* p. 2.

[126] El-Enany, *(B)ordering Britain,* p. 5.

the worse. This made the tradeoffs inherent to Britain's active promotion of globalisation impossible to ignore - though they were rarely, publicly or privately, analysed as such.

Indeed, however unsystematically or opportunistically they may have been devised and carried out, British immigration and border policies did *in effect* continue to exclude roughly the same groups from the benefits of globalisation as had previously been excluded during colonisation. I show how increasingly moralised ways of conceptualising immigration and immigrants served to mask, perhaps even unwittingly, the tradeoffs immigration was inextricably linked to, whether in terms of past imperial conquest, or present promotion of globalisation. For selective, collective amnesia remained a constant feature of British immigration policy and discussion: policy did not address the root causes of immigration to Britain, nor acknowledge that such immigration may be as officially undesired as it was unofficially convenient.[127] In policy circles, these issues were only rarely raised, never seriously addressed. Instead, new, highly moralised conceptual categories gradually emerged to justify the exclusion of certain groups from Britain. As El-Enany shows and I confirm, there remains a striking continuity in these groups to this day.

2.2. Borders in Europe

i. Borders, mobility, and Europe

What about mobility in Europe? Have borders and movements across them always been so politically charged? How have state efforts to help, hinder, and organise mobility changed? To what extent is the European Community – later European Union – truly a break with the past? The EU and its previous incarnations are the frequent object of hyperbole: an apparently ahistorical *sui generis* political experiment with no equivalent in space or time.[128] However, the postwar consolidation of European borders and the free movement of certain people across them is not new. On the contrary, it is better understood as the latest chapter in an old cycle of unification and fragmentation.[129] Indeed, relatively unencumbered movement across vast

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[127] Convenient in that stigmatising immigrants also serves to create a pool of precarious, flexible, and cheap labour. See: C. Dauvergne, *Making people illegal: What globalization means for migration and law* (Cambridge: Cambridge University Press, 2008); S. Sassen, 'Regulation Immigration in a Global Age: A New Policy Landscape', *parallax*, 11:1 (2005), 35-45.

[128] K. Patel, 'Provincialising European Union: Co-Operation and Integration in Europe in a Historical Perspective', *Contemporary European History,* 22:4 (2013), 649–73.

[129] L. O'Dowd, 'The Changing Significance of European Borders', *Regional and Federal Studies,* 12:4 (2002), 13-36. For an interesting discussion of cyclical, rather than linear, conceptions of history, see: Henry Kissinger, *On China*, (New York: Penguin Press, 2011).

expanses and numerous polities predates the existence of state borders.[130] The sanctity – symbolic, at least – of a polity's territorial borders only emerged in the nineteenth century with the nation-state, as the distinction between citizen and alien replaced distinctions of status and allegiance.[131] For while the control of movement is ancient, the state was but one of a variety of actors such as guilds, merchant networks, ethnic diasporas, and local elites to affect it. For the most part, control happened less at state borders (to the extent they were even clearly defined), but within local communities or at specific geographical sites such as bridges.[132] It is only gradually that territory and power went from being understood as a centre whose influence spread unevenly over the peripheries, to a homogenous, and territorially bounded whole where the authority of the state is distributed evenly within clearly demarcated borders.[133]

Standardization around the basis of the individual and nationality did not occur until the late nineteenth century and the consolidation of the nation-state, passports and identity documents replacing letters of introduction or tradesman garb as markers of identity granting rights of passage.[134] It is then that the first modern laws attempting to define precisely who was and was not a citizen, and the conditions under which one might become one, emerged. In Britain, for instance, the first piece of legislation to organise and limit the number of aliens, then defined as non-Empire or Commonwealth, was the Aliens Act of 1905.[135] In France, the first legislation on naturalization, part of an effort to control and direct immigrants in view of potential conscription, was enacted in 1889.

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[130] J. Lucassen and L. Lucassen, eds., *Globalising Migration History: The Eurasian Experience (16th-21st Centuries),* (Leiden: Brill, 2014).

[131] J. Torpey, *The Invention of the Passport: Surveillance, Citizenship and the State* (Cambridge: Cambridge University Press, 1999).

[132] In Elizabethan England, for instance, it was at the parish level that control over individuals was most directly exercised, as parishes administered the Poor Laws, which were contingent on the location of an individual's residence.

[133] B. Anderson, *Imagined Communities Reflections on the Origin and Spread of Nationalism* (London: Verso, 1987).

[134] Until the early seventeenth century, the sumptuary laws regulated consumption in England and Holland such that certain cloths and materials were effectively reserved for certain classes. In France, this lasted until the late eighteenth century. See: J. De Vries, *The Industrious Revolution: Consumer Behavior and the Household Economy, 1650 to the Present*, (Cambridge: Cambridge University Press, 2008), p. 134. See also, A. McKeown, *Melancholy Order: Asian migration and the globalization of borders* (New York: Columbia University Press, 2008), p. 21, p. 39.

[135] Schain, *The Politics of Immigration,* pp. 41-2, pp. 121-2.

But how to identify with certainty who is part of a national community and who is not? In a local community, identities are confirmed by personal relationships: kinship, trade, or village ties. Members of a nation, however, cannot know each other personally. In the last instance, belonging in the legal sense (a sense whose importance has consistently grown) can only positively be confirmed through identity documents, physical expressions of otherwise imagined communities. For Torpey, the link between nation-state building and the proliferation of identity documents is crucial: without such institutionalization around the key categories of 'individual' and 'nation', other feelings of solidarity and belonging could take precedence.[136] It is only through the monopolization of the 'legitimate means of movement' that states constituted themselves as such.[137] On an international level, the diffusion and standardization of these techniques can be explained by a group effect: regardless of whether a state actually sought to control entries and exits onto its territory, its ability to do so was increasingly seen as a hallmark of its sovereignty, a precondition to its very existence as a state in the first place.

Despite this, there existed until the First World War a variety of political units other than the nation-state, from principalities to empires, with little in the way of border control. 'The burgeoning fortunes of economic liberalism made free circulation appear an unavoidable necessity for industrial development'.[138] Capital was moving at unprecedented rates, not seen again until the late twentieth century; so were people.[139] 'Passport requirements fell away throughout Western Europe, useless paper barriers to a world in prosperous motion'.[140] McKeown attributes this brief loosening of border controls less to a reversal of nation-state power than to a temporary lull in its spread.[141]

The First World War was a watershed moment. Not only were no mainland European empires left in its wake, as both the Ottoman and Austro-Hungarian empires collapsed, but the states which had begun to constitute themselves in the nineteenth century enacted a series of

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[136] Torpey, *Invention of the Passport,* p. 14.

[137] Torpey, *Invention of the Passport,* pp. 4-20.

[138] Torpey, *Invention of the Passport,* p. 56.

[139] For capital movements, see: M. Obstfeld and A. Taylor, *Global Capital Markets: Integration, Crisis, and Growth* (Cambridge: Cambridge University Press, 2004), pp. 23-26. For movement of people, see: A. Solimano, *International Migration in the Age of Crisis and Globalization: Historical and Recent Experiences* (Cambridge: Cambridge University Press, 2010), pp. 78-116.

[140] Torpey, *Invention of the Passport*, p. 112.

[141] Central controls on free movement have a long history. In the thirteenth century, for instance, the Holy Roman Empire abolished the Medieval principle of *Stadtluft macht frei* ('City air makes one free'), whereby serfs who had escaped to the city would be free men in a year and a day. McKeown, *Melancholy Order,* p. 42.

temporary population control measures on the eve of the war that were never rescinded. In a bid to raise tax revenue and guarantee conscripts, Italy for instance imposed documentary conditions designed to prevent young men from leaving the country.[142]

After the Second World War the significance of territorial borders increased: as the state grew ever more complex, with a monopoly not only over coercion, surveillance, and taxation, but also increasingly welfare, so too did the practical implications of belonging to one state rather than another grow.[143] After the war, extraordinary pains were taken and thousands of people displaced to ensure linguistically and ethnically homogeneous entities, a testimony to how engrained the idea of homogenous, clearly bordered nation-states had become.[144]

ii. Borderless Europe?

Yet from the wreckage of the Second World War emerged what would become the European Economic Community, and efforts to reverse, or at least mitigate, the supremacy of the nation-state. The European Coal and Steel Community (1952) sought to bind belligerents' core industrial capacities under a single, common authority – a marked break from the economic nationalism of the 1930s.[145] A few years later, in 1957, the Treaties of Rome were signed by representatives of the six founding nations, France, Germany, Italy and the Benelux countries.[146] One established the European Atomic Energy Community (Euratom), the other the European Economic Community (EEC).[147]

The Treaty Establishing the European Community (henceforth Treaty of Rome) that gave birth to the EEC in 1957 laid out the vision for this new political entity. It would be the basis for

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[142] Torpey, *Invention of the Passport,* p. 114.

[143] The link between care and control can also be observed in Elizabethan England, where the Poor Laws provided for welfare at the parish level. An individual's movements were both influenced and surveilled by local administrators determining which parish was (or not) responsible for them. For discussions on the modern welfare state's combination of care and control, see Polanyi's 'crustacean state' and Torpey's 'embrace'. K. Polanyi, *The Great Transformation* (New York: Octagon, 1975).

[144] See: Judt, *Postwar*. This continued into the 1990s as the Soviet Union and Yugoslavia disintegrated.

[145] According to Jean Monnet, one of the Community's founding fathers, 'there will be no peace in Europe, if the states are reconstituted on the basis of national sovereignty ... The European states must constitute themselves into a federation'. European Commission, 'Jean Monnet: the unifying force behind the birth of the European Union' [https://europa.eu/european-union/sites/europaeu/files/docs/body/jean_monnet_en.pdf, accessed 6 April 2021].

[146] Benelux refers to Belgium, the Netherlands and Luxembourg.

[147] The EEC was eventually renamed European Community (EC), which was subsumed into the European Union (EU) in 1993.

an ‘ever closer union between European peoples’.[148] It would also ‘eliminate the barriers that divide Europe’ in order to promote peace and prosperity.[149] To do so, it proposed as the foundation of the new Community, the free movement of goods, persons, services, and capital (the four freedoms), as well as a common agricultural policy (the CAP). A European Assembly, Council, Commission, and Court of Justice were created to oversee the practical coordination of the founding members’ economic policies. The Treaty, however, remained somewhat vague and open-ended, having to satisfy both those with supranational tendencies, and those preferring an intergovernmental approach.

So why, when the Treaty of Rome had enshrined the free movement of people in 1957, were Schengen or the Single European Act necessary a mere thirty years later?

First, the Treaty was at least as aspirational as it was practical: ‘It is important not to overstate the importance of the Rome Treaty. It represented for the most part a declaration of future good intentions… Most of the text constituted a framework for instituting procedures designed to establish and enforce future regulations.'[150]

Second, the focus was squarely on economic development and industrial capacity, rather than on individuals or their movement. Most of Europe’s agricultural and industrial capacity had been destroyed; rationing persisted until well after the end of the war (it was not abolished until 1954 in Britain, and West Germany continued to receive American food-aid packages until the 1960s).[151] Priority was therefore given to rebuilding infrastructure and agriculture, and ensuring a ‘harmonious’, ‘continuous’, and ‘balanced’ economic development whose natural effect would be to improve the lot of ordinary citizens.[152]

Third, the postwar decades were a period of economic boom on the one hand, and labour shortages on the other. Average yearly growth in OECD countries was 4% in the 1950s

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[148] ‘*les fondements d’une union sans cesse plus étroite entre les peoples européens*’ opens the preamble of the Treaty.

[149] ‘*assurer par une action commune le progrès économique et social de leurs pays en éliminant les barrières qui divisent l’Europe*’ is the second item in the Treaty preamble.

[150] T. Judt, *Postwar: A History of Europe since 1945* (London: Pimlico 2007), p. 303.

[151] For an interesting read on the politics of hunger in post-war Germany, see: A. Weinreb, ‘“For the Hungry Have No Past nor Do They Belong to a Political Party”: Debates over German Hunger after World War II’, *Central European History,* 45:1 (2012), 50-78.

[152] Treaty of Rome, Chapter One, ‘Les Principes’, Article 2, p. 15.

and 6% in the 1960s (compared to 2% in the 1980s).[153] From 1960 to 1973, West German unemployment rates were below 1%.[154] So despite the state's ever-increasing reach in terms of taxation and welfare for instance, no one sought to limit migration, only distantly manage it.[155] On the contrary, Britain, France, and Germany each had schemes to attract and import labour, whether West Indian nurses and factory workers in Britain, Southern Europeans in France, or Turkish Gastarbeiter in Germany. The schemes varied from bilateral agreements negotiated directly with the governments of sending countries, to schemes run by arms' length private entities operating with government blessing.[156] Poor but populous sending countries, such as Italy, Spain or Ireland, benefitted to the extent that emigration relieved pressure on scarce resources. While the going was good, governments had no reason to suspect that they could not halt or reverse the flow of workers at will. The failure of French attempts to bloc Algerian immigration in the 1920s had long since faded from official memory.[157]

Finally, the actual flows of workers remained small, and what migration there was, was predominantly white and European. In historically dynamic border regions such as the Rhine Basin, cross-border exchanges of goods and people continued unabated.[158] To the extent that there was any migration, it was of a kind that could either easily return because it came from neighbouring countries, or would become invisible in a decade or two if it did not, because white and Christian.[159]

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[153] S. Marglin and J. Schor (eds.), *The Golden Age of Capitalism: Reinterpreting the Postwar Experience*, (Oxford: Oxford University Press, 1990), p. 1.

[154] Sachverständigenrat, *Jahresgutachten1990/91: Auf dem Wege zur wirtschaftlichen Einheit Deutschlands* (Stuttgart: Metzler-Poeschel, 1991), p. 344 in T. Vonyó, 'Post-War Reconstruction and the Golden Age of Economic Growth', *European Review of Economic History,* 12:2 (2008), 221-41.

[155] As Slaven and Boswell show, 'Prior to the mid-1960s, evasion of border control was not considered a policy problem in the UK', in Slaven and Boswell, 'Symbolic policy-making in the 1960s'.

[156] For an overview of various schemes, as well as the ways in which they unintentionally created illegality, see: C. Lejeune and M. Martini, 'The fabric of irregular labor migration in twentieth-century Western Europe and North America: a comparative approach', *Labor History,* 56:5 (2015), 614-642.

[157] An institutional amnesia common enough across public administrations. The Chairman of the Federal Reserve from 1979 to 1987, Paul Volcker, admitted to discovering only too late that Keynes had grappled with the same contradictions in the international monetary system, 25 years before. P. Volcker and T. Gyohten, *Changing fortunes : the world's money and the threat to American leadership*, (New York: Times Books, 1992).

[158] L. O'Dowd, 'The Changing Significance of European Borders', *Regional and Federal Studies,* 12:4 (2002), 13-36.

[159] G. Noiriel, *Le creuset français : Histoire de l'immigration XIX-XXe siècle,* (Paris: Seuil, 1988).

2.3. Immigration in Europe

So what does history have to say about how European integration might have impacted national immigration policies, and whether the latter became increasingly repressive (if not completely securitised) as a result?

i. The study of European immigration history

The study of immigration history is relatively new. As Panayi noted in 2010, immigration history tends to remain the purview of historians with a family history of immigration themselves.[160] In a bid to correct this neglect, immigration historians have tended to focus on why people migrate and what happens to communities once they arrive, rather than on how states have sought to manage these flows. Immigration policy*making* remains a fairly modest subset of the field, especially in Britain.

The Lucassens, for instance, take a long-term approach, charting the flows and drivers of European migration from the Early Modern period onwards.[161] Others trace the history of a particular group, such as Jews in Britain or Italians in France.[162] Some use the host country as their focal point, gathering the stories of multiple communities, such as Panayi in Britain or Lequin in France.[163] The former gives an account of integration patterns in Britain since 1800; the latter a sweeping account of foreigners in France from the fifth century on. In his seminal *Le creuset français* ('The French melting pot'), Noiriel explores integration patterns of foreigners in France, looking at the mechanisms through which strangers are 'made' into Frenchmen through key institutions such as schools or military service.[164] Though Noiriel stresses the importance of the law, he does so in relation to immigrants' lived experiences, bypassing the policymaking process entirely.

Comparative immigration histories have also tended to focus on aspects other than legislation or policymaking, taking these more or less for granted. Schain, for instance, examines the politics of immigration policy - understood as 'politicization', rather than

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[160] I am myself a historian with such a history. P. Panayi, *An Immigration history of Britain*, p. 10.

[161] Lucassen and Lucassen, 'The mobility transition revisited, 1500–1900'.

[162] T. Kushner, *Anglo-Jewry since 1066*; P. Milza, *Les Italiens en France de 1914 à 1940*.

[163] Y. Lequin, (ed.), *Histoire des étrangers et de l'immigration en France* (Paris: Larousse, 1992).

[164] Though critics point out Noiriel focuses on white immigrants such as Poles or Portuguese, where the second and third generations can become 'invisible' in a way that Malians or Algerians may not.

policymaking itself.[165] As a broad survey rather than an in-depth archival study, he provides a welcome basis from which to begin thinking about immigration policy, but does not convey how policymakers themselves reacted to these various pressures or how this fed into the policymaking process. Instead, using secondary data and a broad approach (three countries over 150 years), he argues for the importance of political factors, rather than purely economic ones, in explaining immigration policy changes.

Others such as Williams, Consterdine, Puzzo, and Bleich have carried out more focused explorations of specific nuts and bolts of immigration policy. Williams and Consterdine in particular show how latent racism, geopolitics, and domestic pressures interacted to produce the 1971 Immigration Act. Puzzo takes a slightly different approach, focusing less on rationales than on implementation.[166] Comparing the instruments of British and French immigration policy in the 1970s, family reunification in particular, she highlights Cross-Channel similarities in the use of non-legal (as opposed to illegal) tools: ministerial rules on the British side, *circulaires* and *décrets* on the French ('our best enemies', according to one retired HO official). What stands out is the high degrees of discretion involved at all levels of the executive on both sides of the Channel. Bleich also makes a direct comparison between Britain and France, but focuses on integration, and the formulation of anti-racism policy.[167] He finds that the two are more alike than often imagined, with legacies of racism mattering more than institutional specifics.

These accounts show how and why policy was made the way it was, and illustrate the complexity of immigration policies dependent on a mix of domestic anxiety, official prejudice, and geopolitics. They show how policymakers adapted their respective policies to changing international circumstances, used them as bargaining chips in bilateral negotiations, all while grappling with the effects immigration was thought to have on domestic constituencies, unemployment, and the economy.[168] Building on this work, my own research hones in on a specific, heretofore neglected dimension: the influence of Europe on national immigration policymaking.

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[165] Schain, *The politics of immigration*, p. 23.

[166] Regarding the *outcome* - rather than formulation - of various Thatcher policies, see: D. Marsh and R. Rhodes (eds.), *Implementing Thatcherite Policies: Audit of an Era*, (Buckingham: Open University Press, 1992).

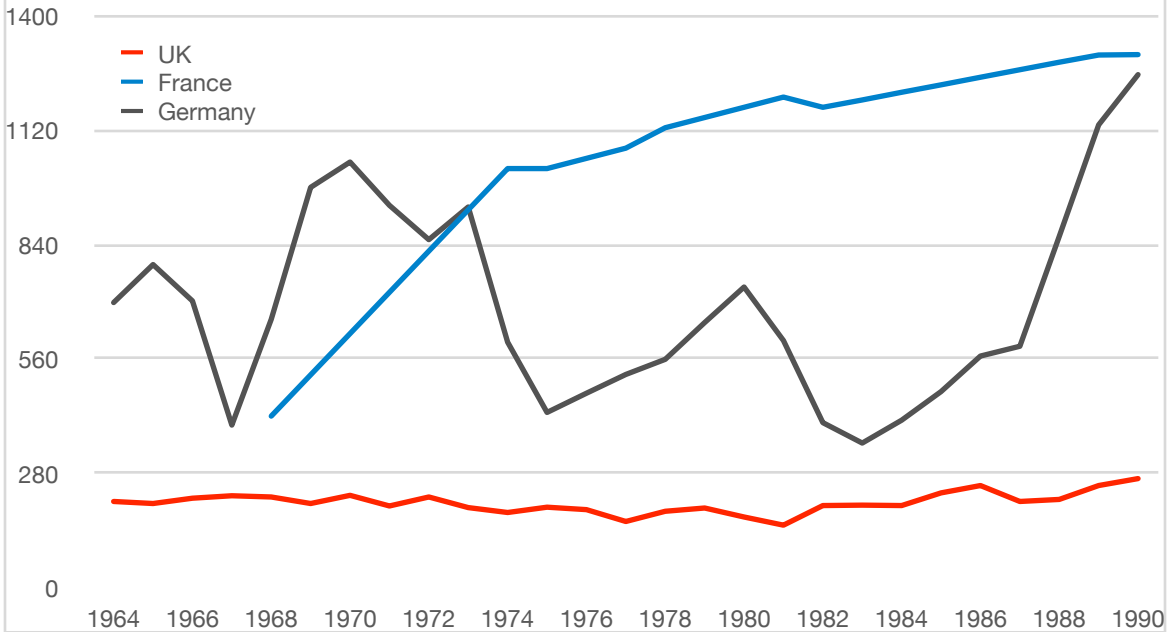
[167] E. Bleich, 'The Legacies of History? Colonization and Immigrant Integration in Britain and France', *Theory and Society,* 34:2 (2005), 171-195; E. Bleich, *Race Politics in Britain and France: Ideas and Policymaking since the 1960s,* (New York: Cambridge University Press, 2003).

[168] For an interesting read on local politics and immigration, see: J. Money, 'No Vacancy: The Political Geography of Immigration Control in Advanced Industrial Countries', *International Organization,* 51:4 (1997), 685-720.

ii. Immigration in the EC

So what were the figures? In Britain, between 1964 and 1982, total immigration figures were relatively stable: 211,000 incoming in 1964, against 201,000 in 1982, peaking in 1970 with 226,000 immigrants. Yet Britain's net immigration balance was significantly negative until well into the 1980s (with the exception of 1979, when it was briefly positive). In France, by contrast, numbers were undoubtedly increasing. Between 1946 and 1975, the number of immigrants doubled, from 1.9 million to 3.8 million. That said, though there was a significant increase in the total number of immigrants, as a proportion of the total population they remained quite stable: a doubling in absolute numbers only translated to a 2 point percentage increase. Indeed, the three decades of post-war boom, known in France as the *Trente Glorieuses*, meant the country was not only desperate for foreign labour, it was also in the midst of a baby boom (though these infant additions to the French nation would not become productive labour for another few decades). As a proportion of total population, post-war immigration was higher in Germany and France than it was in the US, yet neither country saw itself as a country of immigration.

Fig. 1 - Immigration (thousands) UK, France and Germany, 1964-90.

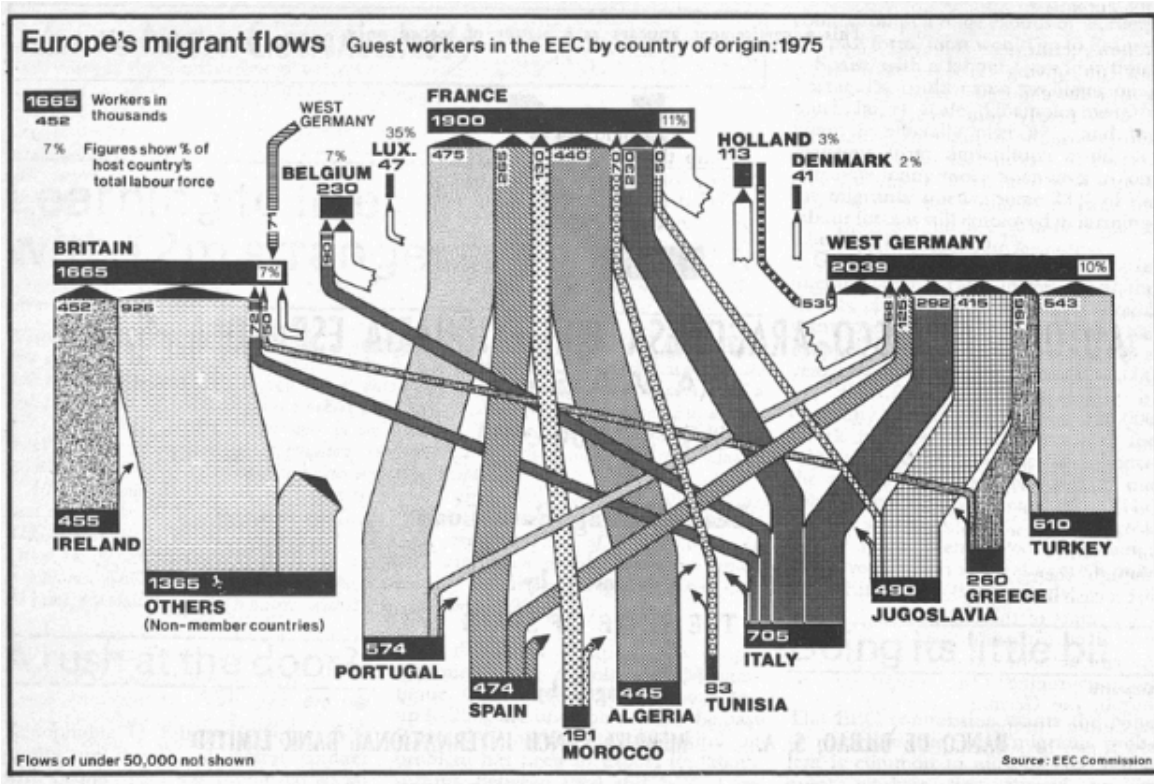


Source: ONS, National Archives, INSEE, DeStatis Statisches Bundesamt. French data is available only for years 1968, 1975, 1982 and 1990, and has been smoothed.

A fundamental change was taking place in the kind, if not the volume, of immigration. While in the 1950s and 1960s, immigration to Britain and France had been predominantly European, single, and male, the small portion of (ex)colonial migration had been growing

steadily. In Germany too, post-war immigration was overwhelmingly European, though the changes described for Britain and France did not become apparent until 10-15 years later.[169] By the 1970s, some of these workers' families were arriving, and ex-colonial migration finally represented a similar proportion of total migration as the European-origin migration which had dominated, and by a considerable margin, until then. For the share of European-origin migration was steadily diminishing. In neither Britain, France, nor Germany were any of these changes sudden, but by the 1970s they were visible.

Fig. 2 - Europe's migrant flows by country of origin (1975).



Source: *The Economist,* 20 August 1977.

As we can see in Figure 3, in Britain, the Irish had historically been the largest single migrant group, though they were seldom mentioned in immigration debates, even at the height of the Troubles. On the contrary, the only times the Irish are mentioned in official discussions are references to the importance of preserving unimpeded travel inside the Common Travel Area (CTA) - a reflection of the fact the Irish question was considered a domestic, rather than

[169] K. Schönwälder, 'Why Germany's guest-workers were largely Europeans: The selective principles of post-war labour recruitment policy', *Ethnic and Racial Studies,* 27:2 (2004), 248-265.

foreign or Commonwealth affair.[170] From the 1950s onwards, the focus in Britain was limiting New Commonwealth, that is non-white, immigrants.[171] In 1951, India was the only non-white country to make the top ten sending countries to Britain. By 1971, Jamaica and Pakistan had joined the top 5: non-white sending countries were overtaking European and old Dominion ones. France followed a similar trajectory. In 1946, European-origin migrants made up 88% of immigrants to France. North Africans represented only 3%. By 1975, the balance was nearly 60:40. By 1990, African immigration had overtaken European immigration, 45% to 40% of the whole.

By the 1970s then, despite have come to see themselves as ethnically or racially homogenous, the EC's three main powers were confronted with visible proof this was not the case (Germany followed a similar arc to Britain and France, albeit a few decades later). Europe seemed to provide a new national purpose, if somewhat more so for Britain's Continental neighbours. As the *Sun* told its readers ahead of the 1975 referendum on British membership, 'after years of drift and failure the Common Market offers an unrepeatable opportunity for a nation that lost an empire to gain a continent.'[172]

Fig. 3 - Top ten countries of birth of non-UK born census populations (thousands), 1951-91.

	1951	1961	1971	1981	1991
1	**492** (Ireland)	**683** (Ireland)	**676** (Ireland)	**580** (Ireland)	**570** (Ireland)
2	**152** (Poland)	**157** (India)	**313** (India)	**383** (India)	**400** (India)
3	**111** (India)	**121** (Germany)	**171** (Jamaica)	**182** (Pakistan)	**225** (Pakistan)
4	**96** (Germany)	**120** (Poland)	**148** (Germany)	**170** (Germany)	**202** (Germany)
5	**76** (Russia)	**100** (Jamaica)	**136** (Pakistan)	**164** (Jamaica)	**142** (Jamaica)
6	**59** (USA)	**94** (USA)	**104** (Poland)	**106** (USA)	**131** (USA)

[170] Citizens of the Irish Republic have had the right to freely enter, travel to and seek work in Britain since the Republic's founding in 1949. For further reading, see: E. Smith, 'Brexit and the history of policing the Irish border', *History and Policy*, 20 July 2016 [http://www.historyandpolicy.org/policy-papers/papers/brexit-and-the-history-of-policing-the-irish-border, accessed 17 April 2021].

[171] Spencer, *British immigration policy since 1939.*

[172] *The Sun*, 10 March 1975, p. 9 in R. Saunders, *Yes to Europe!: The 1975 Referendum and Seventies Britain* (Cambridge: Cambridge University Press, 2018).

7	**46** (Canada)	**81** (Italy)	**103** (Italy)	**100** (Kenya)	**111** (Kenya)
8	**33** (Italy)	**53** (Russia)	**100** (USA)	**93** (Italy)	**104** (Bangladesh)
9	**31** (Australia)	**49** (Canada)	**72** Cyprus	**88** (Poland)	**87** (Italy)
10	**30** (France)	**42** (Cyprus)	**58** (Kenya)	**83** (Cyprus)	**77** (Cyprus)

Source: ONS.

iii. A difficult decade

Throughout the 1970s, immigration gained salience as a political issue.[173] The realisation that the economic crisis would be durable, or at least that the economy would stabilize at high levels of unemployment, contributed across Europe to a rhetoric of the 'house being full'. Figure 3 shows unemployment rates in Britain, France, and West Germany from 1971 to 1985.[174] Europe's three major economies were shedding jobs (Figure 4). Across the continent, average annual GDP growth fell from 6.1% in 1973 to -0.8% in 1975. By the end of the decade, it had still not recovered to pre-1973 levels.[175]

It is against this dreary backdrop that the 1970s saw a backlash against foreign labour. In Germany in 1973, *Der Spiegel* ran 'The Turkish Invasion' as a headline and the government issued a directive putting a stop to the recruitment of foreign labour. Officially justified by the economic crisis, the ban was also a reaction to the sudden realization, following a series of wildcat strikes, that 'a united and hostile foreign work force could potentially lame the entire

[173] Slaven and Boswell show how in the 1960s public worries already outstripped official concerns about immigration, see: Slaven and Boswell, 'Symbolic policy-making in the 1960s'. There had, of course, been previous immigration scares.

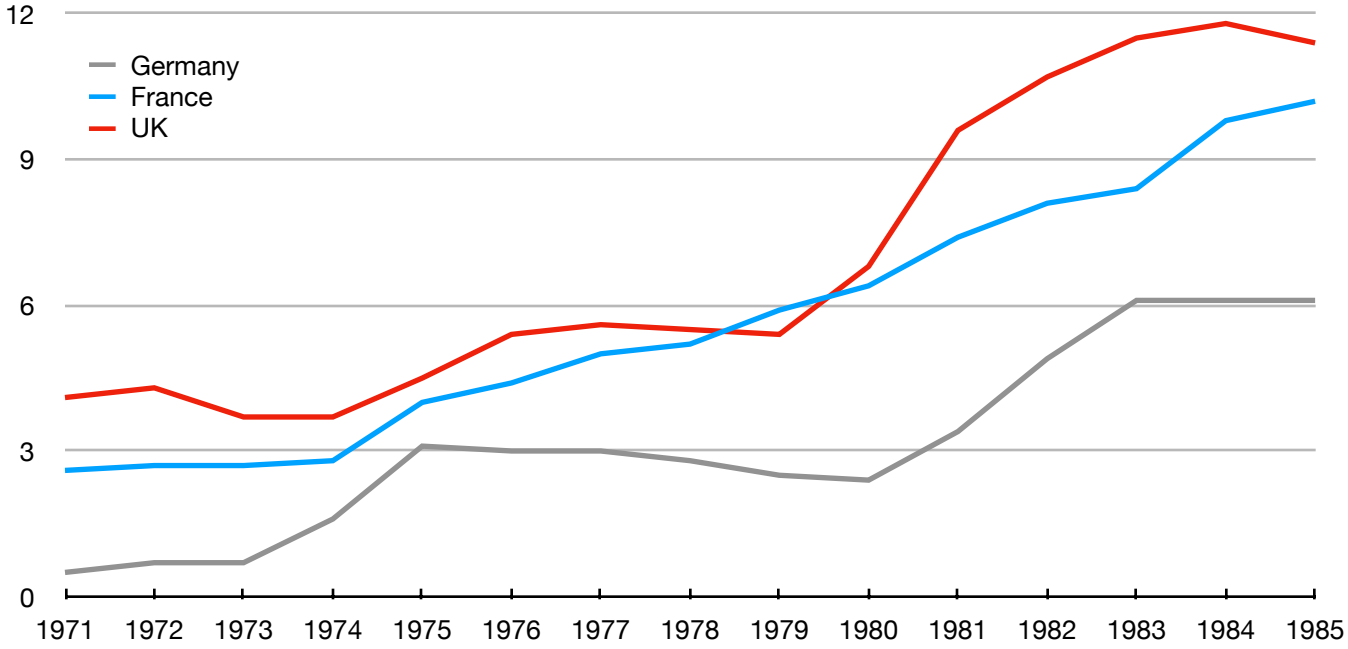
[174] UK data: Office for National Statistics, 'Unemployment rate (aged 16 and over, seasonally adjusted)' [https://www.ons.gov.uk/employmentandlabourmarket/peoplenotinwork/unemployment/timeseries/mgsx/lms, accessed 13 May 2020]. French data: WHO, 'European Health Information Gateway: Unemployment rate (%)' [https://gateway.euro.who.int/en/indicators/hfa_29-0200-unemployment-rate/visualizations/#id=18836&tab=graph , accessed 13 May 2020]. West German data: OECD (2020), Unemployment rate (indicator) [doi: 10.1787/997c8750-en, accessed on 13 May 2020].

[175] For GDP figures, see: The World Bank, 'DataBank: World Development Indicators: GDP growth (annual %)' [https://databank.worldbank.org/reports.aspx?source=2&series=NY.GDP.MKTP.KD.ZG&country=EUU, accessed 13 May 2020].

economy'.[176] In Germany, immigration had become a meta-issue through which the politics of unemployment and cut-backs to the welfare state were contested.[177]

Meanwhile in France, Giscard issued a *circulaire* suspending all further immigration (a move partly justified by the fact Germany had done so too). In 1978, the National Front put up banners stating 'a million unemployed, is a million immigrants too many.'[178]

Fig. 4 - Unemployment rate (%), UK, France, and Germany, 1971-85.



Source: ONS, 'Unemployment rate (aged 16 and over, seasonally adjusted)', source dataset: Labour market statistics time series (LMS); WHO, European Health Information Gateway, 'Unemployment rate (%)'; OECD data, 'Unemployment rate'.

That same year in Britain, Thatcher made her famous 'swamping' statement, saying that 'people are really rather afraid that this country might be rather swamped by people with a different culture … if you want good race relations you have got to allay people's fears on

[176] For a history of official attitudes to foreigners in Germany, see: P. O'Brien, 'Continuity and Change in Germany's Treatment of Non-Germans', *The International Migration Review,* 22:3 (1988), 109-134.

[177] Faist, 'How to define a Foreigner?'.

[178] Gastaut, 'Français et immigrés à l'épreuve de la crise', p. 111.

numbers.'[179] While the statement was condemned by politicians across the spectrum, it contributed to the Conservatives pulling ahead in the polls.[180]

Major changes in the kind of immigration – mainly in the growing importance of non-white, ex-colonial migration, did not occur in Britain and France until the mid-1970s. The Schengen Agreement of 1985 thus emerged in a very different world from that of the Treaty of Rome. Gone was the seemingly inexorable economic growth and promise of full employment. Gone too was the somewhat naïve and paternalistic assumption that immigrants would remain docile and grateful, a voiceless and powerless mass whose movements the state could easily control.

Britain finally joined the EC in 1973, alongside Ireland and Denmark in the EC's first expansion. The Six - France, West Germany, Italy, Belgium, Luxembourg and the Netherlands – had become Nine. Despite the long, drawn-out process of accession talks, Britain held a referendum on continued membership in 1975. It was, however, comfortably won by the Yes campaign.[181] For 1970s Britain saw itself as the 'sick man of Europe', relatively less prosperous than the founding Six, and, despite continuing growth, struggling with high inflation and industrial unrest. The turn to Europe was paralleled by increasing disengagement from the Commonwealth: the various immigration acts of 1962, 1968, and 1971 progressively hollowed out Commonwealth citizenship, while granting greater freedoms to EC nationals.

The 1970s were a peculiar decade for Europe. On the one hand it was a decade of rising wages and equality. In 1975, for instance, the biggest ever share of GDP went to working people.[182] At the same time, the remarkable postwar boom years were coming to an end. Inflation and unemployment were rising, and the late 1970s came to be perceived, rightly or

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[179] Margaret Thatcher, TV interview for Granada, 'World in Action', 1978.01.27, [https://www.margaretthatcher.org/document/103485, accessed 5 May 2021].

[180] N.-K. Kim, 'Revisiting New Right citizenship discourse in Thatcher's Britain', *Ethnicities,* 10:2 (2010), p. 218.

[181] The referendum was the result of divisions within the Labour Party, a significant part of which feared EC membership would prevent the implementation of socialist industrial policies.

[182] Wage share in Britain peaked at 64.5% in 1975, after hovering between 58% and 61% for almost all of the 1960s and 1970s. By 1996, it had fallen below 52%. TUC, *The Great Wages Grab: How your pay has fallen behind for thirty years* [https://www.tuc.org.uk/sites/default/files/tucfiles/TheGreatWagesGrab.pdf, accessed 5 June 2021]; OECD, 'The Labour Share in G20 Economies' (2015) [https://www.oecd.org/g20/topics/employment-and-social-policy/The-Labour-Share-in-G20-Economies.pdf, accessed 5 June 2021], p. 15.

wrongly, as a time of crisis.[183] Western European democracies were confronted – in the words of British Foreign Secretary and future Prime Minister James Callaghan – with 'a deeper recession than ever before in our lives'.[184]

Following the 1973 oil shock, Britain was confronted with rising inflation and unemployment, and stagnant growth for the first time since the end of the war. Inflation was especially severe in Britain, where it peaked at 25% in 1975.[185] Unemployment was rising across the Continent. While in Britain it hovered at a more stable – but politically untenable – 5%, in France unemployment doubled from 3.3% in 1975 to 6% in 1981.[186] Further compounding the gloom was the rise of Japan as a global economic force, and America's unilateral withdrawal, at the start of the decade, from the Bretton Woods system.

Political pressure was mounting on seemingly impotent national governments. In Britain, the post-war political consensus, sometimes known as 'Butskellism', came under attack.[187] The perceived inability of Edward Heath (British Conservative PM, 1970-1974) to tackle unemployment, inflation, and the unions precipitated his fall from power.[188] Narrowly losing the election he called to Labour, he was then deposed as leader of the Conservative Party by Margaret Thatcher, who brought with her the outlines of a new, radical political philosophy.

Political pressure of a new and different kind was also building: international terrorism. By the 1970s, political crime seemed to be leaving the realm of largely targeted assassinations,

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[183] C. Hay, 'Chronicles of a Death Foretold: The Winter of Discontent and Construction of the Crisis of British Keynesianism', *Parliamentary Affairs,* 63.3 (2010), 446-70; S. Laurens, *Une politisation feutrée: Les hauts fonctionnaires et l'immigration en France*, (Paris: Belin, 2009), p. 206.

[184] Memories of the 1920-21 and 1930-32 recessions seem to have faded. TNA, FCO 30/2614, folio 66, 1975.10.28, 'Record of an Informal Discussion between the Foreign Ministers of the European Community at the Villa Real di Marlia, Lucca on 18/19 October 1975'.

[185] OECD, 'Inflation (CPI) (indicator)', (2017). [Doi: 10.1787/eee82e6e-en, accessed 2 May 2019].

[186] Insee, 'Unemployment rate according to the ILO standard (annual average) – People aged 15 years and over – Metropolitan France', Identifier 001665000; Office for National Statistics, 'Time series: Unemployment rate (aged 16 and over, seasonally adjusted)', Source dataset: Labour Market Statistics times series dataset (LMS).

[187] For a critical account of the extent to which such a consensus existed, see: R. Toye, 'From 'Consensus' to 'Common Ground': The Rhetoric of the Postwar Settlement and Its Collapse', *Journal of Contemporary History,* 48:1 (2013), 3-23. For a different account of how it fed Thatcher's rise to power, see: C. Hay, 'Chronicles of a Death Foretold: the Winter of Discontent and Construction of the Crisis of British Keynesianism', *Parliamentary Affairs*, Vol.63, No.3 (2010): 446-470.

[188] That was the year of the Three-Day Week, whereby the government restricted the use of electricity in an effort to respond to the oil embargo, inflation, and industrial action.

and had diversified to include kidnapping, hijacking, and bombing. It had also developed an international dimension, connected in no small part to the Cold War.[189] The Troubles in the UK, the ETA in Spain and France, the Brigate Rosse in Italy… The 1970s and 1980s were postwar Europe's 'most violent decades in terms of terrorism', which, at its peak, would claim more than 400 victims a year in Europe.[190] In the year from 1985 to 1986, for instance, there would be 13 terrorist attacks on French territory.

The European project, meanwhile, stagnated in what became known as 'Eurosclerosis'. Economic crisis, domestic and European political impotence, international terrorism… To this mix was added the dawning realisation, in Western Europe, that immigration could not be reversed at will. Member states were inching towards deeper European integration. What pan-European-migration framework did exist, was embryonic at best. At the national level, immigration was gaining salience as a political issue. So what happened next?

As we shall see, the period from 1975 to 1990 - between the first TREVI meetings of interior ministry officials and the Treaty of Maastricht that brought immigration into the EU's remit - is one that is frequently referred to, but seldom unpacked. How did immigration policy move from national prerogative to EU pillar? Was immigration really conceived of differently in the early 1970s and the 1990s? What role did the European network of security professionals play? If these informal structures grew out of each other, why did Britain, which gave the founding impetus to TREVI, not join Schengen? Why, for instance, did Britain and France end up with broadly similar policies, despite different attitudes to European integration? Did European integration matter after all?

2.4. Securitisation

Many political scientists argue European integration was a game-changer for immigration policy, prompting and facilitating the deployment of more repressive policies. Over the past two decades, political scientists, sociologists, and anthropologists have investigated various aspects of the relationship between immigration policymaking and Europe: the role of ideas; the impact of the European Union on national policies; the role of security professionals in

[189] B. Blumenau, 'The Other Battleground of the Cold War: The UN and the Struggle against International Terrorism in the 1970s', *Journal of Cold War Studies,* 16:1 (2014), 61-84.

[190] F. Gaub, 'Trends in terrorism', European Union Institute for Security Studies (EUISS), March 2017. [https://www.iss.europa.eu/sites/default/files/EUISSFiles/Alert_4_Terrorism_in_Europe_0.pdf, accessed 4 May 2021].

turning immigration into a security, rather than a labour or humanitarian, issue.[191] These insights tease out various dimensions of immigration policymaking, many of which inform this research. However, the field is over theorized and under researched. Indeed, many studies rely on discourse analysis, and draw on policy 'outputs' such as public consultations, committee reports, speeches, and legislation, speculating inwards as to the motivations of policymakers.[192] This is a problem inasmuch as one of the literature's key assumptions is the pivotal role played by a relatively small group of individuals ('security professionals', that is, the mid- to senior level officials from within interior ministries, and police and intelligence agencies). According to much of the literature (outlined below), these individuals were key in operating the transformation of immigration from a humanitarian or labour issue into a security one. This transformation is assumed to have been at least partly intentional, as these professionals purportedly had a stake in expanding their influence, and did so by co-opting or absorbing as many new fields as possible into their remit.

I find this not to have been the case. An empirical assessment of this assumption, which I carried out by examining twenty years' worth of interior ministry archives in Britain and France, and interviewing several senior former officials, shows that not only were interior ministry officials regularly more progressive than their political masters and fellow citizens, but they also seem to have been scrambling to *react* to events rather that actively influence them. The turn to harsher, more 'securitised' immigration policies was therefore as much a result of a diffuse societal shift towards more interventionist policing and expanding state bureaucracy, as it was a result of officials struggling to adapt to a globalised, high mobility, post-imperial world. I found no mention of officials needing to persuade their higher ups that tighter security was needed, nor that immigration was a threat (rather than merely a nuisance). Nor did I find that officials felt thwarted in attempts to implement tighter border policies. These findings have important implications for the securitisation literature, as close empirical analysis does not support the outsized influence of European interior ministry officials in the 1970s and 1980s, let alone their intentionally drawing immigration into a risk, threat, or security framework. These findings also have important implications for our understanding of policymakers in general and where we assume political and state-building power to lie. If not with the senior mandarins at

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[191] Bleich, *Race Politics in Britain and France*; C. Boswell and A. Geddes, *Migration and mobility in the European Union* (Basingstoke: Palgrave Macmillan, 2011); Buonfino, 'Between unity and plurality'; V. Guiraudon, 'The constitution of a European immigration policy domain: A political sociology approach', *Journal of European Public Policy,* 10:2 (2003), 263-282; A. Wiener, 'Forging Flexibility – The British `No' to Schengen', *European Journal of Migration and Law,* 1:4 (1999), 441-463.

[192] A. Messina, 'Securitizing Immigration in the Age of Terror', *World Politics*, 66:3 (2014), 530-559.

the heart of a state's security apparatus, then where? I return to this question in my concluding discussion.

Some securitisation studies do get closer to the policymakers themselves, such as Guiraudon's interviews of French and European immigration officials, but they remain rare.[193] Indeed, there is a tendency, when discussing immigration policymaking, to favour theoretical models and analytical frameworks over archival or interview-based empirical work.[194] Freeman's review of comparative research on post-war immigration politics and policy makes this point. He laments the temptation of 'producing compelling generalizations' at the expense, a historian might argue, of more granular causal analysis, recognizing that 'the motives that might underlie state actions remain poorly specified.'[195] More granular causal analysis is exactly what this thesis sets to do.

The political science literature is particularly prolific on the subject of 'securitisation'. In his foundational paper, Huysmans defined securitisation as what happens when 'migration [is] increasingly presented as a danger to public order, cultural identity, and domestic and labour market stability.'[196] This describes with some accuracy the tone of public debate on immigration leading up to the 2016 referendum. Bourbeau defines it as 'integrating migration discursively and institutionally into security frameworks that emphasize policing and defense'.[197] Meanwhile, Waever puts it more succinctly: 'Security is a practice, a specific way to frame an issue. Security discourse is characterized by dramatizing an issue as having absolute priority.'[198] In the 20 years since Huysmans' paper, interest has risen enormously. In 1998, there were no English-language academic papers on the subject.[199] By 2020, there were

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[193] Guiraudon, 'The constitution of a European immigration policy domain'.

[194] Messina's critique applies to securitization in particular but can be expanded. See: Freeman, 'Comparative Analysis of Immigration Politics'.

[195] G. Freeman, 'Comparative Analysis of Immigration Politics', p. 1549.

[196] J. Huysmans, 'The European Union and the Securitization of Migration', *Journal of Common Market Studies,* 38:5 (2000), 751–77.

[197] P. Bourbeau, *The Securitization of Immigration: A Study of Movement and Order,* (New York: Routledge, 2011), p. 43.

[198] O. Waever, 'Insecurity, security, and asecurity in the West European non-war community' in *Security Communities,* eds. E. Adler and M. Barnett (Cambridge: Cambridge University Press, 1998) 69-118.

[199] As early as 1998, Didier Bigo had published 'Europe passoire, Europe fortress. La sécurisation et humanitarisation de l'immigration', in *Immigration et racism en Europe,* ed. A. Rea (Brussels: Complexe, 1998), 203-41.

over 1,000.[200] Some explore the spatial dimension of securitisation, such as border zones or refugee camps.[201] Others, the actors involved, whether Frontex (the European Border and Coast Guard Agency), police forces, or interior ministry officials.[202] A significant number deconstruct the securitisation discourse, theorizing the linguistic and cultural shifts that enable it.[203]

This corpus has shown that state policy is not linear, that European integration might have some (un)desirable effects, and that the European Union operates in a manner that is neither exclusively supranational, nor intergovernmental. It has also emphasized the role of bureaucracy, in particular the role of interior ministry officials and other 'security professionals, and technocratic spread.[204] Guiraudon, for instance finds that, when it comes to migration policy: 'I have noted that it has gone from a multitude of flexible arrangements to a system that still remains largely intergovernmental to the extent that EU institutions have played only a minor role, and the system remains biased towards non-binding decisions … The flexible, secretive negotiating style and the non-binding character of many decisions also reveal the fact that a venue provides participants with a propitious setting for policy debates and agenda-setting.'[205]

This literature has also highlighted the political usefulness of constructing an underclass of illegal, ostensibly dangerous, individuals. By criminalising migration, technocratic solutions can be found 'without compromising legal, political and normative questions and one's own

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[200] Thompson Reuters, Web of Science: Citation Report: Sums of Times Cited Per Year, 'Securitization; Migration' [as of 4 May 2021].

[201] D. Ghezelbash, V. Moreno-Lax, N. Klein and B. Opeskin, 'Securitization of search and rescue at sea: the response to boat migration in the Mediterranean and offshore Australia', *International and Comparative Law Quarterly,* 67:2 (2018), 315-351.

[202] S. Léonard, 'EU Border Security and Migration into the European Union: FRONTEX and Securitisation through Practices', *European Security,* 19: 2 (2010), 231-254.

[203] B. Buzan and O. Wæver, 'Macrosecuritisation and Security Constellations: Reconsidering Scale in Securitisation Theory', *Review of International Studies,* 35:2 (2009), 253-76; A. Buonfino, 'Between unity and plurality: the politicization and securitization of the discourse of immigration in Europe', *New Political Science*, 26:1 (2004), 23-49; R. Van Munster, *Securitizing immigration: The politics of risk in the EU* (New York: Palgrave Macmillan, 2009).

[204] D. Bigo, 'Enjeux du troisième pilier du traité sur l'Union européenne', *Politique étrangère*, 1 (1996), 125-138; D. Bigo, L. Bonelli and C. Olsson (eds.), *The Field of the EU Internal Security Agencies,* (Paris: l'Harmattan, 2007).

[205] V. Guiraudon, 'European Integration and Migration Policy: Vertical Policy-making as Venue Shopping', *Journal of Common Market Studies*, 38:2 (2000), 251-271.

self-understanding in liberal and humanitarian terms'.[206] Wealthy, mostly Western states can therefore continue to benefit from cheap labour, while maintaining intact a self-image based on universal human rights. This is possible through the deployment of a device that prevents significant numbers of people from claiming those rights - because 'illegal'.[207] This trick has historical precedents, rooted deep within traditional liberal political thought itself. Mehta shows how necessary it was to understand colonized peoples, minorities, women, and the propertyless as variously infantile, immature, inscrutable, or over-emotional.[208] Only by ascribing them these traits could the charade of universal rights be maintained, while preventing significant swathes of the population from exercising these rights. Another, more immediate historical parallel might be nineteenth century poorhouses, which similarly extracted virtually free labour from individuals whose chief crime was poverty.[209]

Yet despite valuable intuitions, there are considerable blindspots in the securitisation literature and the role European integration specifically is thought to have had in it.[210] First, is a lack of historical perspective.[211] Though it might seem incongruous today, Italians in late nineteenth century France often fell prey to beatings and lynch mobs, while simultaneously being described as a threat: Marseille in 1881, Aigues-Mortes in 1893, Lyon that same year. The 1904 novel, 'The Invasion' was not about Afghans, Syrians or Mexicans, but about Neapolitans.[212] In nineteenth century Britain, Eastern European Jews fleeing the pogroms were also spurned on the pretext that they were a threat to the British body politic: this prompted Wilkins to publish *The Alien Invasion* in 1892, and the government to introduce the 1905 Aliens

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[206] R. Van Munster, *Securitizing immigration: The politics of risk in the EU* (New York: Palgrave Macmillan, 2009).

[207] C. Dauvergne, *Making people illegal : What globalization means for migration and law* (Cambridge; New York: Cambridge University Press, 2008).

[208] U. Mehta, 'Liberal Strategies of Exclusion' in *Tensions of Empire: Colonial Cultures in a Bourgeois World*, eds. F. Cooper and A. Stoler (Berkeley: University of California Press, 1997).

[209] J. O'Neill, 'The Disciplinary Society: From Weber to Foucault', *The British Journal of Sociology*, 37:1 (1986), 42-60.

[210] For an in-depth critique, see A. Messina, 'Securitizing Immigration in the Age of Terror', *World Politics*, 66:3 (2014), 530-559. I focus here on the aspects that pertain to immigration policymaking and European integration. See also: A. Neal, 'Securitization and Risk at the EU Border: The Origins of FRONTEX', *Journal of Common Market Studies,* 47:2 (2009), 333-356.

[211] Unsurprising, perhaps, that a historian would pick this particular bone. C. Bertossi, J. W.Duyvendak, and N.Foner, 'Past in the Present: Migration and the Uses of History in the Contemporary Era', *Journal of Ethnic and Migration Studies* (2020).

[212] L. Gervereau, P. Milza, and E. Temime (eds.), *Toute la France. Histoire de l'immigration en France au XXe siècle* (Paris: Somogy, 1998).

Act. These tropes, especially concerning European Jewry, have antecedents stretching back centuries. Taking a loose definition of securitisation as the construction of an ostensibly non-security phenomenon - in this case migration - as a threat, it is no doubt only cautious to remember it is but the latest iteration of an otherwise ancient phenomenon.

This historical myopia is most acute when it comes to the very recent history explicitly addressed by the securitisation literature.[213] When it isn't concerned with post 9/11 migration policies, the securitisation literature devoted to Europe invariably begins the story with Schengen (1985), skips forward to Maastricht (1992), the Treaty of Amsterdam (1997), or Tampere (1999). The more intrepid give a passing, introductory nod to the TREVI group of European interior ministry officials, which began meeting in 1975. Huysmans compresses 20 years of history into a single paragraph:

> 'significant Europeanization of migration policy took off in the 1980s … institutionalized in interstate co-operation, the European Union, and European transnational co-operation … First migration became an important issue in intergovernmental fora such as TREVI, the Ad Hoc Group on Immigration and the Schengen Group … they pre-structured … the development of migration policy within the EU.'[214]

Similarly, van Munster begins with Schengen, and courses through to the Ad Hoc Working Group on Immigration (AHWGI), the Coordinators' Group and Schengen.[215] Zaiotti starts with Schengen too and rushes to post-Amsterdam.[216] Bermejo identifies the beginning of the 'migration-security pairing' in the 1990s, with Weiner, Waever, Huysmans and Geddes, and races from TREVI to Tampere, 'whatever the origins of the linkage between immigration and security'. It is precisely these origins I plan to explore. *How* did these changes happen, if change there really was? By examining, in granular detail, British and French archives for both immigration and European policy, I hope to show whether, how, and why the threads of immigration and security intertwined.

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[213] One notes in passing the difficulty of declaring something a turning point, when the conditions preceding the turning point have not been examined.

[214] Huysmans, 'The European Union and the Securitization of Migration'.

[215] The Ad Hoc Working Group on Immigration (AHWG or AHWGI) was founded in 1986 as a stand-alone group for European interior ministry official to discuss immigration. It span out of the TREVI working groups, and became independent of it.

[216] R. Zaiotti, 'The Hybrid Continent: Tensions and Resilience in Europe's Neoterritorial Model', *Journal of Contemporary European Studies*, 23:1 (2015), 82-99.

A second issue is a tendency to over-emphasize the role of security professionals, the term most frequently used to designate officials from European interior ministries, intelligence agencies, police forces, and very occasionally, private companies. These individuals are often held as the main drivers of the securitisation of migration policy in Europe, deliberately pushing for immigration to be viewed as a threat requiring urgent action, outside of the realm of normal checks and balances. Huysmans acknowledges other actors, but focuses on security professionals. The TREVI network 'yielded a network of security professionals. They produced and distributed security knowledge that articulated a continuum between borders, terrorism, crime and migration'.[217] For Guiraudon, security professionals '[seized] upon these 'windows of opportunity'"; 'ensured that they were the most well equipped to provide solutions to the problems that they had themselves identified'. 'Pre-existing international security forums allowed law and order officials to *set the agenda* of migration as a European security issue where they would be seen as the legitimate policy-makers - contrary to other ministries or services - with the tacit assent of political circles' [emphasis mine].[218] Van Munster describes Schengen as a 'breach' which security professionals entered. Guiraudon and Joppke argue TREVI contributed to linking immigration to issues of domestic and international security.[219] Though TREVI contributed, I find it served more as an echo chamber than a driving force for links that were already being made at the national level.

This over-emphasis highlights an empirical, as well as theoretical, problem attributing change to either structure or agency, and is a tension much older than our present investigation. Regarding the securitisation of migration policy and its links to Europe, political scientists have tended to stress the active, determined nature of these security professionals, bypassing the domestic factors that made this supposed transition conceivable. Messina shows the 'paucity of hard evidence' supporting this claim, and the lack of in-depth elite interviews or systematic data collection.[220] Indeed, Britain's transition under Thatcher towards heavier policing and more law and order was absolutely not limited to migrants, nor was it solely driven by individuals with a vested professional interest in securitisation. Furthermore, informal fora drove many other significant European milestones, such as the European

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[217] Huysmans, 'The European Union and the Securitization of Migration'.

[218] Guiraudon, 'Vertical policy-making as venue shopping', p. 261.

[219] V. Guiraudon and C. Joppke, 'Controlling a new migration world', in *Controlling a New Migration World,* eds. V. Guiraudon and C. Joppke, (London: Routledge, 2001),1-27.

[220] Messina, 'Securitizing Immigration in the Age of Terror', p. 538.

Monetary System (EMS).[221] Given this context and the common recourse to informal meetings, the role of security professionals and their secretive meetings bears nuancing, which is precisely what my thesis hopes to bring. By looking at governmental archives, I hope to show how security professionals and the policymaking elite *actually* made immigration policy. In fact, one of my key findings is that the British Home Office *resisted* pressure from the Department of Employment to implement more repressive immigration policies, a finding which questions much of the received securitisation wisdom. Another is the relatively late emergence of immigration as a concern in the European-level meetings of security professionals, and its management as an adminstrative - not security - challenge.

A third blindspot is the over-reliance on the EC/EU as an explanatory factor. By examining exclusively European fora, it is only natural that one should conclude their significance. It is equally natural one might miss significant developments at the member state level. Per Huysmans, 'The security continuum emerged *first of all* from professional and political cooperation in the area of internal security in Europe' [emphasis mine]. Likewise, while Guiraudon does delve into national policy contexts, she favours a European-level explanation, saying 'the relevant texts [explaining accelerated procedures for asylum-seekers in German, France and the Netherlands] include Schengen, Dublin, the 1992 London resolutions and the 1995 'Resolution on minimum guarantees for asylum procedures' in the third pillar.'[222] Absent is a look at the domestic dynamics that might have prompted harsher immigration policies - though harsher policies and securitised ones need not be the same.

Finally, there is a tendency, in a significant portion of the securitisation literature that deals with policy, to rely on theoretical models over empirical investigation.[223] For instance, Menz 'explores the genesis of the EU's family reunion, asylum qualification and the labour migration directives' by applying and refining the *concept* of Europeanisation, rather than by investigating these policies' origins through national or EU archives, or interviews.[224]

Huymans perhaps summed up these biases best when he declared 'I am primarily interested in the way migration is rendered problematic in the security field and not in the

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[221] European central bankers, for instance, have a long history of similarly semi-formal, overlapping fora too. C. Goodhart, *The Basel Committee on Banking Supervision,* (Cambridge: Cambridge University Press, 2011).

[222] Guiraudon, 'Vertical policy-making as venue shopping'.

[223] Messina, 'Securitizing Immigration in the Age of Terror'.

[224] G. Menz, 'Stopping, Shaping and Moulding Europe: Two-Level Games, Non-State Actors and the Europeanization of Migration Policies', *Journal of Common Market Studies*, 49:2 (2011), 437-62.

political and societal production of the field itself'.[225] The political science literature has thus yielded helpful intuitions and tools, but significant evidential gaps remain. My contribution is therefore an origin story, using British and French archives to unpack and nuance the question of whether and how immigration came to be securitised, and what European integration might have had to do with it. It uses historical tools to address questions raised outside the field - an approach some political scientists have also advocated.[226]

III. Chapter summaries

This thesis divides chronologically, with three chapters tracing the years between 1973 and 1990. Each chapter then divides thematically: first, describing the evolution of British immigration policy during the period; second, examining European-level discussions of immigration and border policy; third, exploring where the overlap between immigration and security issues might have occurred.

Chapter One runs from 1973, when the UK joined the EC, to 1979, when Thatcher was first elected Prime Minister. We find that European issues were, as one interviewee put it, 'nowhere near the top of the agenda' as far as immigration was concerned. EC membership did not interfere with the domestic priority of preserving harmonious race relations. We also find that during this period, the Home Office in fact opposed more repressive immigration policies on cost, efficiency, and civil liberty grounds. At the European level, we find that cooperation between regional and national police forces was an entrenched habit, one that had grown organically, out of the practical need to coordinate cross-border issues. Finally, we examine how foreign workers were politicized by police and intelligence forces, though they remained a very minor concern compared to domestic terrorism.

Chapter Two runs from 1979 to 1985, from Thatcher's election to the signing of the Schengen Agreement (of which the UK was not a part). In Britain, we see that though Thatcher's election marked a turn towards harsher rhetoric and some tightening of immigration rules, immigration policy remained in the continuity of what it had always been. Though officials kept an eye on the European Convention of Human Rights and the Commission, both remained very much secondary concerns. At the European level, specific historical and geographical differences were slowly fading out under the weight of structural similarities such as economic

[225] Huysmans, 'The European Union and the Securitization of Migration'.

[226] Slaven and Boswell (2019); Mahoney and Rueschemeyer (2003), *Comparative Historical Analysis in the Social Sciences;* W. Wohlforth, 'A Certain Idea of Science: How International Relations Theory Avoids the New Cold War History', Journal of Cold War Studies, 1:2 (1999), 39-60.

trends or mass unemployment. Combined with a history of loose cooperation, this enabled the emergence of a common approach and a community of understanding. Finally, we explore the origins of the immigration/terrorism overlap, looking at the hollowing out of the very concept of asylum and the opportunistic use of immigration, criminal or anti-terrorist legislation by lawmakers to manage extraditions, visas, borders, and movement.

Chapter Three begins in 1986, with the Single European Act (SEA), which updated the EC's founding treaty to make a single market of goods, services, capital and people, a reality, and closes with the 1990 Dublin Convention, which formally organized and coordinated asylum procedures across EC member states. We begin in Britain, where nearly overnight, the number of asylum-seekers exploded. This put the administrative apparatus under enormous strain, and accelerated trends that were already under way: the use of visas to prevent the very arrival of undesirable migrants, combined with sanctions on the carriers who transported them. We also see how law enforcement was more resource intensive than administrative sanctions, leading the latter to harden. At the European level, the SEA signalled the removal of intra-European frontiers. Other member states were as cautious as Britain in negotiating the details of how such a removal would operate, suggesting that British exceptionalism in the matter is likely overstated. Finally, we explore how the slow convergence and cooperation which had been underway for decades combined with the sudden increase in asylum-seekers to propel Community-wide cooperation on immigration and asylum issue.

With this, to Chapter One.

Chapter 1
Out with Empire, in with Europe
1973-1979

This thesis tells the story of British immigration policy during the first decades of its membership to the European Community (EC). It is an attempt to understand how European integration, broadly understood, bled into national immigration policymaking. So doing, it also attempts to bring archival depth to the phenomenon of securitization, a process political scientists argue was taking place at the same time.[1]

[1] Securitisation is the process whereby an ostensibly non-security issue, such as migration, is conceived of as a security threat, rather than say a labour or a humanitarian issue.

Chapter One

This chapter examines the years from 1973 to 1979, from the UK's accession to the EC to the election of Margaret Thatcher. Using archives from the Home Office (HO), Foreign and Commonwealth Office (FCO), and Cabinet Office (CAB), as well as interviews with seven former senior Home Office officials, it focuses first on British immigration policy proper, showing, as Slaven and Boswell did for the 1960s, that Home Office officials struggled against public pressure to be seen to do something against immigration - though the measures the public demanded were often considered ineffectual by civil servants. Second, it examines European security cooperation and its relationship to immigration, showing how in the first years - decades even - of this cooperation, immigration was largely absent from discussions. Third, this chapter explores how and where immigration and overtly security concerns might have begun to merge, showing how foreign workers became increasingly (re)politicised. To do so, I examine the meetings of Europe's security bosses - where the genesis of the security/ migration continuum supposedly appeared - to see how immigration was discussed. The French archives offer an especially rich source of data for these meetings, more so than the British ones. They also allow British concerns to emerge more succinctly, and place them in a European context. By combining domestic British discussions of immigration on the one hand, with European discussions of security on the other, I hope to show where these threads began to tangle.

How then, did 'Europe' inform British immigration policymaking? Was there a step change in how immigration was framed, namely as a security problem? If so, did this trend indeed originate in the meetings of European security professionals? Using British (as well as, occasionally, French), government archives, this chapter shows the ways in which Europe - understood less as its formal political institutions, which remained somewhat ineffectual, but as an overall strategic orientation - did or did not weave its way into domestic immigration policymaking.

I show how:

(i) a European dimension was largely absent from British immigration concerns. Policymakers' real focus was immigration from the New Commonwealth.

(ii) Home Office officials resisted calls for more repressive immigration policies on the grounds of their being ineffective, expensive, and a potentially serious curb on civil liberties.

(iii) Immigration was largely absent from the early discussions of Europe's security bosses. Nonetheless, foreign workers were kept an eye upon, despite their being considered an insignificant threat.

This chapter is divided in three. Part 1 focuses on Britain, and traces immigration policy as it evolved in the 1970s. It tries to isolate what specifically European influence there might have been in official discussions on immigration. Part 2 moves to the European arena, and delves into the meetings of European interior ministry officials as they discussed a wide range of security threats, tracing the origins of migration as one of them. Part 3 looks at the politicisation of foreign workers, one of the possible bridges between both arenas.

I. 'Nowhere near the top of the agenda': British immigration policy and Europe, 1973-1979

Significant work has been done on British immigration policymaking up to and including the 1971 Immigration Act. We therefore jump straight into the mid-1970s, where the archives, to my knowledge and at the time of writing, have not yet been exhumed.

1.1. 'Two sides of the same coin': race relations and numbers

'Immigration is a part, but only a part of the wider question of race relations', Home Secretary Merlyn Rees declared in April 1978. 'Our overriding responsibility is to do all in our power to make [society] a harmonious one.'[2] Indeed, the overarching preoccupation of British policymakers since the 1960s had been the preservation of social order through harmonious race relations.[3] Europe, insofar as it had anything to do with immigration, was largely irrelevant.

By the mid-1970s the sense of urgency had abated somewhat - in 1974, the 'growth of anti-social attitudes among a relatively small group of West Indian teenagers was the most serious problem in the race relations field' - but preserving good race relations was still topmost priority.[4] The minutes from the 1975 meetings of the Official Committee on Community Relations and Immigration frequently discussed how best to ensure minorities' equal access to employment or housing, for instance, without turning problems of social disadvantage into

[2] TNA, FCO 30/3967, 1978.04.06, 'Statement by the Home Secretary: Select Committee Report on Immigration'.

[3] Though the approach of government reports on immigration from the 1950s onwards was 'consistently pathological', see: Spencer, *British immigration policy since 1939*, p. 109.

[4] TNA, CAB 134/3788, 1974.07.24, no title.

racial problems unless strictly necessary.[5] A 1976 memo noted that 'permanent association between colour and deprivation would certainly be a recipe for disaster', though it might at times be necessary to 'adapt general provisions to meet the special circumstances of new minorities'.[6] Discussions centred around the role of central versus local government; the extent to which deprivation was due to minorities' being 'last in the market' or actively discriminated against; the suitability of the existing legislative framework addressing these issues; and whether the creation of an Equal Rights Commission was necessary.

As far as the Committee was concerned, Britain might never have been a member of the EEC at all.[7] As one former official described it, Europe was 'nowhere near the top of the agenda' on immigration issues. It was all but absent in the buildup to the 1975 referendum on continued Community membership, and immigration was very much *not* at the forefront of British/EC relations. On the contrary, as the UK headed to the polls, the Committee discussed whether the national legislative framework for anti-discrimination and equal opportunities was still fit for purpose, as it geared up to a review of the 1968 Race Relations Act.[8] As Saunders describes it:

> Immigration … was barely mentioned in 1975. The number of EEC nationals applying for settlement in the UK actually dropped after British entry, as deteriorating economic conditions made the country ever less attractive as a destination for migrant workers. Outside Northern Ireland, where there was some concern about Catholic migration from the South, there was more concern about the outward movement of people, with anti-Marketeers warning that the unemployed would be 'forced to leave Britain to find jobs' on the Continent. Conversely, issues

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[5] TNA, CAB 134/3935, 1975.02.03, 'Official Committee on Community Relations and Immigration'; TNA, CAB 134/3935, 1975.02.18, 'Official Committee on Community Relations and Immigration, Race Relations Work Programme, Memo 1'; TNA, CAB 134/4053, 1976.02.12, 'Official Committee on Community Relations and Immigration, Race Relations Research Committee, Note by the Chairman, Memo 2'.

[6] TNA, CAB 134/4053, 1976.03.30, 'Official Committee on Community Relations an Immigration, Report of the Select Committee on Race Relations and Immigration, Note by the Chairman, Memo 6'.

[7] The Committee was usually chaired by a senior Home Office civil servant, with members drawn from the Department of Employment, the Department of Health and Social Services, and the Department of Education. Ministerial Committees are composed of Cabinet ministers; Official Committees of senior civil servants; and Select Committees of Members of Parliament.

[8] On 5 June 1975, Britons voted by a 67% majority to remain part of the EEC. For a lively account of the 1975 referendum, see Roy Jenkins' *Life at the Centre* (London: Macmillan, 1991), pp. 399-417; TNA, CAB 134/3934; TNA, CAB 134/3788.

like food prices, fishing and the Common Agricultural Policy consumed large amounts of airtime in the 1970s, yet were almost invisible forty years later.[9]

At a 1976 meeting, the Official Group on Immigration Policy, a Cabinet meeting gathering the senior-most civil servants from across departments, officials discussed the implications of immigration for Britain's social security system.[10] They concluded that the effects, when there were any, were highly manageable: a fall in the national birth-rate after 1965 had freed up places in schools, meaning that 'shortage of capacity in the educational system was not therefore an overall constraint on immigration'. For housing, 'the impact was manageable in most areas'. The only problems, and there were some issues of overcrowding, were 'localised problems in some areas of high immigration'.[11] So it was, that following years of significant immigration to Britain, the only real strains there seem to have been were highly localised, and far from intractable. Might immigration have become less contentious if these local issues had been addressed? Perhaps. At any rate compared to their French counterparts, in the midst of grappling with controversial forced return laws and the temporary ban on familial reunification, British civil servants did not seem overly worried about immigration[12] - nor overly ambitious in the solutions they suggested to tackle it (as ambition is only possible if immigration is construed as a problem in need of solving in the first place).[13] One way the government did *not* mitigate the effects of immigration, real or perceived, was through ambitious social investments in these 'localised' areas struggling to cope, despite Callaghan

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[9] R. Saunders, *Yes to Europe!: The 1975 Referendum and Seventies Britain,* (Cambridge: Cambridge University Press, 2018), p. 10.

[10] TNA, CAB 130/882, 1976.09.23, 'Cabinet: Official Group on Immigration Policy'. The meeting was chaired by the Home Office, with Treasury, FCO, DoE, DHSS, Department of Environment, Department of Education and Science, Central Policy Review Staff and Central Statistical Office in attendance.

[11] TNA, CAB 130/882, 1976.09.23, 'Cabinet: Official Group on Immigration Policy'.

[12] See P. Weil, *La France et ses étrangers : L'aventure d'une politique de l'immigration, 1938-1991* (Paris: Calmann-Lévy, 1991), Chapter 4, 'Les lois du retour, 1977-8'.

[13] In 1972, André Postel-Vinay, a major figure in French immigration policy, wrote a long memo to the President, the Prime Minister and the Planning department in which he made the link between French development aid and immigration: close France's borders, yes, but massively invest in social programmes, and make Marshall-style gifts, rather than loans, to Third World countries. Loans would only aggravate the global inequalities in wealth and demography driving immigration in the first place. He was ignored and resigned soon after. See: S. Laurens, *Une politisation feutrée: Les hauts fonctionnaires et l'immigration en France*, (Paris: Belin, 2009), pp. 112-4.

(PM from 1976 to 1979) having criticized the 1971 Immigration Bill for '[dodging] all need to concentrate on an urban renewal programme.'[14]

As Slaven and Boswell showed for the 1960s, in the 1970s the government was still far less concerned about the potentially negative effects of immigration than was the general public.[15] Polls conducted by Gallup between 1958 and 1981 consistently showed that more people responded negatively than positively or neutrally to the question 'Would you say that in this country the feeling between white people and coloured people is getting better, getting worse, or remaining the same?'.[16] In 1977, 'sixty per cent of respondents expected immigration to produce tensions'.[17] A *Telegraph* article described the 'pent up outrage' of Britons confronted to Third World immigration.[18] Not much had changed from the previous decade then, when the *Times* had noted that 'there is hardly a public controversy which is so deprived of facts as that on coloured immigration'.[19]

One crucial dimension of harmonious race relations was numbers. For government officials, the Opposition, and the general public, it was obvious that peaceful cohabitation was contingent on limiting the number of new arrivals, arrivals from the Asian sub-continent specifically. As Roy Jenkins, then Home Secretary, declared to the House of Commons in February 1976, there was:

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[14] Many of the memos of the time reference a lack of resources and 'the economic situation'. *Times*, 'All-out Commons attack by Labour on 'unnecessary' and 'sham' Immigration Bill', 4 March 1971, p. 2, *The Times Digital Archive* [http://tinyurl.galegroup.com/tinyurl/BFogp6, accessed 19 April 2021].

[15] Though Kathleen Paul argues this was the other way around in the 1940s and 1950s, when policymaking elites fostered a climate of popular hostility 'to a general public perceived to be as yet too liberal'. K. Paul, *Whitewashing Britain: Race and Citizenship in the Postwar Era* (Ithaca, NY: Cornell University Press, 1997), p. 132.

[16] Only in 1964 did more people respond neutrally than negatively, see: M. Collins, 'Immigration and opinion polls in postwar Britain', *Modern History Review*, 18:4 (2016), 8-13.

[17] M. Collins, 'Immigration and opinion polls in postwar Britain', *Modern History Review*, 18:4 (2016), 8-13.

[18] The article continued, 'Parliament can no more turn a Chinese into an Englishman than it can turn a man into a woman'. A. Sherman, 'Why Britain can't be wished away', *The Telegraph*, 8 September 1976.

[19] R. Glass, 'Census Casts Light on Social Change', *Times*, 30 June 1965, p. 13. *The Times Digital Archive*, [http://tinyurl.galegroup.com/tinyurl/9RT966, accessed 19 April 2021].

> a strict limit on the amount of immigration that this country can absorb … Together with that strong control over immigration, we must have a most determined and liberal policy of complete equality for those settled in this country. I regard these matters as two sides of the same coin.[20]

The independence of former British colonies meant that in theory, former subjects now possessed new, post-colonial nationalities that exonerated Britain from any formal responsibility towards them, coinciding with Britain's own desire to limit migration. Yet British policymakers still clung to the Commonwealth, to the bemusement of Indian and Pakistani officials, who did not understand why Britain did not take more drastic steps to limit the number of their own migrants to its shores.[21]

The case of East African Asians and Rhodesian refugees forced British policymakers to confront these contradictions.[22] 'United Kingdom Passport Holders in East Africa', UKPH for short, were South Asians who had migrated to East Africa as indentured labourers and tradesmen in the nineteenth century, British subjects moving freely in the Empire. In 1972, however, Idi Amin's Africanization policies, which spread to neighbouring countries, forced them to flee. These policies and Britain's moral obligations on the one hand, combined with a general reluctance towards ex-colonial immigration on the other, resurfaced in Cabinet meetings throughout most of the 1970s. If Britain failed to recognize them, the UKPH would effectively be stateless. In a memo circulated to the Ministerial Committee on Community Relations and Immigration in December 1974, Roy Jenkins reminded his Cabinet colleagues that 'both our Government and its predecessors recognized our moral and legal responsibility to take these people eventually'.[23] The policies pursued by East African governments would leave 'these people' with no other citizenship than that of the UK. He proceeded to add, however, that 'since it could well be that the outcome of our review of citizenship would be to give them equal rights with indigenous citizens there are good grounds for reducing the size of

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[20] *Hansard*, 'Immigration Statistics and Policy', 12 February 1976, Vol. 905 [https://hansard.parliament.uk/Commons/1976-02-12/debates/86efb356-173e-4f85-b5ea-79f19a6c47d6/ImmigrationStatisticsAndPolicy, accessed 19 April 2021].

[21] As late as 1977, British officials noted that the High Commission in New Delhi and 'articulate' Indians and Pakistanis settled in Britain did not understand why there were so few limits on immigration: TNA, CAB 130/871, 1977.01.19, 'Meeting 1: Franks Report on a Register of Dependants, Immigration Policy, Preliminary Report by officials'.

[22] For further reading, see: S. Cosemans, 'The Politics of Dispersal: Turning Ugandan Colonial Subjects into Postcolonial Refugees (1967-76)', *Migration Studies*, 6:1 (2018), 99–119.

[23] TNA, CAB 134/3788, 1974.12.03, 'Ministerial Committee on Community Relations and Immigration, United Kingdom Passport Holders (UKPH), Memorandum by the Secretary of State for the Home Department'.

our commitment *before* our review is completed. We would not then be faced with a considerable influx within a short time of implementing our citizenship law' [emphasis added].

For immigration was moving once more to the forefront of the political agenda, at least in the public mind. In an article headlined 'Anxieties over Immigration', the *Times* declared that 'One reason why racial tension in Britain has been becoming more intense in recent months is the widespread popular belief that there is no end to the flood of immigrants from the new Commonwealth and Pakistan coming into this country.'[24] This belief was founded on two myths, that 'large numbers of heads of households are still being admitted to work here' and that they were bringing their extended families with them. In fact, 'the range of dependants permitted to settle is now much more restricted than is commonly supposed' and the largest source of incoming immigrants were East African Asians 'and the Government expect that particular source to have dried up by 1978 or 1979'. In 1976, a new ministerial group was formed 'as a result of growing public concern about immigration and a deterioration in race relations'.[25] A concern mirrored in Parliament: on 24 May 1976, the House of Commons passed a resolution stating that 'this House notes with concern the changing demographic character of Great Britain, particularly the outflow of young people emigrating overseas and the continuing flow of immigrants from the new Commonwealth'.[26] An uncanny, if less colourful, echo of the concerns expressed in Parliament seven decades before by Mr H. Lawson, who lamented in 1905 that 'we are sending out the fit and the strong and taking in the incapable and the helpless'.[27]

Despite the fact that these anxieties were based on contestable data, pressure was also mounting in the form of the National Front. A far-right party founded in 1967, it made its electoral breakthrough in 1976, in a by-election in Deptford, a deprived borough in South East

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[24] *Times, '*Anxieties Over Immigration', 29 June 1976, p. 15, *The Times Digital Archive* [http://tinyurl.galegroup.com/tinyurl/9Bt4R6, accessed 19 April 2021].

[25] TNA, T 375/329, 1976.07.01, Skinner to Glover, PS Financial Secretary, 'GEN24(76)1 - Immigration Policy: Brief for Meeting on 5 July 1976'.

[26] TNA, T 375/329, 1976.07.01, Skinner to Glover, PS Financial Secretary, 'GEN24(76)1 - Immigration Policy: Brief for Meeting on 5 July 1976'.

[27] According the Mr Lawson, 'the very flower of our working class' was being sent to Canada, while the 'derelicts of Europe' washed up in Britain. Lawson, 2 May 1905, *Hansard Parliamentary Debates* in A. Bashford and C. Gilchrist, 'The Colonial History of the 1905 Aliens Act', *The Journal of Imperial and Commonwealth History,* 40:3 (2012), 409-437.

London, where it relegated the Conservative party to fourth place.[28] In August that year, 500 National Front supporters marched through Lewisham, a neighbouring borough with a large black and minority ethnic population. Violence erupted between marchers, counter-protesters, and the police.[29] This prompted Thatcher's Conservatives to reclaim a 'tough on immigration' position: A few months after the Battle of Lewisham, as it came to be known, Thatcher made her famous 'swamping' statement, and the Party's 1979 manifesto promised 'firm immigration control' and the introduction of a quota system and a register.[30]

For the economic outlook remained bleak. As the *Sunday Telegraph* noted, 'Inflation of 17 per cent, mortgages at 15, and unemployed figures climbing above two million do encourage a feeling of dampness, if only in the palms of the hands'.[31] Young Britons were emigrating to Australia, Canada and New Zealand 'as rats, scampering away from the old economic boat at the first sign of water' - or, more charitably, as youth with the 'foresight and flexibility' to move. For 'while it may be the captain's job to go down with the ship, the hands may wisely struggle for a safe shore'. Yet such was the prejudice against New Commonwealth migrants, that not only was their own 'foresight and flexibility' rarely mentioned, the thought they might be desirable, or even necessary, replacements does not seem to have been mooted at all.

So how to limit numbers without reneging on Britain's commitments to its erstwhile imperial subjects? It was clear to the government that 'it [was] not equitable or practical to renounce previous commitments', namely the right of certain categories of citizen to settle

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[28] An example, perhaps, of the kind of 'localised area' mentioned in government reports. Labour won the by-election, but two far-right parties, the National Front and the National Party, received a combined vote of nearly four times that of the Conservatives. Director-General's Department of the Great London Council, 'London Borough Council Elections, 4 May 1978' [https://londondatastore-upload.s3.amazonaws.com/docs/LBCE_1978-5-4.pdf, accessed 19 April 2021].

[29] M. Townsend, 'How the Battle of Lewisham helped to halt the rise of Britain's far right', 13 August 2017, *The Guardian* [https://www.theguardian.com/uk-news/2017/aug/13/battle-of-lewisham-national-front-1977-far-right-london-police, accessed 19 April 2021]; J. Kirkup, 'BNP history of the far right in Britain', *The Telegraph,* 22 October 2009 [https://www.telegraph.co.uk/news/politics/6408915/BNP-history-of-the-far-right-in-Britain.html, accessed 19 April 2021].

[30] Conservative Party General Election Manifesto 1979, [https://www.margaretthatcher.org/document/110858, accessed 5 May 2021].

[31] N. Roe, 'More queue for new lives abroad', *Sunday Telegraph*, 31 August 1980, p. 5, *The Telegraph Historical Archive* [https://link.gale.com/apps/doc/IO0702667475/GDCS?u=cambuni&sid=GDCS&xid=606ca832, accessed 19 April 2021].

freely in Britain and the right of those settled to be joined by family members.[32] Yet worries on the number of New Commonwealth arrivals persisted. In 1976, a Cabinet group on immigration intended to 'make it clear that their work had concentrated on immigrants from the New Commonwealth and Pakistan, as this flow had been the main topic in Parliamentary debate.'[33] In 1977, another Cabinet meeting was called specifically to examine the 'options for reducing the rate of settlement' from the New Commonwealth and Pakistan. These 'included changes in existing forms of entitlement to settle, or the application of [racial] quotas or administrative delays … All the options presented political, legal or administrative difficulties'.[34]

The most obvious place to start was in reducing the scope of future commitments. The 1962 and 1968 Acts had introduced various work-related quotas in a bid to slow down immigration, but had not changed Britain's statutory obligations towards Commonwealth citizens. The 1971 Act had changed this with the introduction of patriality (a move Labour accused the Conservatives of making 'white people […] more welcome than black').[35] Henceforth, the right to family reunification would only extend to those settled in Britain before the Act came into effect in 1973. Thus, the pool of potential dependants was limited and necessarily bound to fall with time. This was also the case for East African Asians, who in the 1970s constituted one of the major sources of immigration to the UK. Yet reform at the source - that is in British nationality law - was the only real way to reduce numbers.[36] Such a reform would be long and tortuous (indeed, the British Nationality Act would not be passed until 1981), and the government needed results now.

Another way to prevent numbers from increasing was to prevent people arriving in Britain in the first place. A system of proto-visas was already in place in the form of entry certificates: travel documents issued by consulates or certified travel agencies to Caribbean or South Asian travellers. These were obtained on a voluntary basis, and intended to ensure

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[32] TNA, FCO 30/3967, 1978.04.06, 'Select Committee Report on Immigration, Report on Immigration, Statement by the Home Secretary'. See also: CAB 130/871, 1977.01.19; CAB 130/871,1977.02.22; CAB 130/1007, 1978.03.xx.

[33] TNA, CAB 130/882, 1976.11.05, Meeting 2.

[34] Quotas had already been put in place for work vouchers. However, these were for total number of vouchers issued, not quotas according to nationality or ethnicity. TNA, CAB 130/871, 1977.02.22, 'Ministerial Group on Immigration Policy: Meeting 4: Options to reduce the rate of settlement'.

[35] *Times*, 'All-out Commons attack by Labour on 'unnecessary' and 'sham' Immigration Bill', 4 March 1971, p. 2, *The Times Digital Archive* [http://tinyurl.galegroup.com/tinyurl/BFogp6, accessed 19 April 2021].

[36] TNA, CAB 130/871, 1977.01.19, 'Meeting 1: Franks Report on a Registry of Dependants and Immigration Policy, Preliminary Report by Officials'.

smooth passage through British ports, where control occurred. Yet certification was optional, and differences existed between countries in the extent to which they were recommended or applied. Furthermore, once at the gates of Britain, they did not even guarantee entry - only facilitated it. During the 1970s at least, this unwieldy system seemed to work well enough. Reforming such a confused jumble of rules, recommendations, and practices hardly seemed worth the effort. It wasn't until the 1980s (we turn to in chapters two and three) that preventing arrivals truly emerged as a policy option.[37]

Another way the Labour government could show it was taking decisive action on immigration was to exert control on those undesirable elements already in Britain - in other words, to resort to symbolic policymaking. Of course the term 'undesirables' was generally avoided by officials, but as we have seen, there existed a clear picture of which newcomers were undesirable, with apprehensions clearly focused on South Asian and West Indian, rather than Irish or European immigrants.[38] What is more, these apprehensions would not be 'assuaged by mere official assertions to the contrary'.[39] A 1975 report, the Hawley Report, had outlined the pressures on social services posed by the arrival of dependants, and the Conservatives had mooted the idea of a register of dependants. One interviewee recalled that officials had done their best to explain that the whole idea of a register mistook stocks for flows and would be costly and ineffective. In the end, a committee had to be set up to prove it.

In summer 1976, the Home Secretary therefore decided to mandate a three-man Parliamentary commission to look into the feasibility of a register of dependants. Though a register had been adopted in 1965 and discontinued barely a year later as 'wasteful and ineffective', it was necessary to 'allay public anxieties' and demonstrate the government's good faith:

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[37] Though comparable attempts had previously existed, for instance in the strict laws preventing sailors, even when they were UK subjects (from British India or Somalia for instance), from disembarking. M. Harper and S. Constantine, 'Immigration and the Heart of Empire' In *Migration and Empire* (Oxford: Oxford University Press, 2010), p. 184.

[38] Interviewees confirmed that the persistent worry, in terms of immigration and limiting numbers, was the Indian sub-continent. The racialised nature of British immigration policymaking has been explored in depth. See for instance: K. Paul, *Whitewashing Britain: Race and Citizenship in the Postwar Era* (Ithaca, NY: Cornell University Press, 1997); N. El-Enany, *Bordering Britain: Law, race and empire*, (Manchester: Manchester University Press, 2020).

[39] T.E. Smith, *Commonwealth Migration: Flows and Policies* (London: Macmillan, 1981), p. 123.

> The proposal is made in the interests of consensus, to convince unprejudiced opinion on all sides that, if such a register is not set up, it is because of the real difficulties and not any wish of the Government to cover things up.[40]

Indeed, the government viewed the report of the Franks Commission on the 'feasibility and usefulness of a Register of Dependants' primarily as a PR exercise.[41] In a note to the Prime Minister, Roy Hattersley, then Minister of State for Foreign and Commonwealth Affairs, wrote: 'I see the value, especially in political terms, of asking three Parliamentarians to examine the possibility of a register. It is equally important that we should avoid giving the impression that we are shelving the idea of a register'.[42] The report 'would make it clear that … work had concentrated on immigrants from the New Commonwealth and Pakistan, as this flow had been the main topic in Parliamentary debate.'[43] Though the Treasury was sympathetic to the Home Office's bind and had no interest in immigration as such, it was also 'wary of any suggestions that are mainly presentational' and warned that 'it would be embarrassing if the three-man commission reported in favour of the register; that would involve additional expenditure but serve no useful purpose'.[44]

At no point did the government seriously seem to entertain the idea of bringing back a register, and the report indeed found it would be costly, discriminatory and incomplete.[45] Yet politically, an official report advising against the resurrection of a useless register was not enough. For the Franks report also projected the 'doubling of the immigrant community in Britain by the end of the century', a figure pounced on by the Opposition: in an interview with the *Sunday Times* in 1977*,* Margaret Thatcher declared that people were afraid of numbers, yet

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[40] TNA, T 375/329, 1976.07.01, Skinner to Glover, PS Financial Secretary, 'GEN24(76)1 - Immigration Policy: Brief for Meeting on 5 July 1976'.

[41] A former HO official wryly noted, sometimes one just had to set up a committee to show something didn't work.

[42] TNA, T 375/329, 1976.07.03, Roy Hattersley to PM, 'Immigration'.

[43] TNA, CAB 130/882, 1976.11.05, 'Official Group on Immigration Policy, minutes of a meeting held on 5 Nov. 1976'.

[44] TNA, T 375/329, 1976.07.01, Skinner to Glover, PS Financial Secretary, 'GEN24(76)1 - Immigration Policy: Brief for Meeting on 5 July 1976'.

[45] One key flaw was mistaking stocks for flows, as well as being, according to a *Times* editorial, 'illiberal'. Labour's own backbenchers thought the White Paper proposing the measures should be withdrawn. *Times,* 'Second Thoughts', 28 October 1965, p. 13, *The Times Digital Archive* [http://tinyurl.galegroup.com/tinyurl/9RStv3, accessed 19 April 2021]; *Times*, 'Government May Back Down On Deporting Immigrants', 28 October 1965, p. 12, *The Times Digital Archive* [http://tinyurl.galegroup.com/tinyurl/9RUEW5, accessed 19 April 2021].

the Franks report projected an increase in arrivals. It stood to reason 'there must be a severe reduction'.[46]

The Government was in a bind, not in the least because it knew how unreliable its own figures were. Callaghan himself (PM from 1976 to 1979), was scathing of the Government Statistical Service's projections on immigration: 'On reading this, it seems to be full of one or other of: assumptions, estimates, arbitrary assumptions … This isn't statistics, it's astrology … if this is the best the Astrologer-General can do, I would not publish.'[47] However, the government had an impossible circle to square: reassure the public that numbers were indeed falling, without, as officials were wary of doing, joining 'the "numbers game" of Mr Enoch Powell', who remained influential. A page later, however, the same memo noted that 'the root of the immigration problem as a political issue and potential source of racial violence in the country was, in effect, the question of numbers'.[48]

For what could the government do to show it was taking worries about immigration seriously? It was under pressure from the public, which demanded decisive action, and from Opposition which demanded a debate. Attempts by the Home Secretary to educate or reassure the public - responding to Thatcher's TV performance by saying 'the ethnic minority communities are not going to overwhelm or swamp us … [it would be] wrong to get the problems of immigration control out of proportion' - were feeble and ineffective.[49] What good were soothing noises such as these against Enoch Powell's violent imagery, or Thatcher's commonsensical soundbites, soundbites based on the Government's own statistics no less? The possibility of educating the public, of breaking down the meaning of the numbers and their unreliability, does not seem to have been contemplated at all. Part of the difficulty was the impossibility, in political terms, of being completely truthful: according to one retired senior civil servant, a number of Home Office officials believed that an irreducible number of migrants would always find their way to Britain, whether because of human nature or the pressures of globalisation, and that letting some in was inevitable. To say so openly, however, was unthinkable. Instead, wrote the Home Secretary, 'we … need to offer an alternative response to

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[46] R. Butt, 'Interview: How I plan to govern', *Sunday Times*, 8 May 1977, [https://www.margaretthatcher.org/document/103184, accessed 19 April 2021].

[47] TNA, PREM 16/1689, 1978.10.xx.

[48] TNA, CAB 130/871, 1977.01.19, 'Franks Report on a Register of Dependants, Immigration Policy, Preliminary Report by officials'.

[49] TNA, CAB 130/1007, 1978.03.29, 'Ministerial Group on Immigration Policy, Select Committee on Race Relations and Immigration, Report on Immigration, Memo by the Secretary of State for the Home Department, Draft Statement'.

setting up a register', while taking 'into account the damage to race relations which could flow from Government silence'.[50]

Quotas also posed 'considerable difficulties'.[51] Not only were they 'inherently objectionable' and likely to be unpopular with the more internationalist fringe of the Labour Party (as well as part of Conservative policy) - but they were also already in place, through 'administrative means'.[52] Anxious to keep this particular mechanism discreet and maintain the outward appearance of colour-blind impartiality, officials were in no hurry to draw to the quota system 'the public scrutiny which it had so far escaped'.[53]

The two major sources of unwanted immigration, East African Asians and the dependants of pre-1973 arrivals, were drying up. From 1970 to 1977, annual immigration fell from 226,000 to 162,000.[54] What increase there would be was due to demography, not immigration, though the public seems not to have cared for the distinction.[55] With the objective 'threat' diminishing, a register ruled out, quotas impractical, and the stubborn popular belief that 'something must be done', attention shifted to perceived deviant and devious behaviour: illegal immigration, illegal workers, sham marriages.

In the late 1970s, as the pool of family members eligible to join a relative in Britain was reduced to direct family members and children below working age, so the government decided to increase control on bogus marriages. An internal memo made the link clear: the Home Office would oppose attempts to curtail the arrival of wives and dependants, but would compensate through strict control of sham marriages.[56] This echoed Cabinet discussions in the 1950s:

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[50] TNA, CAB 130/871, 1977.01.xx, 'Memo 1: The Franks Report on a Register of Dependants, Note by the Secretary of State for the Home Department'.

[51] TNA, CAB 130/1007, 1978.02.29, 'Select Committee on Race Relations and Immigration Control, Meeting Memo and Draft HO speech'.

[52] Some internal reports had studied the quota systems of Canada, Australia and New Zealand, noting somewhat wistfully that such a system would be politically impossible in Britain. See: TNA, CAB 130/882, 1976.09.23, Meeting 1.

[53] TNA, CAB 130/1007, 1978.02.29, 'Select Committee on Race Relations and Immigration Control, Meeting Memo and Draft HO speech'.

[54] ONS, 'Long-term Migration into and out of the United Kingdom, 1964-2019', [https://webarchive.nationalarchives.gov.uk/20160519133304/http://www.neighbourhood.statistics.gov.uk/HTMLDocs/dvc123/index.html, accessed 5 May 2021].

[55] TNA, CAB 130/1007, 1978.02.29, 'Select Committee on Race Relations and Immigration Control, Meeting Memo and Draft HO speech'.

[56] TNA, CAB 130/871, 1977.01.19, 'Meeting 1: Franks report on a register of dependants, Immigration Policy, Preliminary report by officials'.

every time pressure seemed to build for decisive action against (coloured) immigration, deportation was discussed as an alternative to more blanket legislation, even though proposals only ever covered a tiny proportion of immigrants.[57] In the 1970s too, attention increased on bogus, sham, or fraudulent marriages, though the proportion of such marriages remained insignificant compared to the whole.[58] The 1968 Commonwealth Act had already begun to shift the burden of proof to wives and children seeking to join a relative in Britain: it was now up to them to establish the 'true facts' of their relationship.[59] By March 1977, section 3(2) of the 1971 Immigration Act was amended such that husbands and (male) fiancés would no longer be admitted 'if the officer to whom the application is made has reason to believe that the proposed marriage would be one of convenience'.[60] One interviewee mused it was 'terrible, very difficult' decisions to have to make. Strict limitations were also placed on fiancés' right to work: they weren't.[61]

Throughout these discussions, Europe had been completely absent. Europe mattered for the Treasury, for trade, for agriculture. Not for immigration. Officials occasionally mentioned the need to check proposed rules against the European Convention of Human Rights, though this rarely seemed to pose any real difficulty.[62] Mostly, Europe was presented as a future-oriented foil to Britain's imperial past. What was needed was 'a new immigration [view] which looks to the future, in particular in the EEC context, rather than to the legacy of the past'.[63] As

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[57] Spencer, *British immigration policy since 1939,* pp. 71-2, pp. 106-7.

[58] The terms bogus, sham, fraudulent, etc. are the ones used by officials at the time.

[59] TNA, CAB 130/871, 1977.01.xx, 'Memorandum on British immigration laws and history in the context of the Franks Report'.

[60] TNA, FCO 30/3967, 1977.03.22, 'Statement of Changes in Immigration Rules for Control on Entry: EEC and Other non-Commonwealth nationals, Laid before Parliament on 22nd March 1977 under Section 3(2) of the Immigration Act 1971'.

[61] The Home Office had given instructions to immigration officers to limit the admission of husbands and fiancés accepted for settlement. This was contested by a Labour MP, who moved an amendment to rescind the provisions, arguing that 'Britain had been panicked into changing her immigration rules on the rights of male immigrants to remain in the country after marrying because of racial hostility'. The amendment was rejected 140 to 65. TNA, CAB 130/871, 1977.01.xx, Memorandum on British immigration laws and history in the context of the Franks Report; *Times*, 'Action against bogus marriages', 25 May 1977, p. 14, *The Times Digital Archive* [http://tinyurl.galegroup.com/tinyurl/BFoTw7, accessed 19 April 2021].

[62] TNA, CAB 130/871, 1976.06.28, 'Ministerial Group on Immigration Policy, Memo 1, 'Immigration Policy Memorandum by the Secretary of State for the Home Department'; TNA, CAB 130/871, 1977.02.22, 'Ministerial Group on Immigration Policy, Meeting 4, Options for reducing the rate of settlement'.

[63] TNA, CAB 130/871, 1977.01.xx, 'A Register of Dependants: Report of the Parliamentary Group on the Feasibility and Usefulness of a Register of Dependants'.

nationality reform would be technical and complex, the Home Secretary stressed it would be necessary to preface any official communication in such a way as to 'put the proposals in their historical and EEC contexts - how the present arrangements reflected our past imperial role and needed to be brought into line with the concepts followed by other European countries'.[64] Where Europe really made an entrance was in the discussion of illegality, illegal workers especially. For despite considering immigration more of a PR than a genuine policy problem, the government was under the joint pressure of the Trade Unions Congress (TUC) and the EEC to take decisive action against illegal workers.[65] For the economic outlook was bleak, and unemployment high.

As we have seen, the options available to the British government to demonstrate decisive action against immigration were limited. The increase in immigrant numbers was temporary, and it was difficult to renege on existing commitments: under no circumstances would those people lawfully settled in Britain be repatriated, or denied the right to be joined by their immediate family.[66] These commitments were in any case being reduced thanks to reforms shrinking the pool of people entitled to settle in Britain, slow though such changes were bound to be. A register was wasteful, official quotas unthinkable. In the absence of any other arena in which to demonstrate the kind of action the voting public seemed to demand, the will to educate the public, or to invest massively in certain neighbourhoods, the government began to focus on 'illegals', illegal workers in particular.

As the administrative reach of government expands, requiring individuals to be named, registered, and counted for an ever-increasing array of activities, so too does anything *not* appropriately authorized become suspicious.[67] Thus the imperative for legality necessarily

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[64] TNA, CAB 130/871, 1977.02.08, 'Ministerial Group on Immigration, Meeting 3, Nationality Law, Discussion document and Statement on publication of the Franks Report'.

[65] TNA, CAB 130/871, 1977.01.xx, 'Memo 1: The Franks Report on a Register of Dependants: Note by the Secretary of State for the Home Department'.

[66] In France, Valery Giscard d'Estaing had attempted in 1974 to shut down family reunification entirely and had been forced, by public outcry and his own administration no less, to backtrack in 1976. See: P. Weil, *La France et ses étrangers : L'aventure d'une politique de l'immigration, 1938-1991* (Paris: Calmann-Lévy, 1991).

[67] For more on the subject of government reach and bureaucracy, see: M. Foucault, *Sécurité, territoire, population*, (Paris: Editions du Seuil, 2004); J. Scott, *Seeing like a state: How certain schemes to improve the human condition have failed* (New Haven: Yale University Press, 1998); J. Torpey, *The invention of the passport: surveillance, citizenship, and the state* (Cambridge: Cambridge University Press, 2000); M. Weber, *Bureaucracy* (London: Routledge and Kegan Paul, 1948).

creates illegality.[68] This is particularly true of immigration.[69] In the nineteenth century, being foreign usually meant only that one was prevented from running for public office, or that one might be deported in the event of a criminal conviction.[70] The fact of crossing a border without the appropriate document, or of overstaying beyond the conditions laid out in said document, did not make one illegal: the relevant papers had yet to exist, and not possessing them had yet to be construed as an offence.[71] As the twentieth century progressed, however, illegality gradually became a state of being, and not, as had been the case, that of having committed an illegal act.[72]

1.2. The European dimension

i. Work and the freedom of movement

Work was a major concern for policymakers, and was key both in shaping immigration policy, and in emboldening the European Commission, which (unsuccessfully) attempted to intervene in national immigration policymaking under the guise of its affecting the Common Market. Twentieth century British immigration policy had long relied on the issue of work permits (or

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[68] Laurens quotes a senior French immigration officials as saying, 'I have discovered the main reason why we have illegals: we create them.' ('*J'ai trouvé la raison principale pour laquelle nous avons des clandestins: nous les fabriquons.*'). CAC 1960 0405, article 1, Memo dated 9 March 1973 in Laurens, *Une politisation feutrée*, p. 7.

[69] For further reading on the creation of illegality in immigration, see: J. Amaya Castro, 'Illegality Regimes and the Ongoing Transformation of Contemporary Citizenship', *European Journal of Legal Studies,* (2011), 137-161; C. Dauvergne, *Making People Illegal What Globalization Means for Migration and Law* (Cambridge: Cambridge University Press, 2008); C. Lejeune and M. Martini, 'The fabric of irregular labor migration in twentieth-century Western Europe and North America: a comparative approach', *Labor History* 56:5 (2015), 614-642; Fischer, 'The detention of foreigners in France'.

[70] G. Noiriel, *Le creuset français : Histoire de l'immigration, XIXe-XXe siècle* (Paris: Points, 2016); Torpey, *Invention of the passport*.

[71] Lejeune and Martini show for instance how there were hardly any border crossings to speak of between France and Spain or Italy on the eve of the first World War. C. Lejeune and M. Martini, 'The fabric of irregular labor migration in twentieth-century Western Europe and North America: a comparative approach', *Labor History* 56:5 (2015), 614-642.

[72] In 1967, an MP asked the House of Commons whether 'there [was] any real justification for operating the [1962] Act in quite such a restrictive fashion' after a young Australian had been detained 36 days not for any crime, but for breaking immigration regulations. The Opposition welcomed this display of compassion towards the Old Commonwealth, noting the House still waited for similar displays towards the New. *Hansard*, 'Acts Continued Till End Of December, 1968', 15 November 1967, Vol. 754, Col. 441-448 [https://hansard.parliament.uk/Commons/1967-11-15/debates/51b1846a-f76e-48ee-b7b6-909dd185df22/(ActsContinuedTillEndOfDecember1968)?highlight=register%20immigrant#contribution-e3c22f32-782c-4908-9362-c0886678e6f3, accessed 19 April 2021].

vouchers) to regulate the inflow of Commonwealth migrants.[73] As we have seen, in 1965, Wilson issued work vouchers and Parliament agreed that 'any reduction in the number of Commonwealth citizens admitted for permanent settlement could only be [achieved] through a reduction in the number of employment vouchers issued'.[74] On the basis of the likelihood of their looking for work, the 1971 Act granted differential treatment to male and female fiancé(e)s seeking to join their future spouse in Britain. Indeed, despite the smaller number of female immigrants - and the lower number of men therefore likely to join them - it was more difficult for male fiancés to come to Britain. It was assumed they would be looking for work where female fiancées would not.

As we have also seen, work and unemployment were often a plausible excuse, rather than an empirically-grounded argument, for setting limits on immigration. In the 1950s and 1960s, Cabinet ignored various Treasury and working party reports stating that immigration did not negatively affect unemployment rates (but might even be beneficial), that coloured immigrants were absorbed into the job market with 'remarkable speed', or indeed that these immigrants represented no statistical deviation from the norm in terms of disease of criminality. Instead, the government projected negative social consequences into the future - and based its decisions on those.[75]

Similar things occurred in France, where Laurens shows how justifying a stop to immigration because of unemployment was a rhetorical device hit upon *after* the fact.[76] Though the oil shock had indeed occurred in 1973, not all sectors were impacted at the same time, when they were hit at all; not all industries experienced the crisis as one, or considered immigrant labour as an issue warranting decisive action. For certain industries, a recession might even make immigrant labour *more* attractive: a cheap, flexible alternative to costly, capital investments.[77] This rhetorical leap was the work of senior civil servants in charge of immigration - an under-funded, unglamorous department - creating a problem for which only

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[73] The Commonwealth Immigration Act 1962 introduced work vouchers limiting the free movement of Commonwealth citizens. Irish migrants were exempt.

[74] *Hansard*, 'Expiring Laws Continuance Bill', 6 December 1965, Vol. 271, Col. 9-25 [https://api.parliament.uk/historic-hansard/lords/1965/dec/06/expiring-laws-continuance-bill, accessed 21 April 2021].

[75] Spencer, *British immigration policy since 1939*, p. 39; p. 44; pp. 114-5.

[76] S. Laurens, *Une politisation feutrée: Les hauts fonctionnaires et l'immigration en France (1962-1981),* (Paris: Belin, 2009), Chapter 8, 'La mise en mots d'un problème de société intégré à l'offre politique', pp. 227-250.

[77] Laurens, *Une politisation feutrée*, p. 210.

they had the solution.[78] It was also an empirical leap - Laurens shows how figures were willfully misinterpreted to back this argument.[79]

Meanwhile, the 1971 Act contained 'special provision[s] for the admission of nationals of member countries of the European Economic Community', and these provisions centred around work.[80] 'When an EEC national is given leave to enter, no condition is to be imposed restricting his employment or occupation'.[81] Furthermore, unlike other aliens or Commonwealth nationals, EEC nationals had the right to 'be admitted without a work permit or prior consent' regardless of whether they were seeking, taking up, or creating jobs.[82] They could not enter completely freely, however. Though they possessed the singular advantage of being able to enter without a work permit (Commonwealth citizens, by contrast, had to submit to the confusing proto-visa system of entry certificates), they were nonetheless only admitted for six months, unless they held a valid (separate) residence permit. This does not seem to have stoked any particular controversy. Across the Community, indeed, in the very Treaty of Rome, freedom of movement was understood strictly in the context of work, or work-seeking, and was also, perhaps more subtly, understood as temporary. Most Europeans were not expected to settle in Britain.[83] Furthermore, Britain at the time was the 'sick man of Europe', relatively less prosperous than its neighbours. It was unlikely that hordes of prosperous Germans or Frenchmen, or even Italians trying their luck, would immigrate to Britain *en masse*. Nor was this controversial as far as Britain's European partners-to-be were concerned: nowhere in Europe was the freedom of movement an absolute, unambiguous right.

Policymakers assumed that immigration was primarily driven by the search for work, or by the wish to be reunited with the exiled, working member of the family. Though Article 3(c) of the Treaty of Rome (1957) declared the abolition of the obstacles to freedom of movement of

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[78] In many respects, the crisis was constructed in much the same way as the crisis of Britain's 'ungovernability' in the late 1970s, albeit by different players. Whether ambitious senior civil servants or a reinvigorated right wing opposition, both found in the emphasis of past chaos v. future order a useful rhetorical device to radically reorient policy. See: C. Hay, 'Chronicles of a Death Foretold: The Winter of Discontent and Construction of the Crisis of British Keynesianism', *Parliamentary Affairs* 63:3 (2010), 446-70.

[79] Laurens, *Une politisation feutrée*, pp. 193-9.

[80] Immigration Act 1971, art. 49.

[81] Immigration Act 1971, art. 51.

[82] Immigration Act 1971, art. 52.

[83] Nor were they truly viewed as immigrants if they did. See: A. Favell, *Eurostars and Eurocities: Free Movement and Mobility in an Integrating Europe* (Oxford: Blackwell, 2008).

persons, Title 3 expanding that right focused squarely on *workers*: 'Freedom of movement for workers shall be secured within the Community' (Art. 48.1); 'Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers' (Art. 48.2).[84] The right to establishment was expanded upon in the following chapter, with 'freedom of establishment [including] the right to take up and pursue activities as self-employed persons'.[85]

The anxieties about unemployment and the potentially adverse impact of immigration upon it were shared across the Nine EEC member states. At an informal meeting in 1975 in Lucca, Italy, foreign ministers worried about the deteriorating economic situation and the destabilizing effect of unemployment. Indeed, unemployment had been growing rapidly across the Continent. In Britain, the unemployment rate was 2.7% in 1970. By 1977, it had reached 6.2%.[86] The story was the same in France, where unemployment 'exploded' in 1974/5, reaching an unprecedented million individuals, 5% of the active workforce.[87] In Germany, though the overall rate was lower (0.4% in 1970), it was increasing rapidly too, reaching 3.1% in 1975.[88] So too, had immigration progressed across the Community.

A Cabinet note summed up the problem like this: 'The relative ease with which immigrants can take employment in breach of their conditions of admission is a source of concern for two main reasons: (i) its effect on the labour market, particularly at a time of high unemployment; (ii) the incentive which it provides for overstaying and illegal entry whether clandestine or by deception'.[89] 'The Government's concern to prevent illegal entry and

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[84] Treaty of Rome (1957), Title 3, Chapter 1, Article 48.

[85] Treaty of Rome (1957), Title 3, Chapter 2, Article 52.

[86] J. Denman and P. McDonald for the Government Statistical Service (now ONS), 1 January 1996, 'Unemployment statistics from 1881 to the present day', *Labour Market Trends.* Other ONS sources put the 1977 figure at 5.6%. ONS, 'Unemployment rate (aged 16 and over, seasonally adjusted)', [https://www.ons.gov.uk/employmentandlabourmarket/peoplenotinwork/unemployment/timeseries/mgsx/lms, accessed 5 May 2021].

[87] M. Gaspard, 'La montée du chômage en France depuis 1969', *Statistiques et études financières*, 32 (1978), 6-35. See also: WHO, 'Unemployment rate (%)' (2021), [https://gateway.euro.who.int/en/indicators/hfa_29-0200-unemployment-rate/visualizations/#id=18836&tab=table, accessed 22 April 2021].

[88] OECD, 'Unemployment rate (indicator)' (2019), [doi: 10.1787/997c8750-en, accessed 5 March 2019].

[89] TNA, CAB 130/940, 1977.10.06, Official Group on Immigration Policy, 'Immigration Control: Unauthorized employment of overseas workers'.

overstaying arises primarily from the fact that such people deprive the resident population of job opportunities'.[90]

Again, we see the government's own ambivalence regarding the empirical basis of its assumptions: alternately highly sceptical of there being a problem at all, other times drawing inferences in the absence of (or despite) reliable data. This was true in France as well as Britain, and the complex dynamics underpinning this suggest it would be true elsewhere in Europe too.

ii. Enter the Commission

So far, we have seen how the main preoccupation of British policymakers was to preserve 'racial harmony' by appearing to reduce the numbers of incoming migrants. However, they were cornered by the lack of reliable figures and the lack of politically acceptable means to either use explicitly racial criteria, or renege on what were considered fundamental statutory rights, such as being joined by one's spouse or children (though these were being nibbled away). In this context, focusing on 'illegal' immigrants neatly delivered apparently forceful rhetoric while changing rather little on the ground. The EC, it must be repeated, was barely mentioned at all. As an interviewee put it, as far as immigration matters were concerned, the EC was 'nowhere near the top of the agenda'.

Yet the Commission was about to make a brief and, to most national officials, ill-advised, foray into immigration policymaking. This attempt was not welcomed by national policymakers and never came to fruition. It was, however, a public Commission incursion into a national prerogative, a jealously guarded one at that. As one former official put it, 'it was natural that the Commission should seek to expand its remit, and equally natural member states should resist'.

For it was in this context of widespread anxiety over unemployment and the growing focus on illegality that in 1976, the Commission proposed a draft directive on illegal employment and illegal immigration. It included proposals for publicity campaigns abroad to dissuade immigration (which the British government knew from experience were ineffective); 'the establishment of adequate control at places of entry [in] a territory of the member state or at the place of employment'; 'the imposition of penalties on those (including employers) who knowingly organise or participate in activities which are intended to, or do in fact, lead to illegal

[90] TNA, CAB 130/1007, 1978.03.xx, Draft Statement by the Home Secretary, Select Committee on Race Relations and Immigration.

migration and illegal employment'; and 'appeal procedures for persons working illegally who are sentenced to deportation'.[91]

The proposal mirrored the worries expressed by trade unions and labour ministries in member states: that 'illegal immigration threatens the working conditions of Community workers and in particular Community migrants'.[92] It was also premised on the belief that a solution could only be found at the Community level: 'in view of the growing interdependence and integration of the national labour markets, the measures taken by the Member States individually against migration for the purposes of illegal employment, or the absence of such measures, inevitably impinge on the effectiveness of the measures taken by the other Member States'.[93] In other words, that coordination at the European level was necessary for any national measures to be effective. This can partly be explained by institutional creep - the Commission's natural desire to expand its remit, partly by idealism - the (to the British) naïve and sometimes infuriating idealism of their Commission counterparts.

The directive had been put forward by the Commission following a resolution taken by the Social Affairs Council, comprised of the nine ministers responsible for social affairs, in December 1975.[94] It stated that 'in safeguarding the rights of migrants it was important for Member States to strengthen cooperative efforts against the illegal immigration of workers who were nationals of third countries'.[95] Community workers, by virtue of the Treaty of Rome, could not be illegal. Illegality was reserved for 'nationals of third countries'. Indeed, the proposal was largely prompted by difficulties controlling the movements of Turkish guest workers in Germany and Austria, and by pressures from national trade unions worried that illegal immigrants accepting low wages would diminish their own negotiating power.[96] In France, Prime Minister Chirac had declared in 1976: 'A country where there are nearly a million unemployed, but two

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[91] TNA, FCO 30/3273, 1976.11.12, Winkett (Department of Employment) to Taylor (HO), attached 'Draft CQO Paper: EEC: Proposal for a Directive on Harmonisation of Laws Relating to Illegal Migration and Related Illegal Employment'.

[92] TNA, FCO 30/3273, 1976.11.xx, from UKREP Brussels to Taylor (HO).

[93] TNA, FCO 30/3273, 1976.11.xx, 'Proposal for a Council Directive on the harmonization of law in the Member States to combat illegal migration and illegal employment'.

[94] By 1975, Britain, Ireland and Denmark had joined the EEC, bringing the number of member states from six to nine.

[95] TNA, FCO 30/3274, 1976.12.14, Petrie (FCO) to Taylor (HO), 'EEC: Illegal Immigration'.

[96] TNA, FCO 30/3273, 1976.09.02, George (FCO) to Private Secretary.

million immigrants is not a country where the unemployment problem is insoluble.'[97] In Germany, the Ministry of Labour launched a 'concentrated action toward the disclosure of illegal employment of aliens' which it deemed 'especially urgent, because illegally employed aliens block jobs for Germans'.[98] In Britain too, as we have seen, the government used unemployment to justify increasingly restrictive immigration policies, and this despite the fact that it was impossible to use labour forecasts as the foundation for immigration policy, 'as even short-term forecasts were liable to prove highly inaccurate.'[99]

The Commission was entitled to propose directives under Article 100 of the Treaty of Rome, whereby a directive would lead to a greater harmonization of Member State laws, rules, or administrative practices, where these had a direct incidence on the functioning of the Common Market. Unanimous adoption by the European Council was then necessary to enact the resulting directives, which 'require [EC] countries to achieve a certain result, but leave them free to choose how to do so'.[100] Measures must be transposed into national law within a given deadline, while regulations apply automatically as soon as they enter into force. Lesser instruments, such as recommendations or opinions, allow European institutions to make their views known, but are not binding.

As British officials wryly noted, however, it was 'very difficult to advance a convincing argument that a particular draft directive does not "directly" affect the establishment of or functioning of the Common Market'.[101] Worse, 'the Commission are themselves not sure of their grounds for a directive'.[102] They 'originally proposed a Directive and then … appeared to be advised by their own lawyers that there was no legal power to do so'.[103]

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[97] '*Un pays dans lequel il y a près d'un million de chômeurs, mais où il y a 2 millions d'immigrés n'est pas un pays dans lequel le problème de l'emploi est insoluble*.', in Y. Gastaut, 'Français et immigrés à l'épreuve de la crise (1973-1995)', *Vingtième Siècle. Revue d'Histoire*, 84:4 (2004), p. 111.

[98] O'Brien, 'Continuity and Change in Germany's Treatment of Non-Germans'.

[99] TNA, CAB 130/882, 1976.09.23, Meeting 1.

[100] '*Le Conseil, statuant à l'unanimité sur proposition de la Commission, arrête des directives pour le rapprochement des dispositions législatives, réglementaires et administratives des États membres qui ont une incidence directe sur l'établissement ou le fonctionnement du marché commun. L'Assemblée et le Comité économique et social sont consultés sur les directives dont l'exécution comporterait, dans un ou plusieurs États membres, une modification de dispositions législatives.*' See also: European Commission, 'Types of EU law' (2021) [https://ec.europa.eu/info/law/law-making-process/types-eu-law_en, accessed 22 April 2021].

[101] TNA, FCO 30/3273, 1976.11.19, George (FCO) to Taylor (HO).

[102] TNA, FCO 30/3273, 1976.11.19, George (FCO) to Taylor (HO).

[103] TNA, FCO 30/3273, 1976.11.xx.

Indeed, the basis for the Commission's interference seemed unclear at best, and the issue of competency - that is, whether the Commission was within its rights to interfere - was a recurring issue for national officials.[104] The British representatives in Brussels observed that the proposed directive on illegal workers was 'curiously and rather tangentially phrased … no doubt reflecting the legal difficulties we know the Commission have had in producing a directive as opposed to a recommendation'.[105] The Home Office, meanwhile, noted that 'the Commission's legal representative had admitted that it was difficult to find a sound legal basis under the Treaty for a full directive'.[106] 'There is serious objection, which could have warm political implications here', the HO official continued, 'to widening the ambit of the Treaty by subordinate instrument'. Approving the proposal would only set a precedent for further encroachment.[107] With the exception of Italy, at this point still a country of emigration, other national delegations also opposed a directive.[108] Most 'had from the start opposed the Commission's wish for a directive … some had questioned its powers under the Treaty to put one forward'.[109] France and Germany especially were 'reserved on the form of the instrument'.[110] Fundamentally, all agreed 'a directive may be too restrictive of a state's sovereignty'.[111]

Practical difficulties matched principled opposition. Indeed, 'immigration controls are a separate and important element of any Government's policy which much be dealt with as a coherent whole and not split up.'[112] For some of the Commission's proposals had far-reaching consequences the British were loath to entertain. Making employers of illegal labour liable for prosecution and charges, for instance, opened two major problems. First, Community interference in criminal matters, which was out of the question (employing illegal labour was not an offence in British law). Second and far more importantly, it also implied a system of internal identity controls anathema to British tradition. Officials worried that any penalties on

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[104] Something interviewees also confirmed.

[105] TNA, FCO 30/3273, 1976.09.03, Rimington (UKREP EC) to Fair (CAB).

[106] TNA, FCO 30/3273, 1976.07.01, Taylor (HO) to Biddiscombe (UKREP EC).

[107] TNA, FCO 30/3273, 1976.07.01, Taylor (HO) to Biddiscombe (UKREP EC).

[108] It has been suggested during interviews that Italy was ready to sign almost anything the Commission put forward as it gave the country a semblance of control it could only wish for at home.

[109] TNA, FCO 30/3273, 1976.11.xx, 'Draft CQO Paper - EEC: Illegal Immigration'.

[110] TNA, FCO 30/3273, 1976.10.29, Biddiscombe (UKREP EC) to Moore (Department of Employment).

[111] TNA, FCO 30/3273, 1976.07.01, Taylor (HO) to Biddiscombe (UKREP EC).

[112] TNA, FCO 30/3273, 1976.07.01, Taylor (HO) to Biddiscombe (UKREP EC).

employers in absence of identity cards would create race relations difficulties, perhaps even a 'witch hunt'.[113] An island nation, a point repeatedly stressed in both archives and interviews, Britain's system of population control was vastly different from that of its Continental neighbours. They compensated for porous land borders with internal checks and identity cards. Britain, meanwhile, exercised comprehensive control at its borders, and then not at all. The Commission's proposal, however, assumed a Continental system, which was unthinkable in Britain.[114] British officials concluded: 'it seems essential to insist that we retain complete freedom of action and some of the Commission's proposals would take it away.'[115]

There were also definitional issues. While the Commission seemed to treat illegal workers and illegal migrants interchangeably, British law distinguished between two types of 'illegals': people who entered legally, but overstayed their permits; and those who entered illegally. Only the former were entitled to amnesty and appeal, as overstaying was considered a lesser offence than entering without permission. The Commission proposal compounded the two categories, implying the right to appeal deportation for all.[116]

The problem with the proposed directive was three-fold: Should the Community legislate at all? If so, was a directive really the appropriate instrument? And, once the instrument chosen, what should the content of legislation be? The problems were connected and virtually impossible to disentangle, for different instruments might be appropriate – or none at all – depending on content.[117] All in all, the Commission's directive required substantive legislation in the UK and 'we have no wish to do so'.[118] On the contrary, there was something of a 'phobia' about amending the 1971 Immigration Act.[119] The British response to the Commission's proposal was clear: 'The Commission would be well advised to think harder and longer on this issue. They will simply invite hostile comment if they produce these proposals in their present form'.[120]

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[113] TNA, FCO 30/3273, 1976.09.03, Fair (CAB) to Hughes (CAB).

[114] There was a short-lived and controversial attempt at bringing in identity cards in 2006, which was scrapped in 2011. TNA, FCO 30/3273, 1976.11.xx, 'Draft CQO Paper - EEC: Illegal Immigration'.

[115] TNA, FCO 30/3273, 1976.11.xx, 'Draft CQO Paper – EEC: Illegal Immigration'.

[116] TNA, FCO 30/3273, 1976.11.xx, 'Draft CQO Paper - EEC: Illegal Immigration'.

[117] TNA, FCO 30/3274, 1976.12.13, Winkett (DoE) to Taylor (HO).

[118] TNA, FCO 30/3273, 1976.11.xx, 'Draft CQO Paper - EEC: Illegal Immigration'.

[119] TNA, FCO 30/3274, 1976.12.09, Petrie (FCO) to Bell (FCO).

[120] TNA, FCO 30/3273, 1976.10.01, Westbrook (FCO) to George (FCO).

The Commission's proposal did not receive hostile comment from the press, however, and this put British officials in an awkward position. Indeed, the proposal had received widespread, and generally favourable, coverage when it was announced in November 1976. The *Financial Times*, *Telegraph*, and *Guardian* all covered the directive.[121] They reiterated the Commission's stated desire to protect illegal immigrants vulnerable to exploitation. But they also emphasized the crucial link to unemployment. As the *Guardian* summed up: 'The fact remains, however, that the concern of the Commission about illegal immigration is linked to the growth of unemployment throughout the Community and the belief that it will remain at a high level for some years. At the same time, there has been a revival of activity by racist and anti-migrant groups in a number of Community countries in the past year.'[122] The *Telegraph* declared that 'The Commission estimates that there may be some 600,000 illegal immigrants working in Community countries - about 10 per cent. of all migrant workers.'[123] As Foreign Office officials commented: 'The Commission's proposals have not had a bad press, largely because they have been seen as a way of "bashing" immigrants. If, as I expect, HMG have to take a rather negative line on the proposals, it does behove us to see what might be put in their place'.[124] Politically, the precise instrument made no difference. Whether the Commission came out with a directive, resolution or declaration was beyond the concern of the ordinary public, who expected decisive action either way.[125]

This put officials in a bind: how could Whitehall be seen to oppose a directive that so captured the zeitgeist? As Taylor, a Home Office official, wrote to Winkett, his Department of Employment counterpart: 'The UK would not wish to disagree with the main aim of the directive to reduce illegal immigration and illegal employment and, indeed, there are strong pressures from many quarters – including the TUC – to take effective action in this area'.[126] Winkett replied: 'The two issues of the form of the instrument, if any, and the kind of action which we might be prepared to take domestically are linked in that I think that my Ministers are concerned about the political difficulty in this country of opposing tightening up on illegal migration and illegal working'.[127] Either way, 'there was a growth in public discussion on

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[121] *Financial Times*, 'EEC wants immigration rules', 1976.11.04.

[122] J. Palmer, 'EEC wants immigration controls', *The Guardian*, 4 November 1976.

[123] *Telegraph*, 'EEC plan to curb illegal immigrants', 5 November 1976.

[124] TNA, FCO 30/3273, 1976.11.09, George (FCO) to Bell (FCO).

[125] TNA, FCO 30/3274, 1976.12.13, Winkett (DoE) to Taylor (HO).

[126] TNA, FCO 30/3274, 1976.12.03, Taylor (HO) to Winkett (DoE).

[127] TNA, FCO 30/3274, 1976.12.13, Winkett (DoE) to Taylor (HO).

immigration and there might therefore be pressures on the Government which would have to be taken account of in considering the Commission's proposals'.[128]

By the end of 1976, then, the Commission had tabled a proposal for a directive to combat illegal immigration, illegal employment in particular. Yet member states, Britain and France in particular, were unconvinced. While the Commission had put its finger on a sensitive political issue, its solutions were impractical and whiffed of encroachment. Member states felt that their sovereignty was being attacked, and that furthermore, the proposal was an inapplicable jumble, virtually impossible to untangle, let alone implement.

iii. Exit the Commission

The Government faced a difficult policy problem - what to do with the Commission's proposal, what to replace it with if rejected - and a difficult presentational one. Indeed, a *Times* article from September 1976 had suggested British immigration policy might be undermined by the Community. In a memo sent by the UK's Brussels representative to his Cabinet colleague (and copied to officials in the Home Office and the Department of Employment, as well as the FCO, DHSS and DES), Rimington warned that:

> We ought to bear in mind that if the Times article stimulates further exploration by the press of EEC intentions on immigration *there is plenty of material lying around here that could be sensationalised to produce the impression that our immigration policies may be undermined by the Community …* Though no dramatic effects need be expected in practice, all this is so much tinder for mischief-making. [emphasis mine][129]

At home, the Government was under public pressure to act, but not in a way that would suggest too much deference to the Community. In the European arena, the pressure was on too, albeit less directly. British presidency of the European Council, due to run from January to June 1977, was approaching fast, and officials were keenly aware of other, bigger clouds on the Community horizon such as budget negotiations, agricultural reform, or institutional change.[130] The Presidency, which rotated every six months, was important insofar as the presiding country chaired all meetings, it was therefore responsible for the agenda and the pace of discussions.

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[128] TNA, FCO 30/3273, 1976.09.16, Note of a meeting between Grant (PUSS) and Degimbe (European Commission), 16 September 1976.

[129] TNA, FCO 30/3273, 1976.09.03, Rimington (UKREP EC) to Fair (Cabinet Office).

[130] For a detailed, insider take on these issues, see S. Wall, *A Stranger in Europe: Britain and the EU from Thatcher to Blair*, (Oxford: Oxford University Press, 2008).

So British officials did the only thing they could do: they 'discreetly slow[ed] down discussion' and played for time.[131] It would be embarrassing to rebuff the Commission openly, during the first British council presidency no less. Attempting to turn the proposal into a viable one was a Sisyphean task, the rewards of which, if they ever materialized, would barely constitute an improvement over what national policy could already achieve. Slowing discussions while the proposal quietly dropped off the menu was therefore an attractive option indeed, all the more so given that other national delegations were not enthused by its proposal either.[132] In May 1977, British officials therefore decided to 'reserve [their] position' and recommended that Britain back the French preference for a declaration or resolution rather than directive (the former being less restrictive than the latter): 'This is an area of vigilance against unnecessary extension of Community action'.[133]

Indeed, 'any kind of Council instrument could form the basis for an eventual claim to external competence by the Community – ie not only illegal immigration but all immigration from outside. This would have to be prevented by very careful control of the wording'.[134] Commission creep was something all member states were wary of: the Commission had the right of initiative (that is, the right to propose new community rules) and was keen to take advantage of any opportunity to extend its competencies. National governments, on the other hand, tended nearly unanimously to resist. An important change that occurred in 1977 is that Roy Jenkins, previously Home Secretary and a serious contender to No. 10, became President of the European Commission. Under his tenure, which lasted until 1981, the Commission began to shift away from the more technocratic and legal approach it had used until then, towards a more political, behind the scenes one. Though, as we have seen, immigration was not a European priority, it is conceivable that this change at the top further weakened the resolve of Commission officials. At any rate, in 1978, the Commission withdrew its proposal for further consideration, for good.[135]

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[131] TNA, FCO 3274, 1976.12.03, Taylor (HO) to Winkett (DoE).

[132] TNA, CAB 130/940, 1977.05.20, Secretary of State for Social Services to Summerskill, Parliamentary Under-Secretary of State at the Home Office, 'EEC Draft Directive on Illegal Employment and Illegal Immigration'.

[133] TNA, CAB 130/940, 1977.05.20, Secretary of State for Social Services to Summerskill, Parliamentary Under-Secretary of State at the Home Office, 'EEC Draft Directive on Illegal Employment and Illegal Immigration'; TNA, FCO 30/3579, 1977.05.20, 'Draft EEC Directive on EEC Directive on Illegal Immigration and Illegal Employment'.

[134] TNA, FCO 30/3579, 1977.05.20., 'Draft EEC Directive on EEC Directive on Illegal Immigration and Illegal Employment'.

[135] TNA, CAB 134/4197, 1978.01.09, 'Official Committee on European Questions: Six monthly White Paper on developments in the European Communities, from 1 July 1977 to 31 Dec. 1977)'.

1.3. Pressure from labour

Immigration policy was pulled in different directions by its lead and junior departments, the Home Office and the Department of Employment, though relations between them were good.[136] Indeed, the Home Office was rather more opposed to the Commission directive than was the Department of Employment. As we have seen, the Home Office had had previous experience with a register, which it considered ineffective. It viewed the Parliamentary commission primarily as a PR exercise designed to soothe public anxieties.

Under Roy Jenkins, the Home Office was surprisingly progressive. During his tenure as Home Secretary (1965 to 1967, and again 1974 to 1976), Jenkins oversaw the abolition of capital punishment, the decriminalization of homosexuality, the end of theatre censorship, the relaxing of divorce law, and the liberalization of abortion law.[137] Concerning immigration, the Home Office was first and foremost concerned with promoting harmonious race relations, which involved not antagonizing minorities on the one hand, nor promoting any measure likely to provoke a 'witch hunt' on the other.[138] For the Home Office, which did not regard immigration as a burning problem as much as IRA bombings or union strikes, any proposal targeted at immigrants would be incendiary, anything universal would require a system of internal control contrary to British tradition. The Home Secretary was unequivocal: 'Such a major change [internal controls] in practice and power reaching far beyond immigration control would be objectionable in principle. In the Government's view, therefore, no useful purpose would be served by setting up an enquiry [into the feasibility of such controls]'.[139] In this, the Home Office's position had not much changed since the 1905 Aliens Act, when it opposed a 'major administrative effort to keep out vaguely-defined categories of so-called "undesirables"'.[140]

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[136] The Foreign and Commonwealth Office (FCO) maintained an important centralization and coordination role for all Europe-facing, extra-Whitehall communications, though it did not play an important role in the content of immigration policy itself during the period. Tensions would emerge with the extension of the visa regime in the 1980s.

[137] This was also in the spirit of the times. Under Giscard d'Estaing (French President from 1974 to 1981), abortion was legalized and the age of majority was reduced to 18. The death penalty would be abolished by Mitterrand in 1981.

[138] TNA, FCO 30/3273, 1976.09.03, Fair to Hughes (both Cabinet Office), 'Time report on Illegal Immigration'.

[139] TNA, FCO 30/3967, 1978.04.06, 'Select Committee Report on Immigration, Statement by the Home Secretary'.

[140] Pellew, 'The Home Office and the Aliens Act, 1905', p. 372.

Though unemployment and right-wing agitation put pressure on policymakers to be seen to be tightening immigration rules and prevent 'illegal entries and overstayers [from taking] work to which others are entitled', the Home Office was cautious.[141] 'This is an extremely complicated sector which we would be ill advised to rush into without very careful consideration'. 'The Government remains of the view that … a register would not be desirable, practicable, or likely to serve the purpose the promoters of the idea intended for it'.[142] And again:

> I can see no acceptable way in which a system of immigration control relying primarily on internal checks could be set up, without the universal introduction of identity cards and powers to require their production. This would require major changes in practices and powers reaching far beyond immigration control. In the past such changes have been contemplated only in war: *the Government does not believe they could be justified on immigration control grounds alone.* [emphasis added][143]

In the words of one retired senior official, the Home Office remained under constant pressure to adopt proposals that were 'plausible but wrong', such as a register of dependants. The difficulty resided in being seen to be doing something, while at the same time, not 'giv[ing] rise to fears in anyone irrespective of race, colour or creed' nor wasting public money on policies they knew from experience would be expensive, ineffectual, and a possible threat to civil liberties.

The Department of Employment, on the other hand, was under direct pressure from the unions to do something about rising unemployment, and immigration seemed to present a convenient solution.[144] The pressure on the Home Office from the Department of Employment to limit immigration for labour reasons had antecedents dating as far back as the 1905 Act. Indeed, Pellew shows that until about 1903, the Board of Trade (later Labour Department) was

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[141] TNA, CAB 130/1007, 1978.03.xx, Draft Statement by the Home Secretary, Select Committee on Race Relations and Immigration.

[142] TNA, CAB 130/1007, 1978.03.xx, Draft Statement by the Home Secretary, Select Committee on Race Relations and Immigration.

[143] TNA, CAB 130/1007, 1978.03.xx, Draft Statement by the Home Secretary, Select Committee on Race Relations and Immigration.

[144] A *Times* article noted that the Labour Shadow Cabinet 'had no choice … but to commit themselves' to opposing the 1971 Immigration Bill, but that 'it was noticeable that in the list of 12 rank-and-file speakers the trade unionist MPs led the floor to the 'intellectuals' and professional men.' *Times,* 'All-out Commons attack by Labour on 'unnecessary' and 'sham' Immigration Bill', 4 March 1971, p. 2, *The Times Digital Archive* [http://tinyurl.galegroup.com/tinyurl/BFogp6, accessed 22 April 2021].

responsible for the administration of immigration control. The Home Office reluctantly applied the control measures that befell it, when at all.[145]

The late 1970s were a time of planning agreements between government and industry, with yearly conferences setting such things as pay rises.[146] The Conservative government under Heath (1970-74), had failed to prevent the 3-day week and a bitter mining strike.[147] The Labour government that succeeded it in 1974, did so partly on the strength of its presumed ability to better work with the unions.[148] James Callaghan, Prime Minister after Wilson's surprise resignation in 1976, had been a union man. He was seen as the 'keeper of the cloth cap', guarding ties between the Labour Party and the unions. Union officials were frequently received by both Home Office and Department of Employment ministers and civil servants, and Roy Jenkins mentions meetings with Len Murray, General Secretary of the Trade Unions Congress (TUC), in his autobiography.

Indeed, the TUC 'strongly urged that employers should be obliged to vet applications for employment and that the Department of Employment should carry out inspections to ensure compliance'.[149] The TUC's Hotel and Catering Industry branch especially had been applying pressure to the Government, due to the 'high incidence' of illegal employment in the sector.[150] The Transport and General Workers Union was also in favour of using national insurance numbers to track immigration, though the civil service demurred.[151] Not to be seen to heap misery on the vulnerable, however, the TUC nonetheless emphasized it meant sanctions to apply to employers, not employees.[152]

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[145] Pellew, 'The Home Office and the Aliens Act, 1905', p. 370.

[146] J. Tomlinson, 'Economic Policy', in *The Cambridge Economic History of Modern Britain*, eds. R. Floud and P. Johnson (Cambridge: Cambridge University Press, 2004) 189-212.

[147] For further reading on unions and immigration, see: R. Penninx and J. Roosblad, *Trade Unions, Immigration, and Immigrants in Europe, 1960-1993: A Comparative Study of the Attitudes and Actions of Trade Unions in Seven West European Countries* (New York, Oxford: Berghahn Books, 2000).

[148] Jenkins, *Life at the Centre*, p. 365.

[149] TNA, CAB 130/882, 1976.09.23, Meeting 1.

[150] TNA, CAB 130/940, 1977.07.05, 'Official Group on Immigration Policy, Unauthorised Employment, memo by the Home Office'; TNA, CAB 130/882, 1976.09.23, Meeting 1.

[151] TNA, CAB 130/1007, 1978.03.29, Select Committee on Race Relations and Immigration Control.

[152] TNA, CAB 130/940, 1977.10.06, Official Group on Immigration Policy, Immigration Control: Unauthorized employment of overseas workers, Chairman's report. One interviewee recalled the trade unions generally behaving 'honourably' and having 'quite a good record', whereby their concern for individual rights trumped what racism there might have been - not to mention the fact that a number of unions would have had immigrants as members.

In this the pressure from the EEC and the TUC was the same, and most memos cite the Commission and the unions as the two main sources of pressure for a tightening of immigration policy. This is unsurprising, as the Commission's proposal had stemmed from the work of the Social Affairs Committee, which was made up of member state ministers responsible for employment and industrial relations, itself acting at least in part under the impetus of national trade unions. However, though the TUC had initially been supportive of the Commission's proposed directive to sanction employers using illegal labour, by 1980 it had recanted on the grounds that the measure would, in practice, lead to racial discrimination against individuals suspected of being illegal immigrants, in other words, of non-whites. On the contrary, by 1980, there was 'no support whatsoever in the UK for the proposed directive from employers, trade unions, immigrant organisations or political parties. In many cases there have been considerable objections'.[153]

In the meantime, the Home Office and the Department of Employment disagreed over whether or not employing an illegal worker should be an offence or not, with the Department of Employment pushing for more repressive immigration policies than the Home Office.[154] Indeed, on the eve of the 1980s, the British Home Office was more concerned with the IRA than illegal workers, and it was the Department of Employment, under pressure from the unions, leading the charge for more repressive policies.

This is an important finding. It qualifies the securitization literature which argues that it was Home Office officials from across Europe who led the drive towards more repressive immigration policies, construing immigration as a security threat.[155] My research shows that, in the British case at least, the Home Office was for a time more progressive and in fact *resisted* calls to politicise immigration. This echoes the department's position at the turn of the twentieth century, when it had also resisted extending the immigration control apparatus, despite pressure from unions, on the grounds that it was too much work for too few results.[156] In France too, the Ministry of Labour was instrumental in construing immigration as a problem, even when the Ministry of the Interior did not agree.[157]

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[153] TNA, FCO 30/4384, 1980.11.27, Spreckley (ECD-I), 'Social Affairs Council: Illegal Immigration and Illegal Employment'.

[154] TNA, FCO 30/3579, 1977.05.20, Draft EEC Directive on Illegal Immigration and Illegal Employment.

[155] R. Bermejo, 'Migration and Security in the EU: Back to Fortress Europe?', *Journal of Contemporary European Research,* 5:2 (2009), 207-224; Guiraudon, 'The constitution of a European immigration policy domain'; Huysmans, 'The European Union and the Securitization of Migration'.

[156] Pellew, 'The Home Office and the Aliens Act, 1905'.

[157] Laurens, *Une politisation feutrée*, p. 156.

So we have examples of the Department of Employment insisting on criminalizing certain kinds of immigration despite Home Office reticence. This suggests further research is required into the role of trade unions and labour ministries in the construction of immigration policy. It also suggests that harsher positions from the Home Office might be the result of a combination of mutually reinforcing sources of pressure: public opinion (or certain segments of it), trade unions and the Department of Employment, the European Commission, rather than interior ministry officials themselves being the initial vector for a repressive turn of policy.

Having explored the extent to which European concerns permeated - or not, as the case may be - British immigration policymaking, we now turn to European security fora, to examine the extent to which immigration was emerging as a concern there.

II. European security: 'Recognised but informal' policymaking

We have seen how British immigration policy had, by the late 1970s, turned to Europe as part of a broader geo-strategic and historical shift away from its disintegrated colonial empire. European migrants were not the worry, South Asian and East Africans were. We have seen Home Office officials resisting calls for more repressive immigration policies. More often than not, senior officials juggled the contrary imperatives of being seen to be doing something in the face of right wing and union agitation, without committing to costly, inefficient, but apparently plausible policies, all without stoking racial tensions. We have also seen the Commission try and fail to directly weigh in on national immigration policymaking.

Yet just because the Commission failed to harmonise, officialise, and legislate immigration in its member states, does not mean that no such coordination was taking place in other spheres. On the contrary, membership to the EEC provided the backdrop against which many forms of discreet, informal cooperation could take place. How immigration evolved as a subject in these informal arenas is what we turn to now. So doing, I draw largely on French government archives, which proved to be a richer source of information than did the British.

2.1. A history of cooperation

Immigration straddles many borders as we know: sending and receiving country; short-term economic needs and long-term social cohesion; interior ministries and social affairs departments; citizen and alien. At the European level, however, it is only gradually that immigration emerged as a policy problem warranting closer cooperation, unlike agriculture, for

instance, which was among the EEC's first policy fields. Immigration had usually been managed bilaterally - and more or less formally - between sending and receiving countries. According to the political science literature, it began to emerge as a European policy field through the meetings of European interior ministry officials.[158] We therefore turn to European security cooperation (understood as comprising all divisions, police or intelligence, responsible for law and order) before returning to immigration proper.

i. Old, organic, and overlapping

European police forces began working together longer ago than the much of the securitisation literature tends to assume, and it is worth stepping back a few years and into the 1960s to understand how it is that migration emerged as a security concern.[159] Most of the literature on the securitisation of immigration, that is on how immigration came to be considered a security threat, take Schengen (1985, 1990) or the Treaty of Amsterdam (1997) as their starting point.[160] A number refer to the foundation of the TREVI group (1975), but usually only in passing.[161] Most are contemporaneous studies that argue, along broadly Weberian lines, that security professionals from the depths of interior ministries co-opted various themes (environment, migration), construing them as security threats in a bid to consolidate and expand their own influence. I propose to take a magnifying glass to the genesis of postwar European security cooperation to better understand how immigration appeared as a concern there.

Liaisons between neighbouring police forces emerged organically, outside of EEC structures, as a response to shared, often local, practical challenges.[162] In 1961, the Director

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[158] D. Bigo, 'Sociology of Transnational Guilds', *International Political Sociology,* 10:4 (2016), 398-416; V. Guiraudon, 'Les effets de l'européanisation des politiques d'immigration et d'asile', *Politique européenne,* 2:31 (2010), 7-32.

[159] In fact, British and European police forces began cooperating as early as the nineteenth century in response to anarchism. See: M. Deflem, *Policing World Society: Historical Foundations of International Police Cooperation* (Oxford: Oxford University Press, 2004).

[160] See for instance: Huysmans, 'The European Union and the Securitization of Migration'; Guiraudon, 'The constitution of a European immigration policy domain'.

[161] Such as R. Van Munster, *Securitizing immigration: The politics of risk in the EU* (New York: Palgrave Macmillan, 2009).

[162] Sheptycki explores cross-Channel police cooperation in the 1960s, while Gerspacher shows how international police cooperation has an even older, richer 150-year history rooted in nineteenth century anti-anarchist efforts. N. Gerspacher, 'The history of international police cooperation: a 150-year evolution in trends and approaches', *Global Crime,* 9:1/2 (2008), 169-184; J. Sheptycki, 'Faire la police dans la Manche : L'évolution de la coopération transfrontalière (1968-1996)', *Cultures et Conflits*, 26/27 (Eté-automne 1997), 93-121.

General of French National Security (later National Police) received instructions to send 'a civil servant of senior enough rank' to what was already the 8th edition of the 'Franco-Belgo-Luxemburgish Penal Science Days'.[163] The EEC did nonetheless provide some impetus for closer coordination: an official 'Circulation Committee' had been founded in 1964 to connect the police forces of the Six, to 'study the problems posed by the liberalization measures following from the Treaty of Rome'. The Committee's first meeting took place the following year to examine regulation, subversive activities, and counter-espionage.[164]

Yet Britain was cooperating with France and Belgium long before joining the EEC. Indeed, national security services across Western Europe had come to the conclusion that crime was increasingly transnational, and that a transnational response was therefore needed. The Cross Channel Intelligence Conference (CCIC), for instance, was founded in 1968, gathering police forces from Britain, France, Belgium and the Netherlands.[165] British, French and Belgian police officers met to discuss the drugs trade in the Channel region: 'Generally speaking, Belgian dealers buy drugs in France, but another part, hashish in particular, is clandestinely introduced by North Africans. A second illegal drug route brings us to Turkey.'[166] Officers met again to discuss, among other things, 'the illegal entry of Pakistanis into England', departing from French and Belgian coasts. British, French, and Belgian forces wanted to build quick links between the Maidstone, Lille, and Bruges police headquarters - as fast as 'between Maidstone and Birmingham' - to track illegal immigrants and stolen goods, though officers kept a strictly criminal focus: Belgian police officers would only arrest Pakistanis gathered in Anvers if they actually possessed false documents, not if they were intending to emigrate. The Belgians could not help British officials beyond that.[167] At the regional level at least, immigration was not a primary concern, though some crimes had an immigration dimension to them: Pakistani migrants had been caught smuggling drugs as payment for their fake

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[163] AN, 19910302/6, 1961.10.26, Membre du Conseil Constitutionnel et Président de la Chambre de Cassation à Directeur Général de la Sûreté Nationale, Ministère de l'Intérieur

[164] AN, 19910302/6, 1973.xx.xx, 'Coopération internationale dans le domaine policier'.

[165] Sheptycki, 'L'évolution de la coopération transfrontalière (1968–1996)'.

[166] '*En général les trafiquants belges achètent les drogues en France, mais une autre partie - surtout le hashish - est introduite clandestinement par les Nord-Africains. Une seconde route de trafic illicite de stupéfiants nos mène en Turquie'*. There was also the mention of '*les Beatniks londoniens*' attempting to set up drug routes with their Belgian counterparts. AN, 19910303/6, 1968.10.09, 'Rapport de la conférence d'officiers de police de Grande-Bretagne, de France et de Belgique, tenue à Bruges le mercredi 9 octobre 1968'.

[167] AN, 19910302/6, 1969.02.25, Director General de la Sûreté Nationale à Secrétaire Général pour la Police, 'Rencontre des responsables des Services de police frontaliers.'

passports granting entry into Britain.[168] The offences, however, were drug smuggling and fraud, not inadequate documentation. At the same time, Belgian, Dutch and German forces had begun cooperating along their common borders in 1969, 'resulting in the coordination of drug trafficking and other types of transnational crime.'[169]

More formal structures existed too: police cooperation had mostly begun as a response to drug trafficking, and most cooperation on drug trafficking took place through Interpol, the international police cooperation organisation (also known as ICPO). Official cooperation through the ICPO had, for instance, enabled 110 arrests to be made on behalf of France in 27 countries, and had enabled France to arrest 231 people on behalf of 19 countries.

Nonetheless, everyone agreed official liaisons were 'uneven'.[170] To improve and increase international cooperation, the French suggested quite simply to increase unofficial cooperation instead. Indeed, European forces already had much in common: they had similar competencies from one country to the next, they were all paid-up members of the ICPO, and they were used to working together through 'very frequent work meetings'.[171] The heads of the national security agencies from Belgium, Britain, Denmark, France, Germany, Italy, Luxembourg and the Netherlands agreed in 1973 that: 'The activity of all sorts of people and organisations constituting a threat to public order and security takes place beyond national borders. National authorities therefore have no choice but to coordinate their actions'.[172] Senior officials sought, consciously and deliberately, to create (or rather reinforce), a community of European security officials as a response:

> It seems obvious to search for ways to facilitate supple and efficient cooperation between European security services. To this extent, two considerations are of the utmost importance: the

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[168] AN, 19910302/6, 1969.02.25, Note du Directeur Adjoint de la Police Judiciaire, Direction Générale de la Sûreté Nationale.

[169] C. Fijnaut, 'The Internationalization of Criminal Investigation in Western Europe', in *The Containment of Organised Crime and Terrorism*, (Leiden: Brill | Nijhoff, 2016), pp. 40–42.

[170] '*d'une valeur inégale*'. AN, 19910302/6, 1973.xx.xx, 'Coopération internationale dans le domaine policier'.

[171] '*très nombreuses réunions de travail*'. AN, 19910302/6, 1973.xx.xx, 'Coopération internationale dans le domaine policier'.

[172] '*l'activité de toute sorte de personnes et d'organisation menaçant l'ordre public et la sécurité s'étend au-delà des frontières nationales, ce qui contraint les diverses autorités de coordonner leurs actions.*' AN, 19910302/1, 1973.11.15/16, Réunion semestrielle des services de sécurité européens.

development of analogous reasonings (on the basis of a body of knowledge and concepts, as integrated as possible), and the stimulation of good personal contacts at work.[173]

Early cooperation took place primarily through work exchanges, whereby British and Belgian officials might spend a week with their French counterparts for instance. Joint training programmes were also popular, and civil servants across ranks and across EEC member states (but not only, as the inclusion of Switzerland and pre-accession Britain show) would follow common courses and training programmes. Though the organisation of joint training sessions for civil servants, including junior ones, might seem pedestrian, it was followed through at the highest level: the French interior minister was kept abreast of developments, and the British deputy director of MI5 was responsible, along with European colleagues of similar rank, for the content and structure of the first courses.

Cooperation necessarily involved all manner of ranks, as it threw up practical problems which had to be dealt with at higher levels. For instance, should an Italian officer in hot pursuit be allowed to draw and fire his gun in France, such as when Italian right-wing extremist Mario Tuti was caught in St Raphaël?[174] If an officer was abroad when injured in the line of duty, or responsible for damage there, which force would be liable? Such questions were above the pay grade of the officers concerned, creating the need for certain, more formal frameworks. Likewise for officer exchanges and common training sessions abroad: content and expenses would have to be signed off and approved by higher ups, again creating the need for slightly more structured interactions.

All parties agreed on the efficiency and desirability of these looser forms of cooperation, as well as the agreeable and generally seamless way in which they proceeded. French officials repeatedly stressed the 'unity in points of view which exist in the field and allow for common action and real international cooperation', and the 'flawless collaboration [which] exists and the very frequent exchange of intelligence.'[175] An internal memo from 1973 lists the 'informal

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[173] '*Il semble évident de chercher des voies pouvant favoriser une coopération souple et efficace entre les services européens de sécurité. A cet égard, deux considérations sont d'importance centrale: le développement d'un raisonnement analogue (sur la base d'un ensemble de connaissances et de conceptions autant que possible intégrées), et la stimulation de bons contacts personnels au niveau de travail.*' AN, 19910302/1, 1973.11.15/16, Réunion semestrielle des services de sécurité européens.

[174] AN, 19910302/6, 1975.07.30, Note du Conseiller juridique auprès du Ministre de l'Intérieur au Directeur Général de la Police Nationale.

[175] *'Il exists donc dans ce domaine une unité de vue qui permet souvent des actions communes et une véritable coopération internationale.'* AN, 19910302/6, 1973.xx.xx, 'Coopération internationale dans le domaine policier'. '*Une parfaite collaboration existe et les échanges de renseignements sont très fréquents.'* AN, 19910302/6, not dated, 'Coopération dans le domaine du renseignement'.

liaisons' between neighbouring forces: 'It is essentially our intelligence and surveillance departments that have, for many years now, built working relationships with their foreign counterparts which, though they be informal, are no less tight and efficient.'[176] The memo listed cases solved and attacks thwarted thanks to this cooperation: the assassination of the mayor of Evian, a planned attack on Mont-Faron, an O.A.S. plot (the dissident French paramilitary group opposed to Algerian independence). It also listed the countries where 'perfect collaboration' had become a habit: Britain, Germany, Belgium, Italy, Luxembourg, the Netherlands and Switzerland, as well as the nature of the contacts: correspondence, mutual visits, exchange of specialized civil servants.

These European exchanges were only part of a much broader network of semi-formal cooperation. France, for instance, in addition to bilateral cooperation with 26 countries, ongoing 'for many years now', including with the United States, Britain, Germany, Canada and Japan; in addition to standard international police cooperation through Interpol; the special committee at NATO; and the biannual meetings of the heads of European security services which, by 1973, and

> without being official, already presents a more institutionalized character than the other means of liaising with European services. Indeed, the chiefs of the security services of 9 European countries [sic] (Germany, Britain, Belgium, the Netherlands, Italy, Switzerland, Denmark and France) have been gathering periodically for many years now, and the tight collaboration which has grown as a result have been particularly beneficial.[177]

The EEC formed the backdrop of these relationships, but was neither their only nor their defining structure. (One notes that, unlike agriculture or the economy, crime cooperation was not one of the founding principles of the EEC.) A brief to the French interior minister noted that outside of bilateral relations, there exists 'five international structures that permit regular liaisons with foreign police forces':

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[176] '*Ce sont essentiellement les Renseignements Généraux et la Surveillance du Territoire qui depuis de nombreuses années ont noué avec leurs homologues étrangers des relations de travail qui bien qu'informelles, n'en sont pas moins étroites et efficaces.*' AN, 19910302/6, 1973.xx.xx, 'Coopération internationale dans le domaine policier'.

[177] '*Sans être officielle, cette réunion présente déjà un caractère plus institutionnalisé que les autres moyens de liaisons entre les services européens. En effet, les chefs des services de sécurité de 9 pays européens (Allemagne - Angleterre - Belgique - Hollande - Italie - Luxembourg - Suisse - Danemark et France) se réunissent périodiquement depuis plusieurs années et les relations d'étroite collaboration qui se sont instaurées se sont avérées particulièrement bénéfiques.'* AN, 19910302/6, 1973.xx.xx, 'Coopération internationale dans le domaine policier'.

1. The ICPO, founded in 1914, with the objective to prevent and repress common law 'infractions';
2. The Special NATO Committee, meeting twice a year since 1956, whose key focus was the Soviet bloc;
3. The Club de Berne, created in Bern in 1971 after a series of unofficial meetings between the security service chiefs of EEC countries (minus Ireland and Greece, plus Switzerland). Met every semester with an agenda comparable to the NATO committee's;
4. The Club des Cinq, a joint Swiss-Austrian initiative from 1978 to ensure relations with Germany, Italy, and France, given the Alpine states' exclusion from Atlantic and European cooperative bodies at the time;
5. The TREVI Group, borne of a decision of the European Council on 2 December 1975, with yearly meetings since 1976. Gathered EEC interior ministers 'who entrusted a group of senior civil servants the task of studying the ways in which cooperation between the European Ten might be improved, as well as methods for fighting terrorism.'[178]

Britain was part of all but the 'Club de Berne'. Indeed, it had its own networks, meeting regularly with the US, Canada and Australia - 'like-minded countries'. Though, unexpectedly perhaps, cross-Channel official exchanges pre-dated cross-Rhine ones.[179]

Cooperation between European forces was thus both fluid and dense. It formed a mixture of local, ad hoc cooperation on practical problems where immigration only occasionally surfaced, and officially sanctioned initiatives to deliberately create communities of meaning.[180] Officials were mindful not to duplicate efforts or communication channels that existed elsewhere, and belonged to different networks according to size and geographical proximity.

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[178] '*qui confient à un comité semestriel de hauts fonctionnaires et à des groupes d'experts, la tâche d'étudier les moyens d'améliorer au sein de l'Europe des Dix, les méthodes de lutte contre le terrorisme.*' AN, 19910302/6, not dated, Note à l'intention de Monsieur le Ministre d'État, Ministre de l'Intérieur et de la Décentralisation.

[179] AN, 19910302/6, 1974.02.15, 'Compte-rendu de la séance du 24 janvier 1974 par la Commission interministérielle pour les Questions de Coopérations entre la France et la République Fédérale d'Allemagne'.

[180] It is interesting to note how widespread the practice of laying out major informal cooperation networks was, including in other areas such as monetary policy. See: B. Eichengreen, *Globalizing Capital: A History of the International Monetary System* (Second Edition), (Princeton: Princeton University Press, 2008), chapter 5 'After Bretton Woods'; K. Hirowatari, *Britain and European monetary cooperation, 1964-1979* (Basingstoke: Palgrave MacMillan, 2015).

While the major EEC countries maintained close relationships with their historic partners who were not always EEC members themselves - Britain with Ireland; Germany with Austria; Denmark with the Nordic countries - the latter were barred from officially joining the more exclusive networks, for fear they might dilute their efficiency. 'In order for the 'Club' to preserve its watertightness and dynamism', went one memo, 'the accession of new members has regularly been refused for many years now.'[181] Instead, they relied on the more senior partner to dispense information on a need-to-know basis.[182]

ii. From police to intelligence cooperation

Given that cross-border police cooperation seemed virtually frictionless, it was only natural that cooperation should grow. Early cooperation had begun between local police forces, focusing on drugs, prostitution, cross-border theft and such like. Intelligence services were considered too sensitive, too much at the very heart of the state, to warrant the same level of collaboration. This changed in the 1970s. For Western Europe in the 1970s was confronted to what seemed at the time to be a new form of political violence: terrorism.[183] After two decades of peace following the Second World War, a series of movements that were variously separatist, nationalist, anarchist, leftist, or rightist, erupted across the Western side of the Iron Curtain.[184] In Europe, attacks happened up to ten times a week.[185] Worldwide, airline hijackings and bombings 'were occurring at the rate of one a month'.[186] Whether the IRA in the United Kingdom, the Baader-Meinhof gang in Germany, the ETA in the Basque country, or the Italian *Anni di piombo* ('Years of Lead'), Western Europe - as well as the United States - were confronted to violence, with perpetrators claiming political motives far above base criminality.

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[181] *'Afin de garder au "Club" son étanchéité et son dynamisme, l'accession de nouveaux membres a été régulièrement refusée depuis plusieurs années.'* AN, 19910302/6, 1981.xx.xx, 'Le Club de Berne'.

[182] AN, 19910302/1, 1973.11.15-16, Conférence de Travail; AN, 19910302/1, 1977.xx.xx, 'Groupe V'.

[183] At the turn of the century the Metropolitan Police had been worried about Eastern European and Russian anarchists, but the memory of that had long since faded. For further reading, see: Gerspacher, 'The history of international police cooperation'.

[184] Martin Conway marks 1973 out as the end of Europe's 'democratic age'. M. Conway, 'The Rise and Fall of Western Europe's Democratic Age, 1945-1973', *Contemporary European History,* 13:1 (2004), 67-88.

[185] R. Wright, 'How different - and dangerous - is terrorism today?' *New Yorker*, 5 June 2017, [https://www.newyorker.com/news/news-desk/how-different-and-dangerous-is-terrorism-today, accessed 23 April 2021].

[186] B. Jenkins, 'The 1970s and the birth of contemporary terrorism', *The Hill*, 30 July 2015, [https://thehill.com/blogs/pundits-blog/homeland-security/249688-the-1970s-and-the-birth-of-contemporary-terrorism, accessed 23 April 2021].

Though there is no consensus on the root causes of terrorism, demography may have been a factor. The first baby boomers came of age in the late 1960s against the backdrop of the Vietnam war and decolonisation, a period which also saw an uptick of anti-system activity: in 1968, students and workers across Europe protested against the strictures of capitalism; hippy counter-culture was in full swing; and terrorists claimed idealistic, revolutionary slogans.[187] These slogans had some traction as they did tap into some of the hypocrisies and injustices of the time. For instance, in 1967, German police violently charged a peaceful protest against the Shah of Iran, killing a student. Yet the Chancellor at the time, Kurt Georg Kiesinger, had been a member of the Nazi Party (albeit an inactive one). The young, attractive members of the Baader-Meinhof gang claiming to overthrow the 'fascist state' were therefore able to enjoy a measure of credibility and sympathy from the public, especially young Germans.[188] In Spain, the ETA, responsible for over 800 deaths, had nonetheless also assassinated Franco's chosen successor, Admiral Luis Carrero Blanco, a move some consider accelerated the transition to democracy a few years later.[189]

Thus it was that a French memo suggested applying the lessons learned from police cooperation to the problem of terrorism.[190] Though more recent than police cooperation, 'tight links [had nonetheless] been established [in intelligence] for a few years between different European services. A perfect collaboration exists and information exchanges are very frequent.'[191] Senior civil servants seem to have developed these working habits independently, albeit with ministerial blessing: ministers merely expressed the wish for further cooperation, senior officials did the rest. Indeed, cooperation was not only part of the zeitgeist - the French

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[187] For further reading on the links between demography and terrorism, see: A. Campana and L. Lapointe, 'The Structural "Root" Causes of Non-Suicide Terrorism: A Systematic Scoping Review', *Terrorism and Political Violence,* 24:1, (2012), 79-104; M. Coccia, 'A Theory of General Causes of Terrorism: High Population Growth, Income Inequality and Relative Deprivation', *Archives of Psychology,* 2:4 (2018), 22-47; R. Hager Jr. 'Baader-Meinhof Complexities: Ideology and the "Root Causes" of Terrorism', *Democracy and Security,* 7:1 (2011), 57-65; A. Roaldsnes, *Economics, Politics and Young Males. Root Causes of Terrorism on the Aggregate Level in Europe*, 2015 (PhD thesis, University of Bergen); V. Sunquist, 'Political Terrorism: An Historical Case Study of the Italian Red Brigades', *Journal of Strategic Security,* 3:3 (2010), 53-68.

[188] A poll found that a quarter of Germans under 40 had sympathy for the gang. F. Kaplan, 'A Match that Burned the Germans', *The New York Times*, 12 August 2009 [https://www.nytimes.com/2009/08/16/movies/16kapl.html?_r=1, accessed 23 April 2021].

[189] J. Linz and A. Stepan, *Problems of Democratic Transition and Consolidation*, (Baltimore, London: John Hopkins University Press, 1996), p. 107.

[190] AN, 19910302/6, 1973.xx.xx, 'Coopération internationale dans le domaine policier'.

[191] *'Dans ce domaine les liens étroits ont été établis depuis plusieurs années entre les différents services européens. Une parfaite collaboration existe et les échanges de renseignements sont très fréquents.*' AN, 19910302/6, 1973.xx.xx, 'Coopération dans le domaine du renseignement'.

head of police, Jacques Lenoir, noted that 'in the context of increasing European integration, it is only natural that contacts between European security services, as well as deliberations on their activities and methods, should intensify'. It was a practical necessity.

German forces had discovered clues 'that show that there exists in Western Europe a network that buys arms and explosives, as well as identity documents'. They had observed leftist extremists in Belgium and the Netherlands providing more and more logistical support to German terrorists.[192] France, Belgium, and Italy met separately to discuss trotskyism and the evolution of Communist parties, including plans for the Community Party to develop a pan-European strategy.[193] In short, 'the activities of all sorts of people and organisations threatening public order and safety extend beyond national borders. This leaves authorities no choice but to coordinate their actions.'[194]

Officials from the Nine seemed satisfied with existing cooperation through semi-formal channels. The items on the agenda of a November 1973 meeting, the third to gather the heads of European security services, including Michael Hanley (Head of MI5) for Britain and Jacques Lenoir (Director General of the National Police) for France, comprised, in order: violence and political terrorism; 'subversive action of leftists, their influence in factories'; agitating in universities, colleges, and teaching milieus - 'a problem we must follow very closely'; the political activity of foreigners, problem of immigrant workers; contacts and international liaisons of communist parties; international coordination and financing of terrorist and leftist movements; inauguration of a joint training programme for the civil servants of Western European security services.[195]

We shall return in detail to how immigrants came to interest European intelligence services. For the moment, we merely note that in the early 1970s, immigration was far from being a priority issue for the security services. The recurring items discussed by Europe's

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[192] AN, 19910302/1/2, 1979.10.23, 'Le terrorisme dans les pays occidentaux depuis un an.'

[193] AN, 19910302/1, 1974.03.28, Directeur Central des Renseignements Généraux à M. Le Préfet, Directeur Général de la Police Nationale, 'Réunion à Rome les 4 et 5 avril 1974 sur les partis communistes'.

[194] '*Dans le contexte de l'intégration croissante en Europe, il est naturel que les contacts entre les services européens de sécurité, ainsi que les délibérations sur leurs activités et leurs méthodes s'intensifient. D'ailleurs, l'activité de toute sorte de personnes et d'organisation menaçant l'ordre public et la sécurité s'étend au-delà des frontières nationales, ce qui contraint les diverses autorités de coordonner leurs actions.*' AN, 19910302/1, 1973.11.14-16, 'TREVI: Jacques Lenoir, Préfet Directeur Général de la Police Nationale, Réunion semestrielle des services de sécurité européens'.

[195] AN, 19910302/6, 1973.11.15/16, 'Ordre du jour de la Conférence de Travail - Paris, 15 et 16 novembre 1973'.

police forces and intelligence services during their regular, semi-formal meetings were drug trafficking; terrorism and subversion; understanding each others' administrative and judicial structures and the extent to which their legal concepts and policing traditions were equivalent; counter-espionage; and criminality. In some meetings, immigration was not even mentioned at all.

2.2. The informality imperative

Cooperation between European security services, police, and intelligence thus emerged organically, driven largely by regional, cross-border collaboration between neighbouring forces. They were loosely structured in bilateral and multilateral, European and international, fora, with friendly, efficient relationships developing slowly to tackle evolving forms of crime. These meetings took place with ministerial blessing, rather than at ministerial request. Though this cooperation began in the policing sphere, it gradually expanded to intelligence. Immigration remained a peripheral concern throughout.

i. TREVI Take One

It is in this context that in 1973, the German interior minister, Dr Genscher, made it known he intended to propose regular meetings of the EEC interior ministers (he later became a key architect of German reunification). According to Genscher, Interpol was no longer able to cope with 'increasing criminality, extremist movements, and drug trafficking'.[196] Swissair had been bombed in 1970, McGurk's bar in 1971, and the Munich Olympics were attacked in 1972.

The French greeted the proposal coolly: it was indisputable that as far as 'drugs, banditry and criminal activities generally', police across the Nine had similar competencies. Not only that, but years of Interpol cooperation meant that there existed, in this area, a 'unity of points of view and a common state of mind, as well as natural means of liaising'.[197] However, this was emphatically *not* the case for the sensitive matter of 'political intelligence, subversion, terrorism and counter-espionage'.[198] In France, the Interior Ministry oversaw both the police

[196] AN, 19910302/6, 1973.09.07, 'Projet fédéral allemand de conférences des ministres européens de l'intérieur'.

[197] AN, 19910302/6, 1973.09.19, Préfet, Directeur de la Surveillance du Territoire au Directeur Général de la Police Nationale, 'Problèmes posés par une réunion éventuelle des Ministres de l'Intérieur européens en vue d'un examen de certains sujets d'intérêt commun.'

[198] AN, 19910302/6, 1973.09.19, Préfet, Directeur de la Surveillance du Territoire au Directeur Général de la Police Nationale, 'Problèmes posés par une réunion éventuelle des Ministres de l'Intérieur européens en vue d'un examen de certains sujets d'intérêt commun.'

force and intelligence services. In Britain, Germany, and the Netherlands, however, intelligence matters were handled directly by the Prime Minister's office, while in Italy it was the joint responsibility of both the Defence and Interior Ministries. In Belgium and Switzerland, responsibility fell to the Ministry of Justice. Amid such different understandings of what 'security services' entailed, the French police chief was circumspect: the Germans had already made a similar proposal in 1972 (the Munich bombings happened that September), to hostile reactions from Britain, the Netherlands, and Italy in particular. There was no reason why anything should have changed barely a year later, especially in the proposal's '*current form'* [emphasis in original]. As the *préfet* pointedly noted, European heads of security already met twice a year. Didn't the meetings of those with *real* responsibility for intelligence, regardless of their parent ministry, already fulfil German wishes? In any case, it was more likely than not that the German proposal was the result of the 'intestine quarrels' that resurfaced periodically between the Federal Interior Ministry and the Federal Department for the Protection of the Constitution.[199] The German stab at officialising existing informal relations thus came to nothing.

Though the German proposals for formal ministerial meetings came to nothing, Germany remained, with France, the key engine of European integration - in this field, and overall.[200] The Franco-German partnership was the bilateral partnership that served as both engine and template for the rest of the EC.[201] Indeed, agreements entered into bilaterally by France and Germany were considered, both by the parties themselves, but also by EC members at large, as useful models to be reproduced elsewhere bilaterally, if not serve as the basis for broader multilateral cooperation. When Brussels stalled, the Franco-German partnership took over: 'Given that the question [of the harmonisation of border controls] is at a stalemate in Brussels, the experts of the sub-group decided to endeavour to find practical solutions to harmonise border controls at the sole Franco-German border'.[202] In 1977, senior civil servants preparing the upcoming ministerial meeting gave explicit instructions to one of

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[199] The *Bundesverfassungsschutz*, or BFV.

[200] By Germany, I invariably refer to the Federal Republic - West Germany - unless otherwise specified.

[201] For further reading on France's bilateral immigration agreements, see: S. Laurens, *Une politisation feutrée: Les hauts fonctionnaires et l'immigration en France*, (Paris: Belin, 2009); V. Viet, *La France immigrée: Construction d'une politique, 1914-1997*, (Paris: Fayard, 1998); P. Weil, *La France et ses étrangers: L'aventure d'une politique de l'immigration, 1938-1991* (Paris: Calmann-Lévy, 1991).

[202] *'La question se trouvant au point mort à Bruxelles, les experts du sous-groupe se sont appliqués à chercher les moyens d'harmoniser pratiquement les contrôles aux seules frontières franco-allemandes.'*, AN, 19910302/6, 1977.12.12, 'Compte-rendu de la séance du 17 novembre 1977 par la Commission Interministérielle pour les Questions de Coopération entre la France et la République Fédérale d'Allemagne'.

the sub-working groups to 'inspire itself from the Franco-German convention on the subject'.[203]

French officials gushed at how seamless Franco-German cooperation was: 'in this field, as in all others, cooperation is practically perfect' - with a hand-drawn line for emphasis.[204] 'The German police is undoubtedly', went one memo, 'one of the European forces with which the French forces maintain the best rapport.'[205] On the back of an international convention on cultural property in armed conflicts, France and Germany had signed a further bilateral agreement. Cross-Rhine cooperation had enabled 56 kilos of hashish to be seized in Marseilles and the arrest of the German dealer; an armed heist of a bank in Frankfurt to be resolved; stolen Rembrandts to be recovered.[206] While France already had agreements with Spain and Luxembourg to intervene in each others' border areas in the event of a natural catastrophe, the agreement with Germany would be bigger and better, covering each others' *entire* territories. A a first. Officials were keen to speed negotiations along in order to provide other EEC states with the blueprint of this 'exemplary' agreement. 'Good rapports … exist between France and Germany', said the inspector general of the French police, 'the best in Europe'.[207]

While the Franco-German bilateral relationship is well documented, it is important to note the extent to which multi-lateral or EEC meetings explicitly promoted bilateral agreements between participants. Very often, the idea was for members to draw on a common template (such as the ones elaborated by France and Germany), and apply and adapt them to their own circumstances. European-level cooperation and harmonization was iterative, incremental, and voluntary. It was driven by practical experience of what worked. Formal European institutions themselves, such as the Commission or Parliament, were barely mentioned at all - an

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[203] '*s'inspirer de la convention Franco-Allemande en la matière*', AN, 19910302/1, 1977.11.08, 'Procès verbal de la réunion des Hauts-Fonctionnaires des États Membres de la CEE du 8 November 1977, à Bruxelles, réunion préparatoire à la conférence des Ministres de l'Intérieur des États-membres qui doit se tenir en 1978'.

[204] AN, 19910302/6, 1974.01.23, 'Note: A/S de la collaboration entre les services de Police allemand et français', Direction Centrale de la Police Judiciaire.

[205] '*La Police allemande est assurément une des Polices européennes avec laquelle les services français entretiennent les meilleurs rapports.'* AN, 19910302/6, 1974.02.15, 'Compte-rendu de la séance du 24 janvier 1974 par la Commission interministérielle pour les Questions de Coopérations entre la France et la République Fédérale d'Allemagne'.

[206] AN, 19910302/6, 1974.01.23, 'Note: A/S de la collaboration entre les services de Police allemand et français', Direction Centrale de la Police Judiciaire.

[207] AN 19910302/6, 1974.01.29, Directeur du Service National de la Protection Civile au Chargé de mission du Cabinet du Ministre de l'Intérieur, 'Réunion de la Commission Interministérielle pour les questions de Coopérations entre la France et la République Fédérale d'Allemagne'.

important qualification to bear in mind when thinking about the influence of 'Europe' on national policymaking.

ii. TREVI Take Two

In autumn 1975, the British Home Secretary, Roy Jenkins, proposed that the interior ministers of the European Nine begin meeting informally to discuss matters of mutual concern in what would eventually become known as the TREVI group.[208] Unlike the German proposal a few years earlier, this one was successful: terrorism was still high on the political agenda; the European project seemed to be stagnating, despite good working relationships between neighbouring forces; and - perhaps crucially - this proposal was conceived at the very outset as a new space of informal, intergovernmental exchange to which European institutions were not invited. As we have seen, many political scientists argue the group played an important role promoting the idea of immigration as a security issue. However, at the time of its founding, immigration was not on the agenda.

A report from German officials, shared with their British counterparts during bilateral talks in 1975, warned that terrorism was likely to remain a problem until well into the 1980s and 1990s.[209] In a meeting that November, the British Minister of State for the Home Office, Lord Harris, and the German Federal Minister of the Interior, Dr Maihofer, agreed that 'contacts at the ministerial level [were] desirable especially in order to coordinate measures taken for the suppression of internationally organised crime'.[210] Indeed, German police had noticed, and they were not alone, the extent to which terrorists relied on neighbouring countries to escape prosecution. They concluded that only a 'flexible and prompt system of cooperation' at the European level would be fit to tackle it.[211] Attempts to grapple with the problem at a global level had led to nothing, and the British had 'resigned [them]selves in 1973 to the fact that the UN was not in a position to produce anything useful'.[212]

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[208] The origin of the name is unclear. Some attribute it to the Trevi fountain as the group was founded in Rome, others take it as the acronym for terrorism, radicalism, extremism, violence and immigration, whereas some French texts use '*terrorisme, radicalisme, extrêmisme et violence internationale*' instead.

[209] TNA, FCO 30/2614, 1975.09.29, 'International terrorism: Report on Anglo-German talks on 25/26 September 1975 in Berlin'.

[210] Ministers of state are junior ministers. TNA, FCO 30/2614, 1975.11.21, Maihofer (Federal Minister of the Interior, FRG) to Harris (Minister of State, HO).

[211] TNA, FCO 30/2614, 1975.08.07, Hunt to Armstrong.

[212] TNA, FCO 30/2614, 1975.11.17, 'Treatment of Terrorism in the Media'.

In Britain, meanwhile, officials were highly conscious of the fact that, barely two years after *finally* acceding to the EEC, there had been a referendum on continued membership.[213] It was important to make a positive contribution to the European community and furnish an otherwise rather bare cupboard. What is more, Britain could join France and Germany to sway the course of an increasingly important bloc in a way it could never hope to do in the framework of its 'special relationship' with the US: as Jenkins remarked in his autobiography, Wilson 'could play a more or less equal hand with Schmidt and Giscard, whereas he had been very much a junior partner of [American President Lyndon B. Johnson's].'[214]

A final factor that made everything come together as it did was perhaps the very person of the British Home Secretary himself: Roy Jenkins. It was his 'personal interest in the proposal' which got senior British officials in Paris, Bonn, and eventually the other European capitals, to take soundings in view of an official proposal by the Prime Minister that December.[215] A committed Europhile who had led the Britain in Europe campaign, Jenkins was perceived as being on the rightward fringe of the Labour Party, which had been bitterly split by the referendum. In his autobiography, he describes the post-referendum months as 'anticlimactic' though there were 'the occasional terrorist explosions and shootings'.[216] There was nothing in British politics - from one who was then still a serious contender to No. 10 - to shake him out of his 'political lethargy'.[217] It is not unlikely then, that in a period of political calm if not outright disenchantment, against the need for Britain to regain credibility with its European partners and possessing expertise in a sensitive political area (not only from the Troubles in Ireland, but from the guerrilla war in Malaysia too), and with an eye wandering

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[213] At the time of the 1975 referendum, however, 'the idea of the UK going it alone or in alliance with the Commonwealth seemed a backward-looking fantasy.' Neither socialism in one country, nor a retreat to what was left of Empire, nor Powell's extreme free-market nationalism were tempting alternatives. Voters chose to remain by a two to one margin. See: R. Saunders, *Yes to Europe! : The 1975 Referendum and Seventies Britain,* (Cambridge: Cambridge University Press, 2018); A. Williamson, 'The case for Brexit: lessons from the 1960s and 1970s' *History and Policy,* 5 May 2015 [http://www.historyandpolicy.org/policy-papers/papers/the-case-for-brexit-lessons-from-1960s-and-1970s, accessed 27 April 2021].

[214] R. Jenkins, *Life at the Centre,* (London: Macmillan, 1991), p. 400.

[215] TNA, FCO 30/2615, 1975.12.18, folio 109.

[216] Jenkins, *Life at the Centre,* p. 426.

[217] Jenkins, *Life at the Centre,* p. 430.

slowly but decidedly towards Europe, Jenkins seized a political opportunity that satisfied all these exigencies.[218]

Thus it was that in December 1975, at the European Council meeting in Rome, Wilson, the British Prime Minister, officially put forward Jenkins' proposal.[219] A few weeks later, the prospect of Jenkins' heading the European Commission was floated by Wilson and emphatically, if informally, confirmed by Giscard, Schmidt, and even Jean Monnet.[220] 'Blessed by the spiritual as well as the temporal authorities of Europe', Jenkins became President of the European Commission a year later, on 6 January 1977.[221]

The proposed remit for interior ministry cooperation was terrorism, technical and administrative police matters, and, curiously, fires.[222] Soundings began in the autumn of 1975, as British officials discreetly sought the blessing of their French and German counterparts in priority. Some juggling between formal and informal channels was necessary to ensure protocol was followed, while gaining the support of the players who really mattered. Aside from France and Germany, whose backing was imperative, British officials had to be mindful not to vex the Italians, who held the presidency of the European Council and would have to be informed soon, as well as avoiding any intimations that Ireland, a privileged partner, would be in any way less privileged following the creation of this new forum.[223]

These soundings also clarified the constitutional framework envisaged for the meetings. Unlike the German proposal a few years before, this would be a matter of domestic, national competence, and under no circumstances would an expansion of Community competencies be considered.

> Our main point is that this should <u>not</u> be seen as an extension of EEC activities governed by the Treaties. There is no Community competence in the fields which we envisage as forming the

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[218] The British had some apparent success in Malaysia, especially in contrast to America's humiliating retreat from Vietnam. See: P. Dixon, 'Hearts and Minds'? British Counter-Insurgency from Malaya to Iraq, *Journal of Strategic Studies,* 32:3 (2009), 353-381; K. Hack, 'British intelligence and counter-insurgency in the era of decolonisation: The example of Malaya', *Intelligence and National Security,* 14:2 (1999), 124-155.

[219] TNA, FCO PREM 16/390, 1975.12.01, 'European Council in Rome, notes'.

[220] Jenkins, *Life at the Centre*, pp. 431-3.

[221] R. Jenkins, *European Diary, 1977-1981* (London: Collins, 1989), p. 243.

[222] The inclusion of fires was due to the fact that in both France and Britain, the fire department was overseen by the interior ministry. It remained extremely peripheral.

[223] These concerns permeate the archives. See: TNA, FCO 30/2614.

> subject matter of the proposed meetings and we do not wish to open the way to any such extension of competence in the formal legal sense. [emphasis in original][224]

While the Germans proposed to 'invent a new title category for other forms of intergovernmental co-operation falling outside the Community framework', the British and French vehemently opposed any such thing.[225] Indeed, 'no Member State is going to let the Community interfere with internal affairs of such sensitivity'.[226] When Wilson finally, officially, put forward Jenkins' proposal in Rome, he would 'make it clear that we are not putting it forward for discussion in the formally constituted Community institutions'.[227] Not only were these institutions 'notoriously insecure', but 'the legal status of the European Council is so obscure that no-one could argue convincingly that a matter had moved to the Community's competence just because it had been mentioned in that forum.'[228] The Germans would again suggest institutionalizing the TREVI group a few years later, and would again be sternly rebuffed.[229]

Once again, all parties agreed on the superior efficiency of informal, intergovernmental channels. In a preliminary meeting of foreign ministers ahead of the December meeting, James Callaghan, then Foreign Secretary, said to general agreement that 'he did not believe a meaningful mandate could be established however long the Community talked, but with an informal exchange between those taking part the Community participants might come back to the Community with a closer identity'.[230] The French especially were keen on these unofficial exchanges, and proposed to use the informal talks suggested by the British as cover for yet further informal talks, this time bilateral, and the preserve of only the biggest players: Britain, Germany, Italy, and perhaps the Netherlands.[231]

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[224] TNA, FCO 30/2614, 1975.11.26, 'Brief by the Home Office and Foreign and Commonwealth Office'.

[225] TNA, FCO 30/2615, 1975.12.18, folio 109.

[226] TNA, FCO 30/2614, 1975.10.08, Fretwell (FCO) to Gore-Booth (UKREP BRU).

[227] TNA, FCO 30/2614, 1975.10.08, Fretwell (FCO) to Gore-Booth (UKREP BRU).

[228] TNA, FCO 30/2614, 1975.11.26, 'Brief by the Home Office and Foreign and Commonwealth Office'. See also FCO 30/2614, folio 51 and FCO 30/2615, folio 112.

[229] 'The group pronounced itself very clearly against this point of view, judging it was more appropriate to keep to informal relations' (*'le groupe s'est prononcé très nettement contre ce point de vue estimant qu'il convenait de s'en tenir aux relations informelles*'). AN, 19910302/1, 1978.05.30-31, 'TREVI II: Réunion du groupe de travail à Copenhague, les 30 et 31 mai 1978'.

[230] TNA, FCO 30/2614, 1975.09.24, Note on Armstrong's visit to the French Ministry of the Interior.

[231] TNA, FCO 30/2614, 1975.09.24, Note on Armstrong's visit to the French Ministry of the Interior.

One risk ministers ran by officially creating an unofficial forum was that of appearing underhand.[232] Considering the great number of players involved, total secrecy was wishful thinking. The Irish raised concerns about the presentational aspects of these meetings, namely that it should not look as though the establishment were ganging up against the Basques, the Bretons, and 'the IRA's of this world'.[233] The British too, were mindful of presentation, but rather more confident. Far be it that ministers might be accused of secrecy or unlawfulness. On the contrary, as the British Ambassador in Dublin suavely noted:

> Rather, I imagined that the Heads of Government as representing a group of liberal democracies who cooperate together in many fields, would call for the meeting as a natural way of expressing their wish to be seen to cooperate in the defence of the democratic institutions which their countries share.[234]

iii. Terrorism and asylum

All the polish of the British civil service, however, could not hide the fact that the 'defence of … democratic institutions' also meant hollowing out a principle that had underpinned many of them: asylum. For asylum at the time existed closer to its nineteenth century incarnation, whereby an individual, persecuted on political grounds at home, would be granted asylum abroad. Asylum was, according to one retired official, something of a 'cottage industry' at the time, employing no more than two people at the Home Office and dealing mostly with the occasional *cause célèbre*. Political crime was still considered something of a different, nobler sort of crime: perpetrators of criminal acts with political motives could (and did) claim political asylum in neighbouring states, and were thus exempt from prosecution and extradition. It is interesting to note, however, that the concept of asylum began to be hollowed out before the 'explosion' of asylum as a issue in the mid-1980s, and its transformation from an individual, political to a mass, immigration phenomenon.

What European interior ministry officials proposed in terms of content at this very preliminary stage, was to reduce the scope of what could be considered political crime, in

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[232] This was true of other meetings too. Discussing the Club de Berne, a French memo noted that 'The achievements of the Club de Berne is secret in all concerned countries. The media suspects the existence of such an organisation … but nonetheless have never had a details knowledge of how this institution functions'. '*L'ensemble des travaux du "Club de Berne" est couvert par le secret dans chacun des pays concernés. En fait, les médias soupçonnent l'existence d'une organisation de ce genre à la suite de "fuites" survenues en Italie. Ils n'ont jamais eu néanmoins de connaissances des détails du fonctionnement de cette institution.*' AN, 19910302/6, 1981.xx.xx, 'Le Club de Berne'.

[233] TNA, FCO 30/2614, 1975.10.31, British Embassy Dublin to Arbuthnott (FCO).

[234] TNA, FCO 30/2614, 1975.10.31, British Embassy Dublin to Arbuthnott (FCO).

effect hollowing out the concept to such an extent that virtually no crime would be eligible under it. An article in the French broadsheet *Le Monde* noted that 'with remarkable discretion but great speed, the European committee for criminal problems, working under the auspices of the European Council, put together a project for the suppression of terrorism'.[235] While this was in keeping with national trends, it 'upended liberal tradition in more ways than one', and 'brutally endangered a principle of human rights … the right of asylum'.[236] According to French interior minister Christian Bonnet, however, meeting with his European counterparts as 60 people were being held hostage in the Netherlands by Maluku separatists, the Nine were compelled to cooperate: first, because of 'the public's thirst for security in an increasingly dangerous world'; second because 'administrative organisations within the EEC … are not analogous'.[237]

In the mid-1970s, however, no consensus existed as to whether terrorism was indeed a 'particularly odious and particularly hypocrite' form of action, as the governing classes of the Nine claimed.[238] As we have seen, some terrorist organisations benefitted from a measure of legitimacy. Even amongst themselves, European interior ministers could not agree on a satisfying legal definition of terrorism or subversion, a point they went so far as to acknowledge in their meeting's press release.[239] Nonetheless, the European Convention for the Repression of Terrorism settled on refusing to acknowledge any political dimension to offences such as airplane hijacking, attacks against diplomats, the use of bombs, parcel-bombs, or automatic

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[235] One reason for this uncharacteristic speed might be that it was it was a technical issue with strong political backing, in an area outside the EC's official remit.

[236] *'Avec une remarquable discrétion, mais une grande célérité le comité européen pour les problèmes criminels œuvrant sous les auspices du Conseil de l'Europe, avait mis au point un projet de convention européenne pour la répression du terrorisme'; 'des dispositions qui bouleversent la tradition libérale a plus d'un titre'; 'Enfin, cette convention met en cause, de façon brutale, un des principes des droits de l'homme, largement entre dans le droit positif : le droit d'asile.'* G. Soulier, 'La fin du délit politique?', *Le Monde*, 1976.11.12.

[237] *'Pour M. Bonnet, les deux raisons poussant les "Neuf" a coopérer sont "la soif de sécurité de l'opinion publique dans une monde de plus en plus dangereux" et "les organisations administratives au sein de la CEE qui ne sont pas analogues".*' AN, 19910302/1, 1977.05.31, 'L'Europe de la sécurité', *AFP*.

[238] Les Ministres des Neuf sont *'tombés d'accord pour estimer, selon les termes mêmes du Ministre français de l'Intérieur, M. Christian Bonnet, que le terrorisme "était une forme d'action particulièrement odieuse et particulièrement hypocrite, dissimulant ses objectifs réels derrière un rideau apparement idéaliste".*' AN, 19910302/1, 1977.05.31, 'L'Europe de la sécurité', *AFP*.

[239] AN, 19910302/1, 1977.05.31, P. Dietsch, 'Un "téléphone rouge" Européen anti-terroriste', *AFP*.

weapons, with EEC governments agreeing to extradite or prosecute perpetrators.[240] Following a West German initiative the French were quick to support, a UN convention against hostage-taking also entered the pipeline.[241]

As the decade progressed, however, support for the increasingly violent tactics of many of these groups waned, just as a repressive infrastructure was being built to contain them. This increasingly repressive logic applicable to international terrorists would slowly come to encompass asylum-seekers generally - even civilians fleeing the kind of violence ordinary Europeans sought to protect themselves from. This points to another change, one we return to later, and that is a seemingly increased tolerance, across broad swathes of society, for state intrusion in the name of security. French intelligence services had stressed the importance of shifting this social consensus towards more repressive tactics. A 1979 memo noted that

> The repressive tools that the State will need to establish against an increasingly tangible danger are infinitely more effective than any condemnation using audio-visual means. That said, the media can help raise public awareness on the dangers of terrorism, and thereby favour a social consensus that would *allow the State to put a break on the much too great permissiveness of liberal society, and allow it to develop repressive instruments less in line with democratic tradition, but more efficient*. [emphasis mine][242]

In the UK too, officials noted that security concerns as the grounds for more invasive practices would be more persuasive to the general public:

> It may be that difficulties [with the deportation process] have been over-emphasised and that where intelligence suspicions concern terrorism, particularly by Arab nationals, public opinion

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[240] AN, 19910302/1, 1977.05.xx, 'Annexe IV Synthèse des travaux internationaux en matière de lutte contre le terrorisme: Convention du Conseil de l'Europe, dite "Convention Européenne pour la répression du terrorisme"'.

[241] AN, 19910302/1, 1977.05.31, 'Annexe IV Synthèse des travaux internationaux en matière de lutte contre le terrorisme: Convention du Conseil de l'Europe, dite "Convention Européenne pour la répression du terrorisme"'.

[242] '*Les moyens de répression dont l'Etat est amené à se doter contre un danger qui se ferait plus réel, sont infiniment plus efficaces que toute condamnation par les voies audio-visuelles. A ceci près que les média peuvent contribuer par leur information à sensibiliser l'opinion publique sur les dangers du terrorisme et favoriser ainsi un consensus social autorisant l'Etat à freiner la trop grande permissivité de la société libérale et se doter d'instruments répressifs moins conformes aux traditions démocratiques mais plus efficaces.*' [emphasis in original]. AN, 19910302/1/2, 1979.03.22, Memo from the Direction Centrale des Renseignements Généraux, 'Violence politique: terrorisme et médias.'

> would be less critical of the exercise of the security provisions and Ministers would readily consider exercising them.[243]

Nonetheless, at this point discussions focused on events with an indisputably criminal bent: kidnappings, hijackings, hostage takings, and bombings. Though a contemporary reader might discern language that later seeped into discussions about immigration, and the targets were certainly non-European rather than say Irish terrorists, in the mid-1970s, as cooperation between European police, border, and intelligence forces gained momentum, there was hardly any mention of immigration at all.[244]

2.3. Internal frontiers, terrorism, and immigration

The TREVI group was composed of a committee of senior civil servants ('*comité des hauts fonctionnaires'*), which distributed tasks to expert working groups, themselves occasionally divided into sub-working groups, in everything from border control to ballistics and fingerprinting to compatible IT systems. The meetings of these senior civil servants were key, as they set the tone both at the top and bottom: it was these *hauts fonctionnaires* who created the agenda, for which they then obtained ministerial approval and organised into working groups.[245]

One of these groups was dedicated to studying the possibility of the removal of passport checks at the Community's internal borders. In 1974, EC ministers had asked their senior officials to examine the possibility of a passport union, the study of which, by 1977, had fallen into 'abeyance'.[246] Indeed, the senior civil servants from across the EC did not seem to have much appetite for the removal of internal frontier controls a passport union implied. It is worth quoting somewhat extensively from a telex sent by the British Home Office to senior officials of the TREVI network: 'If frontier controls were dismantled … there would be free movement within the Community not only for nationals of member states but for nationals of other countries. This would give rise to problems both of security and of controlling migrant

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[243] TNA, FCO 50/685, 1980.07.04, 'Near East/North African Terrorism in Great Britain', in Smith, 'Middle Eastern and North African Visitors to the UK in the 1970s–1980s', p. 607.

[244] 'Asylum' in this context referred specifically to the asylum requests of 'political criminals' seeking to avoid prosecution by claiming political asylum in neighbouring states. Asylum as something requested by refugees fleeing violence or deprivation, did not seem to exist.

[245] In a typical turn of phrase, the *hauts fonctionnaires* might invite ministers to invite them to study a question further.

[246] AN, 19910302/1, 1977.05.19, Nagler (HO) to TREVI, Telex 05049, 'Conference of Ministers of the Interior'.

movements.' The security considerations were many, and officials worried about 'the possibility of uncontrolled movement … to those criminals and terrorists from anywhere in the world … If the abolition of passport controls were accompanied by the dismantling of other forms of frontier control there would be no check over the entry of drugs, firearms, currency, etc, into member states.'

Migration was an important consideration too, albeit a secondary one. Indeed, now and in the future, member states would be 'subjected to differing pressures from countries of emigration outside the Community and may vary in their economic and cultural capacity to absorb immigration'.[247] A common immigration policy would be necessary; that or each member state enforcing its 'perimeter controls in a way which gives effect to each other's policies.' The Germans were especially concerned about the 'illegal entry of an undesirable or deported alien', and asked civil servants to consider whether their working group should not also examine the scope for greater cooperation 'in matters where the current operation of their immigration controls may have security implications'. Given worries about terrorism, deportation was still largely a political tool rather than an immigration control one, used in cases when political asylum was denied. It therefore seems safe to assume that immigration as it was referred to here pertained to the criminal and terrorist movements described immediately above. As one interviewee put it, the criminal and terroristic were priority, though cases may or may not have had an immigration dimension to them. Immigration as such was not (yet) the issue.

Indeed, the question of terrorism was inextricably linked to that of borders. A French memo following a 1979 TREVI meeting of Interior Ministers traces the international links of various terrorist groups in dizzying detail.[248] Thus in Italy, two Chileans were involved in a Red Brigade attack. In Germany, German terrorists were receiving Belgian and Dutch logistical support. In Ireland, the Provisional IRA was believed to be responsible for the murder of the British ambassador in the Netherlands, and an assassination in Brussels (the victim was a bank teller mistaken for the British permanent representative to NATO). Armenian organisations had claimed five bomb attacks against Turkish targets in France and Switzerland. As-Sa'iqa, the Palestinian faction (itself under Syrian influence), was thought to be behind attacks on a restaurant in Paris, a synagogue in Vienna, a post office in Cairo, and the Egyptian embassy in

[247] AN, 19910302/1, 1977.05.19, Nagler (HO) to TREVI, Telex 05049, 'Conference of Ministers of the Interior'.

[248] AN, 19910302/1/2, 1979.10.23, 'Le terrorisme dans les pays occidentaux depuis un an'.

Ankara. Meanwhile, the son of the Turkish ambassador had been assassinated by Armenians in the Netherlands, something the Dutch authorities were coming to Paris to discuss.[249]

In short, removing internal frontier checks would: '(a) allow the free circulation, within the EEC, of criminals and terrorists from the world over, once they had succeeded in penetrating one member state; (b) prevent the implementation of immigration control policies; (c) pose the difficult problem of the efficacy of control and sealing of the 'total perimeter of the EEC".[250] It would have 'disastrous consequences for criminality'.[251]

To sum up. We have seen that by the end of the 1970s, there existed in Western Europe a dense, informal, multi-layered network of cooperation between national police and intelligences forces (which one interviewee described as 'recognised but informal'). This network was easily a decade old, and had grown organically, out of cooperation on mundane matters such as cross-border car thefts. The network included various arenas and degrees of formality, from local constabularies to senior civil servants to interior ministers. Friendly, personal contacts were key. Senior civil servants were particularly important, as they were often in post longer than their designated ministers, and were the main body responsible for setting the agenda: their masters approved, their subordinates carried out. The TREVI group attempted to structure some of these interactions, without duplicating what was being carried out elsewhere, or involving the Commission. Immigration was far from being a priority: officials were concerned with terrorism and cross-border criminality. The international dimension did however provide a remote connection to immigration and population movement, as did the study of the possibility of removing internal border controls.

This exploration of the genesis of the TREVI group suggests two things:

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[249] AN, 19910302/1/2, 1979.10.31, Police Nationale Paris to BVD La Haye, 'Votre TREVI 9099 du 20.10.1979'.

[250] '*La suppression du contrôle des passeports aux frontières: a. Permettrait le libre déplacement au sein de la CEE des criminels et des terroristes du monde entier, une fois que ceux-ci seraient parvenus à pénétrer dans un des états-membres; b. Empêcherait l'application d'une politique de contrôle de l'immigration; c. Poserait le difficile problème de l'efficacité du contrôle du "périmètre total de la CEE et de son étanchéité".'* AN, 19910302/1, 1977.05.xx, 'Document no 7: Point no 5 de l'ordre du jour: Conséquences sur la sécurité d'un éventuel remaniement aux frontières de la CEE'.

[251] '*Comme il est démontré que la suppression des contrôles aux frontières a des conséquences désastreuses quant à la criminalité, il y a lieu d'harmoniser cette suppression du contrôle aux frontières*'. AN, 19910302/1, 1977.11.08, 'Procès verbal de la réunion des Hauts-Fonctionnaires des États Membres de la CEE du 8 November 1977, à Bruxelles, réunion préparatoire à la conférence des Ministres de l'Intérieur des États-membres qui doit se tenir en 1978'.

• that in the 1970s, it is an overstatement to suggest that the meetings of European security professionals were responsible for pushing a more repressive immigration agenda, as immigration was hardly discussed by them at all.

• that the effects of European integration were diffuse at best. Official EC structures were all but absent, and an atmosphere of collegiality reigned in the parallel, overlapping fora that developed semi-independently. The European Community provided the backdrop as one among a number of international clubs.

III. How foreign workers came to be politicised

Drugs and terrorism, rather than immigration, were foremost on the minds of Europe's security bosses. The focus of these men (for they were men) was squarely on maintaining law and order, and memos frequently referred to the importance of protecting the state from subversion.[252] In the 1970s, immigration was not considered a primary threat to this status quo. However, this was slowly changing. By importing quarrels from their home countries and joining local industrial action, immigrants and their descendants challenged internal order. But they also challenged external order through protests, activism, and fundraising aimed at their home countries - actions which potentially interfered with their host countries' foreign policy objectives. Thus, while remaining a negligible entity in terms of perceived security risk, immigrants were nonetheless becoming politicised: both in the sense of becoming active political agents (in contrast to the perceived docility of the first generation), and in terms of being considered a potential threat to order. It must be emphasised that it is as a threat to national order, not national identity, that certain segments of the immigrant population crept into the orbit of European security services. We go back to the start of the decade to see how this happened.

[252] See for instance: AN, 19910302/6, 1973.09.19, Préfet, Directeur de la Surveillance du Territoire au Directeur Général de la Police Nationale, 'Problèmes posés par une réunion éventuelle des Ministres de l'Intérieur européens en vue d'un examen de certains sujets d'intérêt commun'; AN, 19910302/1, 1975.05.13, Préfet, Directeur Central des Renseignements Généraux au Directeur Général de la Police Nationale, 'Réunion des chefs de services de sécurité européens à Copenhague, les 11-13 juin 1975'; TNA, FCO 98/971, 1980.08.18, Memorandum by Labour Counsellor Edward Toms, 'Immigration in the Federal Republic of Germany: The Gastarbeiter problem'.

3.1. The impossible duty of neutrality

In November 1973, the heads of Europe's security agencies met to discuss, among items including violent terrorism and Communism, the 'political activity of foreigners, the problem of workers'. An excerpt of this meeting is worth quoting at length:

> Delegates began by noting the great similarities that existed in their respective states in the rules applicable to foreigners. The political activity of immigrants can be considered negligible despite a number of them joining their national Communist Party. The German and Swiss delegates added that the services' attention should focus on members of the Spanish Communist Party, who act clandestinely. The presence of immigrant workers is more preoccupying in other areas: The tolerance threshold has been reached in a number of countries. This is the case of Switzerland; They are sometimes behind protest movements. For example: the Turks in the Federal Republic of Germany; They can present a danger in times of economic crisis. Delegates decided to bring their attention to Yugoslav immigrants, whose government is leading a campaign to bring its emigrants back into the fold by introducing 'social counsellors' among them, proper intelligence officers.[253]

These minutes are revealing in a number of ways. First, because they note the similarities in policy across member states, despite each conducting their own independently and guardedly. This suggests that national sovereignty was not threatened by European-level discussions, whatever consequences one may draw regarding a democratic deficit. It also suggests that harmonisation was occurring gradually and organically, as a result of similar structural challenges (economic contraction; immigration; the attractiveness of Western Europe as an immigration destination in a context of global inequalities). It was not occurring because of a concerted effort to harmonise legislation or practice.

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[253] '*Les délégués constatent tout d'abord une grande similitude dans les règlements applicables aux étrangers dans leurs états respectifs. L'activité politique des immigrants peut être considérée comme négligeable malgré l'adhésion d'un certain nombre à leur Parti communiste national. Les représentants Suisse et Allemand précisent cependant que l'attention des services doit se porter sur les membres du Parti communiste Espagnol qui agissent dans la clandestinité. Mais la présence des travailleurs immigrés est plus préoccupante en d'autres domaines: Le seuil de la tolérance est atteint dans plusieurs pays. C'est notamment le cas pour la Suisse; Ils sont quelques fois à l'origine de mouvements revendicatifs: Exemple: les Turcs en République Fédérale Allemande; Ils peuvent présenter un danger en cas de crise économique. Les délégués décident de porter leur attention sur les immigrés yougoslaves dont le Gouvernement mène une campagne pour reprendre en main ses ressortissants à l'étranger et tente d'introduire parmi eux des "conseillers sociaux", véritables agents de renseignements.*' AN, 19910302/6, 1973.11.15-16, 'Compte-rendu de la réunion des chefs des services de sécurité européens, Paris les 15 et 16 novembre 1973'.

Second, because it notes immigrants' 'negligible' political involvement, but does not, apparently, consider it an impediment to discussing them in a senior security meeting. While this disproportionate attention certainly points to a possibly racial bias, it is worth noting that security bosses also discussed items such as left-wing subversion in high schools.

Third, because of the unquestioning use of the concept of 'tolerance threshold'. The senior French functionaries studied by Laurens took liberties both with logic and empirical data to reify their position in the civil service pecking order.[254] This attitude, and the assumptions underpining it, seem to have been shared across the Nine, with officials content to provide a numerical sheen to untested and untestable assumptions. For how, even admitting the existence of such a threshold, can one know when it has been met in the absence of reliable data or the kinds of social investments local councils requested?

Finally, immigrants are still discussed as workers, in the context of labour and industrial relations, rather than in terms of national identity or second-generation integration. As time wore on, immigrants and their descendants would be increasingly confused in public debate.

The major fear of European security bosses was that foreigners would become active in politics. Indeed, there was a presumption of political neutrality for foreigners, taken for granted across Western Europe.

> In France, like in all democratic countries, though the freedom of opinion is obviously recognised and protected, it is commonly held that foreigners must observe a strict political neutrality in their host country. The obligation for aliens to remain politically neutral does not appear in any text of positive law. This, however, is not surprising as this obligation stems from the fact that foreigners could not possibly exercise the rights reserved for citizens.[255]

Another French memo put it more bluntly: 'To sum up, the unwritten rule imposed on foreigners is essentially "shut up and work"'.[256] French officials concluded that 'though it is not

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[254] Laurens, *Une politisation feutrée*, pp. 193-203.

[255] *'En France, comme dans l'ensemble des pays démocratiques, si la liberté d'opinion est évidemment reconnue et protégée, il est communément admis que les étrangers sont tenus d'observer une stricte neutralité politique dans le pays qui les accueille. L'obligation pour les étrangers de rester neutres politiquement ne figure expressément dans aucun texte de droit positif, ce qui n'a rien de surprenant puisque cette obligation résulte de ce que les étrangers ne sauraient exercer les droits des citoyens.'* AN, 19910302/1, 1973.xx.xx, 'Activité politique des étrangers: Réunion à Paris les 14, 15 et 16 novembre 1973 des Chefs des Services de Sécurité européens'.

[256] *'Pour résumer, la règle non écrite imposée aux étrangers est essentiellement "travailles et tais-toi"'* [underlined by hand in original]. FNSP, CHSP, AHC, fonds Patrick Weil (WE 15), 1982.08.27, Note pour le Secrétaire d'Etat, 'Mission en Corse - 24, 25 et 26 août 1982'.

written, the duty of political neutrality incumbent on foreigners is a prescription of positive law resulting from the fact that they are not citizens and stemming from the notion of public order in its most traditional definition of the tranquility of the social body.'[257] Foreigners could violate their obligation to remain neutral by becoming involved in domestic politics; by bringing to France the 'quarrels of their homeland'; by jeopardizing state security at home or abroad; or by threatening French interests abroad.

This strictest of neutralities, however, was of course impossible to observe. Not only would it require immigrant workers to remain docile factory hands for ever, but it also required them to do so divorced both from their country of origin and their host country. Even the Chinese - 'a very closed community, not assimilated to our mores' - were made political despite themselves: the Chinese consulate was under the command of a military attaché with links to the secret services, and attempted to use Chinese expats as as informants. Some restaurant owners were also strongly suspected of helping people migrate illegally to France.

3.2. Domestic disruption: Immigrant labour and national trade unions

The byproduct (and subtext) of requiring foreigners' total neutrality, including barring them from domestic politics, was that they could not become involved in labour disputes, despite their usually occupying the lowest paid, most difficult jobs. Docility was never very far from discussions on neutrality. In Germany, 'Germans had long characterized the foreigners as quiescent and obedient'. Following wildcat strikes in 1973, 'they now were the 'dynamic', 'the time bomb' of social conflict and disorder'.[258] France and Germany both competed for Portuguese labour, deemed more 'docile' than others.[259] In France, Laurens shows how though policymakers might have preferred Italian labour, employers viewed Italian workers as arrogant, ill-managed, and undisciplined compared to their more docile North African counterparts (at least to begin with).[260] In the early 1980s, however, French automobile workers went on strike. For the most part, they were North African workers, which politicians used to attempt to

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[257] '*On peut donc dire que bien qu'il ne soit pas écrit, le devoir de neutralité politique des étrangers est une prescription du droit positif résultant du fait qu'ils ne sont pas citoyens et de la notion d'ordre public dans son acceptation la plus traditionnelle de tranquillité du corps social.'* AN, 19910302/1, 1973.xx.xx, 'Activité politique des étrangers: Réunion à Paris les 14, 15 et 16 novembre 1973 des Chefs des Services de Sécurité européens'.

[258] O'Brien, 'Continuity and Change in Germany's Treatment of Non-Germans', p. 118.

[259] Viet, *La France immigrée,* p. 270.

[260] Laurens, *Une politisation feutrée*, pp. 230-1.

discredit their grievances. According to Socialist Prime Minister Pierre Mauroy, 'the main difficulties that remain are due to immigrant workers, whose grievances I do not deny, but who, it must be admitted, are agitated by religious and political groups with little to do with French social realities'.[261] Gay shows how, though workers' religion had never been an issue during the *Trente Glorieuses*, when they demanded better conditions in the 1980s, employers, government, and intelligence services discredited their demands by framing them in terms of religious subversion, rather than the call for dignity in the workplace which most workers emphasized in interviews.[262]

> Those who, only a few months previously, had been presented as workers fighting for their dignity were henceforth presented as trouble-makers threatening French industry … Fed by government statements, the controversy on the supposedly fundamentalist origins of the conflict - or at the very least, on the causality between religiosity and social conflict - was taken up by different actors.[263]

As immigrant workers starting demanding better working conditions for themselves, but also in some cases began being courted by unions already under surveillance, so too did they provide European security services with the grounds for increased scrutiny. The overarching preoccupation of officials across Europe was to maintain the status quo. Anything that smacked of subversion - the dreaded term that resurfaces in nearly every memo - had to be fought. At the meeting of European security bosses in November 1973, the French delegate thus 'sketched a portrait of the situation in France, and analysed the activities of leftists, maoists and Trotskyists who, through the CFDT [one of the largest French trade union confederations], changed corporate trade unionism into political trade unionism, whose

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261 *'Les principales difficultés qui demeurent sont posées par des travailleurs immigrés dont je ne méconnais pas les problèmes mais qui, il me faut bien le constater, sont agités par des groupes religieux et politiques qui se déterminent en fonction de critères ayant peu à voir avec les réalités sociales françaises.'* In D. Richter, 'Talbot-Poissy, du "printemps syndical" à l'affrontement racial (1982-1984)', *Plein droit* 76 (March 2008).

262 V. Gay, 'Grèves saintes ou grèves ouvrières ? Le "problème musulman" dans les conflits de l'automobile, 1982-1983', *Genèses,* 98:1 (2015), 110-130.

263 '*Ceux qui quelques mois auparavant étaient encore présentés comme des ouvriers en lutte pour leur dignité sont désormais présentés comme fauteurs de troubles menaçant l'industrie française. … Nourrie par les déclarations gouvernementales, la polémique sur les supposées origines intégristes des conflits sociaux, ou du moins sur les liens de causalité entre religiosité et conflictualité sociale est reprise par différents acteurs.*' Gay, 'Grèves saintes ou grèves ouvrières?', pp.33-4.

objective is the destruction of capitalist society.'[264] While the reader might wonder at an apolitical trade union, the German and Belgian delegations agreed.

If unions were seeking to rally immigrant workers to their cause, then immigrants would necessarily become politicised too. A French briefing on the Communist Party noted that:

> The French Communist Party (FCP) has always paid a lot of attention to the problems raised by immigrant labour. Generally speaking, while it condemns labour immigration as a means for employers to put a break on the demands of workers, the FCP nonetheless is committed to defending foreign workers as it would defend French ones.[265]

It went on to comment on the difficulties such a strategy sometimes encountered with the 'labouring masses, often prone to chauvinism', to whom it was necessary to explain the role immigrants played not only in the economy, but in social struggles. In practice, this meant the Communist Party had a section dedicated to immigrants labour, support committees, and worked closely with the CGT union, which also had working groups dedicated to immigrant labour, including in the context of free movement within the Common Market.[266]

The imperative for unions to co-opt immigrant labour was two-fold: first, it was necessary to follow developments in the labour market, which through the Common Market and EEC, was becoming increasingly international. Indeed, 'the attraction exercised by the European Economic Community on workers from less developed countries led the FSM to suggest an international labour union conference on immigrant labour'.[267] 'The growing

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[264] '*Le délégué français brosse un tableau de la situation en France et analyse l'action des gauchistes, maoïstes ou trotskistes qui, par le biais de la C.F.D.T. , ont notamment changé le syndicalisme corporatif en un syndicalisme politique qui vise à la destruction de la société capitaliste.'* AN, 19910302/6, 1973.11.15-16, 'Compte-rendu de la réunion des chefs des services de sécurité européens - Paris les 15 et 16 novembre 1973'.

[265] '*Le Parti Communiste Français a toujours porté la plus grande attention aux problèmes que soulève la Main d'Oeuvre immigrée. D'une manière générale, s'il condamne l'immigration du travail qu'il considère comme un moyen pour le patronat de freiner les revendications des travailleurs, le PCF tient, par contre, à assurer la défense des travailleurs Etrangers au même titre que les travailleurs français.'* AN, 19910302/1, 1973.11.12, 'Les travailleurs immigrés et le Parti communiste Français'.

[266] One such working group was held on 17 April 1971.

[267] *'L'attract exercé d'autre part par la Communauté Economique Européenne sur les travailleurs des pays moins développés, avait amené en outre la FSM à proposer la réunion d'une conférence syndicale internationale sur l'immigration.'* AN, 19910302/1, 1973.11.12, 'Les travailleurs immigrés et le Parti communiste Français'.

importance of immigration in Europe and the possibility of its exploitation on the union and political front were emphasized during the National Conference of Montreuil'.[268]

Second, unions had to co-opt immigrants - or risk rival groups doing so. An urgent memo by Communist Party cadres thus urged its federations to 'subtract, under any circumstance' immigrant workers from the influence of Catholic support groups, consular agencies, and especially, from the influence of non-Communist leftist groups.[269]

This surveillance was not reserved for Third World immigrants. On the contrary, French officials made reports about Italian, Spanish, Yugoslav, and even Swiss workers.[270] Despite this, the political activity of foreigners remained 'negligible', though increasing involvement in trade unions was a factor of their being on the radar of Continental European security services.

The case in Britain was slightly different, as the Communist Party never had much traction, compared say to the Labour Party or the TUC. Combined with the fact that 1970s Britain attempted to govern by consensus, with unions and government sometimes setting wages together, this meant that unions were not regarded with the same suspicion by British security services. On the contrary, interviewees recalled quite good relations with trade unions. Yet they were interested in the question of immigrant labour and faced broadly the same dilemma as their Continental counterparts: how to oppose the immigration that would dilute or undercut their membership's negotiating power, while protecting the rights of workers, including those immigrant workers who were trade union members. In both cases, the focus on *illegal* workers seemed the most viable position.

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[268] *'L'importance croissante de l'immigration en Europe et l'éventualité de sont exploitation sur le plan syndical et politique déjà soulignés lors de la Conférence Nationales de Montreuil (no. 72) avaient également été mises en relief par la FSM.'* AN, 19910302/1, 1973.11.12, 'Les travailleurs immigrés et le Parti communiste Français'.

[269] *'En mai 1970, les dirigeants du PCF prenant conscience de l'effort insuffisant des Fédérations en direction de la Main d'oeuvre Immigrée demandaient, en effet, à toutes les "organisations du Parti", "de soustraire absolument" les travailleurs immigrés à l'influence des associations d'entraide catholiques ou consulaires et surtout à celles des groupes "gauchistes" et des syndicats non communistes"'.* AN, 19910302/1, 1973.11.12, 'Les travailleurs immigrés et le Parti communiste Français'.

[270] AN, 19910302/1, 1973.11.12, 'Les travailleurs immigrés et le Parti communiste Français'.

Thus by dint of becoming a group unions were seeking to rally to their cause, unions themselves under surveillance because of their subversive proclivities, immigrants became politicised too.[271]

3.3. International interference: Immigrant communities and international politics

A series of memos, put together by the French Police - which along with the French secret services depended on the Interior Ministry - detailed the activities of various foreign 'colonies' (which we would today refer to as 'communities') in France. Thus the Latin American 'colony' in France on 1 January 1973 consisted of 7,734 people, mostly in the Paris area. This included revolutionaries and political exiles, who had 'extended the theatre of their operations to Europe, and especially to France, where they benefit from considerable logistical and political support from French left and far-left groups'.[272] The Vietnamese, meanwhile, 6,000 to 7,000 people, mostly in the Paris area, were often called upon to fundraise: first to support the war effort against the Americans, then to help rebuild the country.[273] The Chinese, on the other hand, though under close surveillance by their own embassy and consular offices, and at times known maoists, 'showed themselves to be very respectful of our institutions. Generally speaking, these foreigners avoid medaling in French home affairs and keep out of politics. … This attitude is not only approved, but dictated by the Embassy itself'.[274] The Portuguese (742,894 people) also stayed away from politics, an attitude highly approved of by French officials.[275]

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[271] For further reading on European trade unions and immigration, see: H. Connolly, et al., *The Politics of Social Inclusion and Labor Representation : Immigrants and Trade Unions in the European Context*, (Ithaca: Cornell University Press, 2019); Penninx and Roosblad, *Trade Unions, Immigration, and Immigrants in Europe, 1960-1993*.

[272] '*A l'image des organisations révolutionnaires du Tiers-Monde, les extrémistes latino-américains les plus influents on en effet étendu leur théâtre d'opération en Europe et plus particulièrement à la France où ils bénéficient d'un soutien logistique et politique non négligeables de la part des formations françaises de gauche et d'extrème-gauche [sic].*' AN, 19910302/1, 1973.11.12, 'Colonie Cubaine et Latino-Américaine en France'.

[273] AN, 19910302/1, 1973.11.12, 'Colonie Vietnamienne en France'.

[274] '*ces étrangers se montrent très respectueux de nos institutions. D'une façon générale, ils évitent de s'immiscer dams les affaires intérieures françaises et de "font pas de politique". Diverses informations récentes montrent que cette attitude est non seulement approuvée, mais dictée par l'Ambassade elle-même.'* AN, 19910302/1, 1973.11.12, 'Colonie Chinoise en France'.

[275] AN, 19910302/1, 1973.11.12, 'Les travailleurs immigrés et le Parti communiste français - Annexe 4'.

Algerians, however, were viewed with much more defiance. There were active groups in France, both pro- and anti- the Boumedienne government. For the French police, these were likely to 'undermine France'.[276] Frequent references were made to the fact that they laboured 'under the guise of' internationalist or Palestinian solidarity. There does not seem to have been much effort made to determine which actions might genuinely have been driven by such solidarity. Student groups, anti-racism campaigns, and labour unions were also under surveillance. The relationship between France, Algeria, and Algerians is an extremely complex one which I cannot do justice to here.[277] What it does illustrate, alongside the kinds of reports made about other immigrants communities, is the fear of the French government of foreign governments trying to control their nationals (as they worried about for Yugoslavia); foreign quarrels disrupting domestic law and order (as they worried about for the Algerians); and the links between local communist parties, immigrant groups, and foreign powers.

Similar concerns animated German officials. A British report on the situation in Germany reported that right-wing Yugoslavs were 'the most troublesome … not least because the present Yugoslav regime, setting an example now being followed by the Libyan government, has sought to pursue its enemies by clandestine activity within the Federal Republic'.[278] At least two politically motivated murders had occurred on German soil, and Yugoslav consuls had approached German trade unionists for information on the activities of their nationals. Meanwhile, German authorities feared that the Turkish Grey Wolves, an ultranationalist, neofascist group, were manipulating moderate Turkish groups and had been involved in violence in Berlin. 'Serious disturbances within Turkish communities from right-wing and left-wing clashes have already posed a law and order problem for the police', the report noted.[279] Italian extremism was the third source of foreign disturbance the 1979 Kühn report (which the British diplomat was summarising) identified.

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[276] AN, 19910302/1, 1973.10.31, 'L'action algérienne en France, indices recueillis par la DST depuis le 1.1.1973'.

[277] For more on the subject, see: B. Stora, *La gangrène et l'oubli: La mémoire de la guerre d'Algérie*, (Paris: La découverte, 1991); A. Spire, 'Semblables et pourtant différents: La citoyenneté paradoxale des "Français musulmans d'Algérie" en métropole', *Genèses*, 53 (2003/4), 48-68; F. De Barros, 'Des "français musulmans d'Algérie" aux "immigrés": L'importation de classifications coloniales dans les politiques du logement en France (1950 – 1970)', *Actes De La Recherche En Sciences Sociales*, 159 (2005), 26-53.

[278] TNA, FCO 98/971, not dated [circa 1980], Memorandum by Labour Counsellor Edward Toms, 'Immigration in the Federal Republic of Germany the Gastarbeiter problem'.

[279] It added that such agitation on the Turkish side might attract extremist action by Armenian and Kurdish groups too.

As far as I can tell, British authorities do not seem to have been as worried as their Continental colleagues about the law and order implications of the presence, on British soil, of foreign elements. This may be due to a combination of factors. First, that the Commonwealth, where the vast majority of Britain's immigrants came from, remained a historically and symbolically important entity (though its political and economic significance had dwindled). Second, that the Communist party had virtually no presence in Britain, unlike in France, where it remained a political force (the 1977 local elections saw a record number of Communist mayors in the Paris region, though their numbers and influence waned after), and unlike in Germany, where the country was split into two distinct entities, one on either side of the Iron Curtain. That said, these examples do illustrate the ways in which foreigners were connected, more or less marginally, to security concerns.

Conclusion

This chapter began by examining British immigration policy in the 1970s. It showed how, far from being a constraint on action or significantly influencing policy, Europe was 'nowhere near the top of the agenda'. As a Home Office memorandum put it, 'Membership of the EEC does not have major implications for British Government policy in regards to race relations in the UK'.[280] British policymakers focused on promoting harmonious race relations at home, something they assumed could only be achieved with a strict limit on numbers. Successive immigration acts had all but halted immigration from the New Commonwealth, and the Home Office did not view immigration as a burning policy problem. On the contrary, it often pushed back against repressive immigration policies on the grounds of their inefficiency, even their threat to civil liberties. Pressure to be seen to be doing something, however, continued to emanate from right wing factions, trade unions, and the Department of Employment. Faced with policy options that were slow, costly or ineffective, the Home Office resorted to the kind of 'symbolic policymaking' described by Slaven and Boswell in the 1960s. It began doubling down on illegal workers and bogus marriages. Statistically insignificant, perhaps, but symbolically important, especially in the absence of anything else.

The European Commission was in every meaningful sense absent. Attempts to regulate immigration at the EEC level, even in the direction member states were heading in, were rebuffed by nearly everywhere. Not just Britain but its partners dismissed them as

[280] TNA, FCO 30/3967, 1978.02.xx, 'Memorandum by the Home Office: Enquiry into the effect of the United Kingdom's membership of the EEC on immigration and race relations'.

impracticable and undesirable, unwelcome attempts by the Commission to extend its competency.[281] Nor was Britain a primary destination for intra-European migration, even considering the Southern enlargement which was looking increasingly likely. As we shall see, Greeks, Spaniards and Portuguese would emigrate to France, where they had historical ties and settled communities, or Germany, where the economy was strong. Ireland provided Britain with the necessary flexible, proximate labour it needed.

Which is not to say there was no European dimension to British immigration and border policy. Long before joining the European Community, Britain had been embedded in various overlapping networks of cross-border cooperation with neighbouring or like-minded police forces for years. Cooperation ranged from drug smuggling and petty theft between police forces, to intelligence cooperation on counter-terrorism. This cooperation was driven by practical concerns and the evolving nature of crime, and police and security bosses favoured these semi-formal settings, which allowed them to share information and best practice unconstrained either by public scrutiny, or rigid work structures. What should the terms of hot pursuit across borders be? How to prevent bombers and hijackers from escaping prosecution by claiming asylum next door? Home grown terrorism was the major concern across the Community. Immigration was not.

That said, security services did keep an eye on immigrant workers, despite recognizing they posed no significant threat. This was largely due to increased union activity and wide-spread fears of left-wing sedition, but also by the inevitable involvement, willing or not, of immigrants in the affairs of their home countries. This was also due to a historically dismissive view of foreign workers as a commodity to be called up or sent home at will, and on whom repressive policies could be deployed if home opinion deemed it necessary.

This thesis is driven by three key questions: the influence of 'Europe' on British immigration policymaking; how immigration became perceived as a security, rather than say a labour or a humanitarian issue; and whether these two phenomena are linked. This first section on British immigration policymaking and European integration from 1973 to 1979 has begun to suggest some answers:

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[281] Though the Commission did once rebuke Britain for attempting to pass Community legislation as its own: 'Readers could be misled into thinking that paragraph 39 [of the 1971 Immigration Act, amended in 1977] represents national rules, which regulate the settlement of persons in the United Kingdom and that, because it is not even mentioned, no community regulation on the subject exists.' TNA, FCO 30/3967, 1978.02.21, Burrows (Legal Counsellor) to Biddiscombe (UKREP EC), 'Commission's examination of the UK's immigration rules'.

• As far as immigration policymaking in the 1970s went, the EC was nearly irrelevant. Europe mattered more as an overarching geopolitical orientation than as a specific set of institutions;

• Immigration was slowly being criminalised, more in response to a persistently bleak economic outlook and public pressure than to any empirical correlation with criminality. Within Whitehall the Home Office often *resisted* calls for more repressive policies;

• Persistent high unemployment and what was perceived to be a bleak economic outlook fed into the notion that the 'house was full' and no further immigration was possible or desirable.

Chapter 2 Law, order, and immigration 1979-1985

In Chapter One, we saw how little being part of the EC impinged on the UK's ability to conduct an independent immigration policy during the 1970s: Europe formed a new geopolitical orientation, but was little constraint on action. We saw how, to begin with at least, the meetings of European interior ministry officials, the ones supposedly at the origin of the 'immigration-security continuum', hardly discussed immigration at all. We also saw how there was concern about the potentially subversive activities of foreign workers, though security bosses themselves admitted the risk was 'negligible'.

This chapter brings us into the 1980s, from Margaret Thatcher's first administration in 1979 to the Schengen Agreement in 1985. The new decade marked a shift in economic orthodoxies away from Keynesian interventionism towards free markets. In the EC, this took the form of a renewed commitment to the four freedoms: the free circulation of goods, capital, services, and people across European frontiers. Britain, especially, would work hard towards achieving the Single European Act (SEA), which sought to give a practical expression to these still largely theoretical rights.[1]

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[1] Wall, *A Stranger in Europe*.

Meanwhile, the two years from 1979 to 1981 saw general elections in every member state, and, for the first time, to the European Parliament itself. In France, Mitterrand led the Socialists to the Elysée, a first in the Fifth Republic. In Germany, the Social Democratic Schmidt was elected Chancellor for the third time.[2] The Cold War, which had entered a period of *détente* in the 1970s, heated up again with the Soviet invasion of Afghanistan. Western European economies stabilised at levels of mass unemployment unimaginable a few years earlier; Bruce Springsteen and Bon Jovi made hits about the struggles of working class life during recession.

As with the previous chapter, this one begins with a chronicle of British immigration policymaking, with an eye on its more European elements. There follows a dive into the European level proper, in particular the meetings of interior ministry officials; concluding with an exploration of areas where national, European, and security concerns might have met.

This chapter therefore opens with immigration policy under Thatcher. Despite the bellicose rhetoric, in practice it remained very much in the continuity of previous policy. I show how the turn towards more repressive immigration policies occurred against the backdrop of a much broader societal shift towards a more law and order approach to social problems, to which it was explicitly tied. This finding mitigates the importance given by the political science literature to the securitising influence of European security professionals. We then turn to the European level, where we observe a gradual convergence of immigration concerns: the policy problems faced by member states were similar, and gradually coming to be perceived as interconnected. Though a significant body of literature exists describing the parallel arcs of national immigration policies in Europe, I show, on a granular level, how officials began to see their problems not only as similar, but intertwined.[3] Finally, we turn to the seeds of a common approach and how the immigration/terrorism crossover occurred. I show that immigration and terrorism were initially dealt with separately but in parallel settings: both fell under the Home Office's remit; both had a significant cross-border dimension which the removal of internal European frontiers was likely to impact. I also show that part of the reason a crossover occurred - in other words, part of the reason immigration was securitised - was opportunistic

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[2] The Fifth Republic was founded in 1958.

[3] For comparative studies into European immigration policies, see: G. Freeman, *Immigrant Labor and Racial Conflict in Industrial Societies : The French and British Experience, 1945-1975*, (Princeton; Guildford: Princeton University Press, 1979); J. Hollifield, *Immigrants, Markets, and States: The Political Economy of Postwar Europe,* (Cambridge: Cambridge University Press, 1992); M. Schain, *The Politics of Immigration in France, Britain, and the United States: A Comparative Study,* (New York: Palgrave Macmillan, 2008); G. Freeman*,* 'Comparative Analysis of Immigration Politics', *The American Behavioral Scientist,* 55:12 (2011), 1541-560.

and optical: immigration and terrorism legislation were occasionally used interchangeably, according to whichever was most expedient. Terrorism was also consciously used as a front for tighter immigration controls.

I. 'Absurdly severe' or 'seamless transition'? British immigration policy under Thatcher

1.1. New government, new rules

Margaret Thatcher was elected in May 1979, partly due to her tougher stance on immigration. Though in her famous 1978 'swamping' interview she refused to explicitly describe her position as 'tough', insisting on the contrary that limiting the number of new immigrants was crucial to the welfare of those already settled, she also said that 'the big political parties have not been talking about [immigration]' enough and that she was hoping to bring National Front voters 'very much back'.[4] Indeed, many voters had forsaken the Conservatives after Heath, who had been bold, in the midst of strong anti-immigration sentiment, in welcoming 38,000 Ugandan Asians, British passport holders expelled by Idi Amin. Though the Labour government that succeeded him was mindful to downplay immigration fears, it did nothing to repeal or soften the 1971 Act it had previously opposed.

By 1979, Labour had lost the initiative. Thatcher won the General Election with a 5.2% swing, the largest since 1945.[5] Under the 'Rule of Law' heading, and in a characteristic rhetorical move, the Conservative manifesto had promised both to 'end persistent fears about levels of immigration and [to] remove from those settled, and in many cases born here, the label of 'immigrant'.'[6] An approach critics portrayed as aggressive if not racist was thus framed as being in immigrants' best interest. Among the practical propositions: to introduce a new British Nationality Bill; limit family reunion 'to a small number of urgent compassionate cases'; 'severely restrict the issue of work permits'; introduce a register and a quota system; and 'take firm action against illegal immigrants and overstayers'. 'Effective control of immigration', the

[4] Margaret Thatcher, TV interview for Granada, 'World in Action', 1978.01.27, [https://www.margaretthatcher.org/document/103485, accessed 5 May 2021].

[5] Callaghan had told Labour whips they should try to 'steal Mrs Thatcher's clothes' on the issue. The Conservatives won by 43 seats of a total of 635. TNA, PREM 16/1688, 1978.03.08, Note of Callaghan meeting with Labour whips.

[6] Conservative Party General Election Manifesto 1979, [https://www.margaretthatcher.org/document/110858, accessed 5 May 2021].

manifesto concluded, was 'essential for racial harmony in Britain' - a position not wholly different from that of previous governments of either party.

Once in office, the new government was quick to get to work. Amendments to the 1971 Immigration Act were introduced to Parliament in November 1979; again, revised, in February 1980; coming into force that March.[7] On 30 October 1981, it introduced the Nationality Bill, which clarified and simplified British nationality law (the previous bill dated from 1948). It was also explicitly tied to immigration, as one of its primary aims was to limit the number of people able to lay claims to Great Britain.[8] The main desired effect of both amendment and Bill was to reduce access to Britain for New Commonwealth nationals. Neither had any significant impact on EC nationals.

The Bill was a piece of administrative housekeeping. Its primary purpose was to clarify a uniquely mystifying and idiosyncratic set of nationality and citizenship provisions rather than chart a new direction for British policy. A French diplomatic dispatch summarised the confusion: '"British subject", "Commonwealth citizens", "British citizen", "EEC citizen" … One must recognize the variety and confusion of these different concepts'.[9] In essence, the 1981 Nationality Act for the first time linked citizenship to 'membership in the political entity of the United Kingdom' and the 'exercise of civic and political privileges'.[10] It also marked, according to Hansen, the decoupling of immigration and nationality laws, finally governed by separate legal regimes - though the impetus behind the Nationality Bill had also been one of immigration control.[11]

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[7] Unlike Acts, which form the UK's statutory law and need to be approved by Parliament, rules are secondary legislation, created by ministers to fill in the practical, operational details of the Act.

[8] R. Hansen, *Citizenship and Immigration in Postwar Britain*, (Oxford: Oxford University Press, 2000).

[9] The memo added that though 'the British Government, at the moment of the discussion, adoption, and publication of the new law made an effort of clarification and advertising. These apparently were not sufficient'. 'Il faut reconnaître que la variété et le flou de différentes notions, compliquées par les changements intervenus dans la législation britannique, font que beaucoup de ces correspondants paraissent, quant à eux, de bonne foi. … Le Gouvernement au moment de la discussion, de l'adoption puis de la publication de la nouvelle loi a fait un effort de clarification et de publicité, mais qui visiblement ne semble pas avoir été suffisant.' FNSP, CHSP, AHC, fonds Patrick Weil (WE 2), 1983.08.12, French Embassy in London to the Ministry of Foreign Affairs, 'Contrôle aux frontières - correspondance reçue à l'Ambassade'.

[10] Hansen, *Citizenship and Immigration in Postwar Britain*, p. 207.

[11] Hansen, *Citizenship and Immigration in Postwar Britain*, p. 207.

In this respect, the revised rules did not represent a break in the direction of travel of British immigration policy, so much as a break in how severely overall policy was applied.[12] One former Home Office official interviewed for this research went so far as to describe the transition as 'seamless'. Indeed, for all the tough talk on immigration, no substantive legislation was passed, and the 1971 Act remained the statutory basis for the UK's immigration framework. Even the 1981 Nationality Bill in effect only attempted to structure and systematise what another French memo described as the 'extraordinary complexity' of previous rules.[13]

But tough talk there certainly was, and not only on immigration. Thatcher's premiership and worldview were so distinctive she gave her name to an entire political philosophy.[14] Andrew Gamble described it as 'the free economy and the strong state'.[15] Stuart Hall called it 'authoritarian populism'.[16] The Clash went for the 'clampdown'.[17] This worldview, which yet others call the New Right, drew on Victorian dichotomies: deserving and undeserving, working and shirking, striving and scrounging.[18] According to the emerging Thatcher doctrine, the bloated inefficiencies of an overly generous state would be swept away in favour of a can-do, self-reliant, hardworking modern man, entitled to keep the hard-earned spoils of his labour, spoils which a powerful police force would protect.[19]

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[12] Spencer shows the remarkable continuity in post-war British immigration policymaking, with the overall objective of limiting New Commonwealth, that is non-white, settlement, regardless of the party in power. See: Spencer, *British immigration policy since 1939.*

[13] '*Le droit britannique de la nationalité est en effet d'une extraordinaire complexité',* FNSP, CHSP, AHC, fonds Patrick Weil (WE 2), 1979.12.xx, Report from the Social adviser at the French Embassy in London, 'La réglementation du séjour et du travail des étrangers en Grande-Bretagne'.

[14] Regarding the *outcome* - rather than formulation - of various Thatcher policies, see: D. Marsh and R. Rhodes (eds.), *Implementing Thatcherite Policies: Audit of an Era*, (Buckingham: Open University Press, 1992).

[15] A. Gamble, *The Free Economy and the Strong State: The Politics of Thatcherism*, (Palgrave Macmillan, 1988).

[16] M. Jacques and S. Hall, *The Politics of Thatcherism.* (London: Lawrence/Wishart, 1983); S. Hall, *Selected Political Writings: The Great Moving Right Show and Other Essays* (Duke University Press, 2017).

[17] The single was released in 1980 alongside 'Guns of Brixton', which predated the riots but captured the discontent with police heavy handedness.

[18] R. Samuel, 'Mrs Thatcher's Return to Victorian Values', *Proceedings of the British Academy*, 78 (December 1990), p. 15.

[19] T. Jefferson and J. Shapland, 'Criminal Justice and the Production of Order and Control - Criminological Research in the UK in the 1980s', *British Journal of Criminology,* 34:3 (1994), 265-290.

These dichotomies extended to immigrants with ‘genuine’ cases on the one hand, and ‘fraudulent’ ones on the other.[20] The previous Labour government had already started talking about ‘bogus marriages’ and shifting the burden of proof away from the immigration officer towards the hopeful, would-be spouse.[21] This trend continued and accelerated under the Conservatives. In a typical turn of phrase, the Home Secretary stated that ‘we shall continue to welcome the genuine visitor and the genuine student. What we are determined to do is to deal strictly with those who seek to evade or manipulate the control.’[22] Of course the government itself was the ultimate arbiter of what constituted a ‘genuine’ applicant, and was in the process of reducing the scope of who it was willing to consider so. By design therefore, fewer people would be able to fulfill the new criteria for legitimacy. The rest would necessarily swell the ranks of the fraudulent, vindicating the initial logic. This, despite officials noting that ‘control based on the genuineness of the marriage intention in fact has little numerical effect’.[23] And, ironically, despite the fact that immigration numbers had been steadily falling.[24] From a peak of 225,000 in 1967, the annual number of immigrants had remained consistently below 200,000, falling as low as 153,000 in 1983.[25] Net migration to Britain had been firmly negative until the early 1980s with more people leaving British shores than arriving. Not until the 1990s would the number of immigrants durably overtake that of emigrants.

Regarding immigration, former Home Office officials were quick to point out in interviews that ministers found it a ‘troublesome’, ‘thankless’ task it was ‘impossible to get

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[20] An interesting historical parallel might be made with the changing meaning of ‘common’ from something universal and widely-shared to something distinctly pejorative - and the power dynamics this semantic shift facilitated. See: J. Watt, ‘Public or Plebs: The changing meaning of “The Commons”, 1381-1549’, in *Power and Identity in the Middle Ages: Essays in Memory of Rees Davies,* eds. H. Pryce and J. Watts (Oxford: Oxford University Press, 2007), 242-60.

[21] ‘The criteria for disqualifying marriages undertaken merely for immigration purposes remain the same except that the onus will be on the applicant (and NOT, as at present, on the Entry Clearance Officer) to show that the tests in the Rules relating to mariages of convenience are satisfied.’ TNA, FCO 50/915, 1982.12.29, Tompkins (Immigration Service, HQ) to Forsyth (Heathrow Airport), ‘Message: Immigration Rules’. See also: R. Hansen, *Citizenship and Immigration in Post-war Britain: The Institutional Origins of a Multicultural Nation,* (Oxford : Oxford University Press, 2000), chapter 9 ‘Citizenship's Late Entrance: The British Nationality Act, 1981’.

[22] TNA, PREM 19/797, f138, 1979.11.01, Home Office to No 10, ‘White Paper on the Immigration Rules: Home Secretary’s Statement’.

[23] TNA, FCO 50/688, 1980.10.14, Partridge (Migration and Visa Department, FCO) to Jones (Nationality and Treaty Department, FCO), ‘Review of Immigration Rules’.

[24] TNA, FCO 50/682, 1980.03.11, *Daily Nation*, ‘Hot UK debate may alter immigration laws’.

[25] ONS, ‘Long-term Migration into and out of the United Kingdom, 1964-2019’, [https://webarchive.nationalarchives.gov.uk/20160519133304/http://www.neighbourhood.statistics.gov.uk/HTMLDocs/dvc123/index.html, accessed 5 May 2021].

right'. Despite her fiery rhetoric on the subject and her tendency to get involved in the particulars of most files, once in office, Thatcher was content to leave immigration very much alone. Aside from the thanklessness of legislating immigration, another reason for Thatcher's uncharacteristically hands-off approach might be, as some officials hinted, the balance struck with Willie Whitelaw. Whitelaw was a 'formidable', 'wily' political operator and a senior Party member. He was also a crucial support to the controversial and still untested Conservative leader. It would not have been in Thatcher's political interests to meddle in the affairs of one of her most powerful ministers, especially not at this early stage of her leadership.

This contrast between tough rhetoric and limited legislation again suggests that immigration might matter more as a 'meta-issue', a symbol drawing out emotions, rhetoric, and clashing definitions of nationhood, than it does in relation to any concrete, visible changes in policy.[26] This is all the more striking, perhaps, when one considers that for all the public anxiety immigration periodically stoked in Britain, the number of people actually entering remained remarkably stable. From the 1960s to the 1990s, the annual intake hovered around 200,000 people a year. Contrast with Germany, which experienced much more dramatic population shifts, or France, whose annual intake was substantially higher (Figure 1). The British obsession with numbers might therefore have been a way to attempt to rationalise what was essentially an emotional debate on other issues. One could argue that until the Eastern European accession in the twenty-first century, changes in British immigration policy tended not much to affect British society, to the extent intake remained stable and borders could never be fully sealed against what some officials admitted was an inevitable feature of globalisation. Policy did, however, affect the conditions under which people migrated and settled, whether regarding the manner of their voyage, or their ability to access social institutions, from work to welfare to citizenship, upon arrival.

'The primary purpose of the changes, as with earlier Rules', the head of the Foreign Office's Migration and Visa Department (MVD) reminded foreign posts, 'is to control immigration for long-term settlement and for work. It is particularly important, where major new restrictions are provided, to enforce them with regard to the primary purpose of control'.[27] As he stressed to his consular colleagues, 'there is, in fact, no change in the Government policy on immigration. It remains the Government's aim to restrict primary immigration … as tightly as

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[26] Faist, 'How to Define a Foreigner?'; C. Boswell, A. Geddes, and P. Scholten, 'The Role of Narratives in Migration Policy-Making: A Research Framework', *The British Journal of Politics & International Relations*, 13:1 (2011), 1-11.

[27] TNA, FCO 50/687, 1980.02.13, Partridge (MVD, FCO) to Heads of Chancery/Consular Officers at Entry Clearance Issuing Posts, 'Revised Immigration Rules'.

is consistent with humanity and the country's need for scarce skills.'[28] Given the controversy surrounding the new measures, however, he warned officials that critics would be 'seeking evidence that the restrictions the new Rules impose are absurdly severe and are being administered in a mindlessly bureaucratic way'.[29] He reminded officials that 'discretion exists' for 'genuine strong compassionate' cases and where 'rigid literal application of the Rules would produce unintended results.'[30]

The government's new rules were indeed subject to close scrutiny from across the political board, not least from within its own majority. In July 1979, barely two months after entering office, Conservative MP Tony Marlow laid down the challenge from the right, writing to the Prime Minister for a firmer stance on immigration.[31] In December, he wrote again, this time with the support of 30 other MPs. 'We believe that the measures so far announced are at best adequate', they wrote. 'Any further dilution would damage the credibility of the Government both within the Party and in the country are a whole.'[32] That same day, for precisely opposite reasons, Cyril Townsend, Conservative MP and PPS to Reg Prentice, Minister of State for Social Services, resigned.

Outside Whitehall, though the far-right National Front had been all but wiped out in the 1979 election, right wing pressure remained. The right-wing Monday Club pressured Thatcher for a policy of repatriation.[33] 'Under the cover of dimly-lit clubs', the Daily Mail reported, 'right-

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[28] Though one mightn't expect a civil servant to stress breaks with policy, this emphasis in continuity does stand in contrast with recognition of changes in other areas, such as the pressure on staff or resources. TNA, FCO 50/915, 1982.11.25, MVD Speaking note, 'FRG consular conference, Munich 2-3 December 1982, Revised Immigration Rules'.

[29] For fascinating ethnographies into how immigration policy is carried out on the ground, and the mix of suspicion, frustration, and arbitrariness, but also lethargy and nonchalance of low-level government functionaries, see: A. Spire, *Accueillir ou reconduire. Enquête sur les guichets de l'immigration* (Paris: Raisons d'agir, 2008).*;* A. Ellermann, 'Street-level democracy: How immigration bureaucrats manage public opposition', *West European Politics*, 29:2 (2006), 293-309; T. Eule, 'The (surprising?) nonchalance of migration control agents', *Journal of Ethnic and Migration Studies*, 44:16 (2018), 2780-95.

[30] TNA, FCO 50/687, 1980.02.13, Partridge (MVD, FCO) to Heads of Chancery/Consular Officers at Entry Clearance Issuing Posts, 'Revised Immigration Rules'.

[31] Thatcher MSS, THCR 2/1/4/77 f119, 1979.07.13, Tony Marlow MP to the Prime Minister.

[32] Churchill Archive Centre, Thatcher MSS, THCR 2/6/2/74, 1979.12.04, Gow to Thatcher, 'Copy of letter from Conservative party rebels on immigration'.

[33] A. Bevins, Political Correspondent, 'Maggie's warning on immigration', *Daily Mail*, 4 May 1981, p. 9, *Daily Mail Historical Archive*, [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/EE1862568397/DMHA?u=cambuni&sid=DMHA&xid=04c7a32c, accessed 14 May 2021].

wing extremists are using pop concerts to spread their message of hate.'[34] In France, where the far-right was more visible, 'the National Front has been exploiting the issue [of immigration] to considerable effect', and there was 'little doubt' that the French government was reacting to 'growing public concern about immigration'.[35] As a 1980 TREVI meeting noted, 'the activity of … the movements or groupings of neo-nazis is rising'.[36] And this despite the fact that immigrants broadly tend to contribute more in taxes than they cost in social services.[37] Indeed, unemployment remained high. In the UK, unemployment had jumped from 3.7% in 1974, to 5.4% in 1979, and 11.8% in 1984. For most of the 1980s, it would hover around 11%.[38] In France and Germany, unemployment rates followed the same pattern of increase and plateau as in the UK, though rates were lower (see figure 3).[39]

The two key 'problem areas' of immigration policy at the time were reducing the number of Commonwealth, and specifically South Asian, migrants, and cracking down on fraudulent marriages, that is, marriages whose true purpose was deemed to be immigration to the UK rather than companionship. The near-obsession with numbers, however imperfectly measured, had long been a focus of British immigration policy, as had the more or less explicit target of New Commonwealth (rather than Irish, Old Commonwealth, or European) migration. The focus

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[34] S. Kinnersley, 'How the racists recruit rock audiences', *Daily Mail*, 3 August 1981, p. 9, *Daily Mail Historical Archive* [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/EE1861871070/DMHA?u=cambuni&sid=DMHA&xid=2d8180e2, accessed 14 May 2021].

[35] TNA, HO 394/438, 1984.10.11, Fretwell (British Embassy, Paris) to Priority FCO, 'New French Immigration Measure'.

[36] '*Il y a une distinction à faire entre les mouvements d'extrême-droite de formation traditionnelle dont l'activité est en stagnation et les mouvements ou groupements néo-nazis dont l'activité est en recrudescence.*' AN, 19910302/1/2, 1980.12.01, Directeur Central des Renseignements Généraux au Directeur Général de la Police Nationale, 'Procès verbal de la réunion TREVI I à Luxembourg'. See also: Hansen, *Citizenship and Immigration in Postwar Britain*, p. 224.

[37] Bundesamt für Migration und Flüchtlinge, 'The Impact of Immigration on Germany's society', *European Migration Network* (2005), [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/illegally-resident/de-finalstudy-eng_en.pdf, accessed 13 May 2021], pp. 18-20; R. Rowthorn, 'The Fiscal Impact of Immigration on the Advanced Economies', *Oxford Review of Economic Policy*, 24:3 (2008), 560-80; C. Dustmann and T. Frattini, 'The Fiscal Effects of Immigration to the UK', *The Economic Journal (London)*, 124:580 (2014), F593–F643.

[38] ONS, 'Unemployment rate (aged 16 and over, seasonally adjusted)', [https://www.ons.gov.uk/employmentandlabourmarket/peoplenotinwork/unemployment/timeseries/mgsx/lms, accessed 5 May 2021].

[39] ONS, 'Unemployment rate (aged 16 and over, seasonally adjusted)'; WHO, European Health Information Gateway, 'Unemployment rate (%), [https://gateway.euro.who.int/en/indicators/hfa_29-0200-unemployment-rate/visualizations/#id=18836&tab=table]; OECD data, 'Unemployment rate' [https://data.oecd.org/unemp/unemployment-rate.htm#indicator-chart]. All accessed 5 May 2021.

on fraudulent marriages, meanwhile, was specific to the Thatcher government. Indeed, one of the new rules' main objectives, according to Willie Whitelaw, the new Home Secretary, was to 'limit severely the husbands and fiances being brought in from the Indian sub-continent under arranged marriages, which is the mischief we want to deal with'.[40] In a private note to Thatcher, he was careful to stress, however, that 'a British born girl who marries, say, an American or a man from the Old Commonwealth, will be able to live here with her husband if they choose.'[41] The crackdown on bogus marriages, while appealing to the public's sense of fair-play, and authenticity, therefore had a specifically racial target. Many Home Office officials found this aspect of policy particularly painful and distasteful - who were they to decide on a marriage's genuineness?

Indeed, the measures proposed by Whitelaw were the target of accusations of both racial and sexual discrimination - the proposed changes would make it harder for a British wife to bring her foreign husband to the UK, a change putting British women at a disadvantage in terms of their ability to live with their spouse; and South Asian men at a disadvantage in terms of being able to join their British partner.[42] A handwritten note in the margin of this letter to Thatcher (whose author remains unknown) reveals scepticism that the line the Home Secretary proposed to take could be sustained for long.[43] Some interviewees described the task of assessing a marriage's authenticity as 'dreadful' and 'impossible' - though it was one of the key policy worries at the time. According to one retired official, a French colleague, trying to understand how British immigration officers could possibly pass such judgements, quipped that 'your immigration officers must be much more intelligent than mine!'. Whitelaw, meanwhile, was confident that charges of racial discrimination could be 'in large part rebutted' by differentiating between a 'marriage freely entered into by to people making their own decisions and an arranged marriage where the partner is deliberately sought from abroad because of the financial and other advantages'. Eventually, however, the rules were tightened for everyone: 'in removing sexual discrimination', wrote one official, 'we shall also be removing

[40] TNA, PREM 19/797 f165, 1979.09.19, Whitelaw to Thatcher.

[41] TNA, PREM 19/797 f165, 1979.09.19, Whitelaw to Thatcher.

[42] A memo noted that 'It is still valid to regard men predominantly as bread-winners and women predominantly as dependants'. TNA, FCO 50/915, 1982.10.12, Pym (FCO/Whitehall Information Department) to Routine - Certain missions and territories, 'Immigration Rules'.

[43] The note read 'I doubt that this line can be sustained for long?'.

the covert racial discrimination in these provisions of the Rules. I think the Home Office may want this.'[44]

In the Foreign Office, this new focus was also greeted with circumspection, and was a source of tension with the Home Office. Ahead of Thatcher's visit to India in 1981, Lord Carrington, the Foreign Secretary, begged Whitelaw to relax his attitude towards UK passport holders (UKPH) in India.[45] 'Nothing would do more to promote the success of the visit', he wrote, 'than a favourable statement about UKPH in advance of the visit'. A £1 billion steel contract was at stake. British diplomats, meanwhile, kept their fingers on the pulse of the Indian Parliament and press: 'The rules have continued to attract fitful attention', an official in the New Delhi High Commission noted, 'though there have been no editorials on major leader page pieces.'[46] Such competing prerogatives ran all the way down the Foreign Office hierarchy: as the head of Migration and Visa Department noted, the 'requirements for the parties to a betrothal to have met … is a needless irritant and is not so easy to put in practice as it may seem', and amounted to 'covert racial discrimination'.[47] Removing it would be unambiguously beneficial 'so far as our interests in the sub-continent are concerned'.[48]

These policies caused some inter-departmental friction, for they were conceived by the Home Office but applied by the Foreign Office, which faced its own constraints: manpower and budget compressions; the low prestige of visa and immigration work; the disruption to internal career structures if too many low-level immigration officers were hired; not to mention diplomatic relations and commercial interests abroad.[49] In foreign posts where the outflow of migrants was perceived as especially high, the Home Office itself sent staff, sometimes up to 50% of a foreign post's manpower. This was a considerable step in the exporting of migration

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[44] TNA, FCO 50/688, 1980.10.14, Partridge (MVD, FCO) to Jones (NTD, FCO), 'Review of Immigration Rules'.

[45] Thatcher MSS, THCR 1/10/23 f71, 1981.03.26, Carrington (FCO) to Whitelaw (HO), 'UKPH in India'.

[46] TNA, FCO 50/682, 1980.03.14 and 1980.03.18, Cleghorn (British High Commission, New Delhi) to Revolta (FCO), 'The New Immigration Rules: Indian Press Comment'.

[47] TNA, FCO 50/688, 1980.10.14, Partridge (MVD, FCO) to Jones (NTD, FCO), 'Review of Immigration Rules'.

[48] TNA, FCO 50/688, 1980.10.14, Partridge (MVD, FCO) to Jones (NTD, FCO), 'Review of Immigration Rules'.

[49] Lengthy discussions regarding how the new immigration rules were to be applied in practice can be found in TNA, FCO 50/915.

controls abroad.[50] As the head of MVD was keen to remind consular officials, 'In carrying out visa work overseas, we are acting as agents of the Home Office in applying the Immigration Rules. It is not for us however to apply delaying tactics on their behalf as a matter of general policy. Posts should process applications as speedily as the normal flow of work permits leaving it to the Home Office to delay or defer decisions on referred cases as they may consider politic.'[51] This illustrates the beginning of an important shift, one which would accelerate until well into the twenty first century: the exporting of immigration controls, to which we return to this at the end of the chapter.

1.2. The EC angle

How did these policies square with Britain's EC membership? The tightening of British immigration rules was certainly in keeping with the tone of Thatcher's campaign promises. It was not, however, necessarily in keeping with Britain's European ones. In a note to Cabinet, Whitelaw acknowledged that 'there is a very real risk that the proposals on husbands will be found to contravene the European Convention on Human Rights'.[52] A fortnight later in Parliament, however, he stated the contrary: 'we believe the new Rules will not infringe our obligations of respect for family life or avoidance of discrimination or any other provision of the European Convention'.[53] Indeed, the European Convention on Human Rights was a rather toothless document. As the papers noted, 'in the past, violation of the convention has not led to sanctions against the country concerned, but the European Court could order compensation for successful applicants.'[54] Other member states had also had policies of dubious legality (such as Giscard's short-lived policy of forced returns).[55] As in Britain, however, the courts that

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[50] Though as Spencer shows, Britain applied pressure to India, Pakistan and the West Indies in the post-war years to regulate the departure of migrants, suggesting that 'remote control' largely pre-dates the 1980s. See: Spencer, *British immigration policy since 1939*, chapter 2, 'Immigration policy in practice, 1945-55'.

[51] TNA, FCO 50/915, 1982.11.25, MVD Speaking note, 'FRG consular conference, Munich 2-3 December 1982, Revised Immigration Rules'.

[52] TNA, CAB 129/207, 1979.10.16, Whitelaw to Cabinet, 'White Paper on the Immigration Rules'.

[53] TNA, PREM 19/797, f138, 1979.11.01, Home Office to No 10, 'White Paper on the Immigration Rules: Home Secretary's Statement'.

[54] TNA, FCO 50/682, 1980.03.11, *Daily Nation*, 'Hot UK debate may alter immigration laws'.

[55] P. Weil, *La France et ses étrangers : L'aventure d'une politique de l'immigration, 1938-1991,* (Paris: Calmann-Lévy, 1991), chapter 4, 'Les lois du retour, 1977-8'.

mattered were not European, but national.[56] The government's political calculation thus remained in favour of its restrictive new rules:

> It goes without saying that any restrictive measures in this field will encounter bitter criticism from certain interest groups and likewise that any proposals short of total prohibition will bring calls from some quarters for yet more to be done … The Home Secretary's judgement is that this proposal offers the best means of limiting really damaging criticism from a standpoint of both sex discrimination and racial discrimination, while meeting the Government's prime objective.[57]

The relative powerlessness of European institutions is here apparent. At no point did they change the direction of travel of British policy, not even inflect it. The only body to raise objections to the new rules was the European Parliament's Legal Affairs Committee, which noted 'with regret that the United Kingdom's new immigration rules contravene the [Convention]' and the 'principle of non-discrimination enshrined in Community law'.[58] The Committee recommended this be 'brought to the attention of the Council, Commission and Member States'. Member states, as we have seen, were loath to interfere with each others' policies, and by many measures France's policies under Giscard had formed a much more egregious breach.[59] So the Commission took up the mantle, having no choice but to follow up. In May 1980, the Director General of the Employment and Social Affairs Committee at the Commission wrote to the UK's Permanent Representative in Brussels, suggesting an informal meeting to discuss the changes. The letter included a paragraph by paragraph breakdown of items the Commission objected to, from the lack of explicit reference to Community law, to a rather too indiscriminate use of 'public good' as grounds for excluding EC nationals, a concept 'much more extensive than the notion of public policy and public security as mentioned in article 48 of the Treaty of Rome and in Directive 64/221/EEC'.[60] The Commission was, of course, 'asking for a re-write of much of the new Rules, both on matters of policy, and

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[56] This was the view expressed by interviewees, though Hansen argues that even then, British courts were comparatively weak. Hansen, *Citizenship and Immigration in Postwar Britain,* p. 237.

[57] TNA, PREM 19/797, f165, 1979.10.18, Chilcot (Private Secretary, HO) to Pattison, 'White Paper on the Immigration Rules'.

[58] TNA, FCO 30/4383, 1980.05.08, European Parliament Legal Affairs Committee, Draft report on the motion for a resolution tabled by Mr Seal and others on the UK Government's proposals for immigration controls (Doc. 1-479/79 and Doc. 1-9/80).

[59] Voluntary to begin with, these returns quickly became forced until various state bodies, from the central administrations to the *Conseil d'État*, rebelled. Weil, *La France et ses étrangers*, chapter 4 'Les lois du retour, 1977-8'.

[60] TNA, FCO 30/4383, 1980.05.13, Degimbe (DG Employment and Social Affairs, EC) to Butler (UK Permanent Representative to the European Communities).

editorially.'[61] Before any discreet compromise could be arrived at with the Commission, however, the European Court of Justice (ECJ) passed a judgement that would busy Whitehall for four years.

i. Ambivalent freedom of movement

Stanislaus Pieck was a Dutch national working as a printer near Cardiff. He had lived intermittently in the UK since 1973 but had never applied for an EC residence permit. In May 1979, 'he was charged with an offence under a.24(1)(b)(i) of the Immigration Act 1971 which makes it an offence for a person given limited leave to enter knowingly to remain beyond the time limited by the leave'.[62] If convicted, he risked deportation. Indeed, Pieck's six month leave of entry had expired in January of that year, and he had not applied to extend it. The defence 'relied on Article 48(a) of the Treaty and the provisions of Directive 68/360 to argue that the initial grant of six months leave to enter the UK and the requirement that he apply to have this leave extended were both incompatible with Community law.'[63] The case went all the way to the European Court of Justice, which on 3 July 1980, ruled in Pieck's favour.

According to Sir Hayden Phillips (head of the Immigration and Nationality Department from 1983 to 1986), however, the fact that the case went as far as the ECJ was less a testament to its significance - none of the civil servants I interviewed remembered the affair - than to European politics.[64] The British, with their possibly greater cultural respect for rules, were rarely found in infringement of Community law. In fact, the different cultural weight given to law-abiding behaviour was one source of much misunderstanding with Britain's Continental partners, not least during the protracted and often fraught budget negotiations.[65] Other members states, such as France, or especially Italy, had a much more cavalier approach to

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[61] TNA, FCO 50/687, 1980.06.13, Note on 'New Immigration Rules and the EEC'.

[62] TNA, HO 394/437, 1981.06.12, Note to Members of the Technical Committee: The Pieck case - the decision and its implications on the question of entry formalities in the European Community (Case 157/79) by DG Employment and Social Affairs.

[63] TNA, HO 394/437, 1981.06.12, Note to Members of the Technical Committee: The Pieck case - the decision and its implications on the question of entry formalities in the European Community (Case 157/79) by DG Employment and Social Affairs.

[64] Sir Hayden chaired a monthly *Infractions* meetings in the Commission, which decided which cases would go to the ECJ. It was occasionally necessary to 'try to find the odd UK case to balance the great weight from the "serial offenders"'.'

[65] For an insider account of Britain's relationship with the Community from the 1970s to the 1990s, see: Wall, *A Stranger in Europe.* For general observations about the British approach to rules, see Kate Fox's *Watching the English : the Hidden Rules of English Behaviour* (London: Hodder, 2005).

Community rules, and were often before the Court. To maintain the appearance of neutrality, it was therefore necessary that Britain should periodically appear before the ECJ too. The Pieck case should therefore not be understood as a major ordeal that reshaped immigration policy (which it did not). It was more an attempt, in Europe's highest court, to balance appearances - and one which was revealing of some aspects of the UK's relationship to Europe at that.

The case highlighted the fundamental ambiguity of an open-ended political project, and the ambiguous definition of free movement that derived from it. Indeed, the Pieck case hinged on the fact that under the Treaty of Rome, not all EC nationals were entitled to the freedom of movement: only workers, those intending to seek work, or those setting up in business were entitled to move, unconditionally and unencumbered, to another member state, where they might remain for three months. After that, they would be subject to residence or work permits, according to each state's own legislation. Freedom of movement was thus ambiguously defined as being unconditional - but for workers only. The practical definition of who was or was not a worker remained fuzzy, especially as work *seekers* were included. What was clear was that freedom of movement was tied to one's status as a worker. It was not the free movement a contemporary reader might associate with students, retirees, shoppers, or commuters. 'Despite what many people believe to be the case', wrote a government lawyer, 'there is no general right for nationals of one EC country to reside in another such country.'[66] In practice, this change in the very concept of free movement was already underway, as Continental member states tended to be lax towards other member state nationals. It accelerated after the passage of the Single European Act in 1986, to which we return below.

The first step the Home Office took was to consult with other member states, asking European capitals 'what the views of their immigration control authorities are on the Pieck judgement', once again illustrating how much more collegiality mattered than formal institutions.[67] The Minister of State at the Home Office sought bilateral meetings with his French and German counterparts.[68] As a senior HO official wrote, 'the court's decision came as a complete surprise to us' and 'shows how difficult it is for Continental lawyers to understand our system of control and how little sympathy many of them have for it'. This lack of understanding for a fundamental difference - the UK's status as an archipelago, with a light-touch system of internal control that derived from its ability to effectively police its natural borders - was a recurring grievance of British officials.

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[66] TNA, FCO 30/5702, 1983.01.21, Chamerlain (Legal Counsellor) to Grewe (FCO), 'Miss S B Morgan'.

[67] TNA, FCO 30/4383, 1980.07.14, Young (HO) to Shearer (FCO), 'European Court Judgment: Pieck'.

[68] TNA, FCO 30/4383, 1980.07.03, Carrington (FCO) to EC capitals, 'Immigration procedures'.

Briefs on the immigration policies of its EC neighbours seem to have been a secondary but useful input in devising the UK's own policies (or what inflection to give the practical application of these policies). As we saw when the Pieck judgement fell, the Home Office planned to discuss the ‘very serious and wide-ranging implications’ for the British government ‘with the lawyers’. First, however, it asked the Foreign Office to take the temperature at other European capitals to glean ‘what the views of their immigration control authorities are’.[69] Britain was mindful not to be too out of step with its European partners and in 1980, 1983 and 1984, the Foreign Office chased its posts for feedback. Had the Pieck judgment had an effect? If so, how? If not, why not?

Nonetheless, the government could use the opportunity of being summoned by the Commission to ‘cut formalities as far as possible’.[70] At first, British officials were certain the Pieck judgement had ‘far-reaching effects and indeed undermine[d] the whole basis of the UK system of immigration control over EC nationals’.[71] Under UK law, all non-patrials required leave to enter the UK - even though this was practically automatic for EC nationals ‘exercising their Treaty rights’. According to the Treaty of Rome, however, no entry formalities beyond the production of a valid passport or identity card could be asked of EC nationals coming to work. Home Office officials referred to this informally as the ‘Bangamon wave’, whereby European citizens had only to wave their passports, not open them, to be let through. However, the Court ruled that the practice of handing out form IS 120, stamped and dated, constituted ‘an entry visa or equivalent’.[72] It also ruled that deportation or imprisonment for EC nationals in violation of their (employment-related) right to stay in a member state ‘would always be disproportionate’.[73]

As the Home Office saw it, its options were to (i) ‘go the whole way by deciding to let EC nationals in without any leave to enter and free of any conditions’ which would require a change in the Immigration Rules and would also leave authorities without the means to sanction ‘scroungers from EC countries who come here with no intention of working’; (ii) amend the Immigration Act 1971 using the European Communities Act 1972, being mindful of the ‘leave to enter phraseology’; (iii) revise the IS 120 form handed to new arrivals - ‘we might

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[69] TNA, FCO 30/4383, 1980.07.14, Young (HO) to Shearer (FCO), ‘European Court Judgement: Pieck’.

[70] TNA, HO 394/437, 1980.07.11, Angel (HO) to Boys-Smith (HO), ‘Immigration Control of EC nationals: European Court Judgement in Case of Pieck’.

[71] TNA, HO 394/439, 1980.08.07, HO paper, ‘Pieck’.

[72] TNA, FCO 30/4383, 1980.07.03, Carrington (FCO) to EC capitals, ‘Immigration procedures’.

[73] TNA, FCO 30/4383, 1980.07.03, Carrington (FCO) to EC capitals, ‘Immigration procedures’.

be able to do this by devising a wording which in effect distinguishes workers and others cleared covered by the Treaty from the rest.'[74] Appealing or refusing to comply do not seem to have been envisaged at all.

There followed many letters between the Commission and the UK's Permanent Representation in Brussels (UKREP); between UKREP and the Foreign Office; between UKREP and the Home Office; the Home Office and the Foreign Office; the Home Office, the Foreign Office, and their lawyers. Whitehall and Commission officials met in September 1980, and again in November. They met in 1983. Between 1980 to 1984, Whitehall sent numerous calls out to its EC posts, requesting 'renewed efforts' for feedback.[75] Surely the Pieck judgement had far-reaching effects in the rest of Europe too? How did the others manage EC nationals' access to benefits?

A key dimension of the case was the lack of clarity inherent in the European project, and the very varying interpretations emerging as a result. Indeed, the Community's ultimate goals are 'a continuous and balanced expansion' and 'closer relations between the States belonging to it'.[76] One reading of Pieck, certainly the British one, was that Britain was applying EC rules, albeit perhaps too literally. According to Council Declaration 1451/68, member states could terminate the stay of an EC national who had failed to secure employment within three months of arrival. Should an EC national become a charge on public funds, the state would be within its right to ask the person to leave. 'These various provisions show that entry for the purpose of exercising free movement Treaty rights was *never intended* by the Member States to carry with it immediate indefinite stay.' [emphasis added][77] But this interpretation conflicted with another set of Community rules, namely Article 48 of the Treaty of Rome, which 'establish rights of freedom of movement of workers and enable regulations and directives to be made … subject to limitations justified on the grounds of public policy, public security and public health'.[78]

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[74] TNA, HO 394/439, 1980.08.07, HO paper, 'Pieck'.

[75] TNA, FCO 30/4384, 1980.12.05, Replies from EC capitals following Pieck (second approach by FCO); TNA, HO 394/438, 1983.05.18, Kellas (HO) to Grewe (FCO), 'Implication of the Pieck judgement'; TNA, HO 394/438, 1984.08.22, Young (FCO) to Bonn (copied to all EC capitals), 'Immigration control of EC nationals: Implications of the Pieck judgement'.

[76] Treaty of Rome (1957), article 2.

[77] TNA, HO 394/437, 1983.05.31, Kellas (HO) to Blake (Citizens Advice Bureau).

[78] TNA, FCO 30/3967, 1978.02.xx, Memorandum by the HO, 'Enquiry into the effect of the United Kingdom's membership of the EEC on immigration and race relations'.

More importantly, perhaps, was the domestic pressure British officials were under to be seen to be clamping down on perceived abuses. Indeed, key features of Thatcherism were the worry about the deservingness of recipients of public payments and the rhetorical divide between genuine and fraudulent need. This pressure was not solely targeted at immigrants: government officials, British nationals, EC nationals, and of course, would-be immigrants. In Whitehall, memos frequently stressed that 'every department is feeling the squeeze on its manpower resources as a result of the Government's determination to cut public spending.'[79] This tougher, more repressive turn, was mitigated, rhetorically at least, by the idea that those who came through were more meritorious for having done so without government interference. Harsh rhetoric was therefore not limited to immigrants. On the contrary, it represented a broader shift in attitude, one paralleled across the Atlantic by Reagan.[80] The deserving/undeserving dichotomy was a useful rhetorical tool to justify what ultimately represented a loss of public services and the deepest recession since the Great Depression.[81]

The link between domestic hardship and immigration scapegoat as well as the importance of keeping up appearances as far as the EC was concerned are neatly summarised in a memo from the Home Office to the Commission below:

> My Government is however concerned that there should be effective measures to prevent abuses of our provisions for public assistance to those unable to support themselves. This concern is at least as much about abuse by UK citizens as by foreign nationals, *but if my Government's measures are to be effective, we must be seen to be making some effort to exclude the small minority of foreign nationals* who arrive at points of entry without any serious interest in work and with the intention of living off public funds for the duration of their stay in the United Kingdom. I am sure that you will agree that *it would be unfortunate if there were a widespread impression that the Community's rules promote opportunities for such abuse* of public funds. [emphasis added] [82]

The key concern was one of optics, and foreign nationals and the EC were already - if not scapegoats - then under closer, deliberate scrutiny. Once again, we see that the shift towards repressive immigration policies did not take root solely or even primarily in European

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[79] TNA, FCO 50/688, 1980.xx.xx, Harrison (Migration and Visa Department, FCO) to Ramsden (British Embassy, Hanoi), 'UK visas'.

[80] S. Farrall, N. Burke, and C. Hay, 'Revisiting Margaret Thatcher's Law and Order Agenda: The Slow-burning Fuse of Punitiveness', *British Politics,* 11:2 (2015), 205-231.

[81] D. Needham, *UK Monetary Policy from Devaluation to Thatcher*, *1967-82* (Basingstoke: Palgrave Macmillan, 2014).

[82] TNA, FCO 30/4383, 1980.04.23, Angel (HO) to Shearer (FCO), 'Immigration Procedures'.

security circles, but had origins in hardening domestic approaches to immigration.[83] Though Huysmans claims that 'the security continuum emerged first of all from professional and political cooperation in the area of internal security in Europe', and Guiraudon argues that semi-official trans-governmental fora such as TREVI allowed interior ministry officials to 'escape domestic constraints' and 'define immigration as requiring policing solutions', it seems that whatever role security professionals played was carried out against the backdrop of a much broader repressive turn, one that impacted nationals and foreigners alike, and one whose origins were not solely located in interior ministries.[84] In France, we recall that the more repressive logic applied to immigrants also had roots in the Treasury, whose emerging budgetary orthodoxy crystallized 'immigrant' as a separate category from say 'worker', 'parent', or 'taxpayer', a category it was increasingly unwilling to fund.[85]

Given such an ill-defined end goal, principles contradictory in both theory and practice, not to mention domestic political pressure, what were British officials to do? Pressure came not from other member states - France in particular was often as reticent as Britain regarding Commission interference in border and immigration issues - but from the Commission itself. The British government was wary of Commission creep, describing a 'growing concern about the dynamic and evolutionary interpretation which the Strasbourg organs (particularly the Commission) have put on the Convention … [This] highlight[s] the extent to which the acceptance of international obligations may often have the unavoidable consequence of limiting the freedom of action of national bodies.'[86] In practice, however, the freedom of these British bodies was not limited.

Unlike foreign or trade or agriculture departments, which were ever mindful of the European dimension of their work, interior ministries were professionally inclined to focus on *domestic* law and order, and were largely allowed to do so. As a former HO official put it, the EC simply 'did not feature a great deal in Home Office thinking'. Immigration was not a

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[83] For examples locating the origin of repressive policies in security circles, see: Huysmans, 'The European Union and the Securitization of Migration'; Guiraudon, 'Vertical Policy-making as Venue Shopping'; D. Bigo, 'Security and immigration: toward a critique of the governmentality of unease', *Alternatives*, 27 (2002), 63-92; Guiraudon, 'Les effets de l'européanisation des politiques d'immigration et d'asile'.

[84] '*les forums de coopération intergouvernementale permettaient d'échapper aux contraintes nationale*s'; '*Ces derniers [fonctionnaires de l'Intérieur] purent ainsi définir l'immigration comme exigeant des solutions policières et évincer les autres points de vue'*. Guiraudon, 'Les effets de l'européanisation des politiques d'immigration et d'asile', p. 13.

[85] Laurens, *Une politisation feutrée*, p. 116.

[86] TNA, CAB 129/210, 1980.11.05, Whitelaw and Carrington to Cabinet, 'C(80)66: European Convention on Human Rights'.

European priority, and belonging to the EC did not change British policy in the area. Indeed, for all that the Pieck case generated a lot of paper, though it highlighted the ambiguities of the concept of free movement as well as different cultural attitudes to rules - for all this, Pieck was insignificant in terms of policy. The upshot of the sound and fury was a minor textual amendment to the IS 120 form and instructions to local police officers that 'prosecutions for offences of this [immigration] nature should not be brought against any EC nationals'.[87] In June 1983, after many letters back and forth on the width of the line separating sections 2 and 3 of the form, but also some redrafting by British officials to refer to Community law more explicitly, the Commission declared it had 'no objection to the text of the new Immigration Rules … The Commission intends therefore to close the current infringement proceedings'.[88]

ii. Europe in British immigration policymaking

Returning to the UK's overall priorities and grievances with respect to Europe. As former diplomat Stephen Wall describes in *A Stranger in Europe*, the UK's priorities regarding the EC were a reduction in budget contributions and reform of the Common Agricultural Policy (CAP). More broadly, the UK sought to promote enlargement and a broader, rather than deeper, union. Enlargement, so the received British wisdom went, would not only dilute Franco-German influence, but would also preclude any federalist tendencies. Far from permanently being the 'awkward partner', the UK was also a key driver of the Single European Act (SEA), which updated Community rules to make the four freedoms a reality.

Yet there were recurring grievances: the UK's budget contribution, CAP reform. As Wall shows, there were many reasons behind the seemingly chronic misunderstandings and complaints between the UK and its partners.[89] First, the UK's having missed the opportunity to be a founding member of the Community. This missed opportunity meant the UK did not have a hand in shaping core EC institutions, institutions which therefore were not designed to accommodate its unique features such as being an archipelago (for matters of immigration and border control), or having a relatively smaller agricultural sector compared to the big EC countries (particularly thorny when it came to the CAP). Second, and perhaps more significantly, the root of many misunderstandings was that the UK's approach to the Community was above all pragmatic. British politicians, and to a lesser extent officials, could

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[87] TNA, HO 394/437, 1980.09.30, Angel (HO) to the Chief Officer of Police, 'Home Office Circular No 96/1980'.

[88] TNA, HO 394/437, 1983.06.05, Degimbe (DG V, European Commission) to Butler (Permanent Representative of the UK to the EC). Interestingly, the same note is also to be found in FCO 30/5702.

[89] Wall, *A Stranger in Europe*.

conceive only with difficulty (when they did so at all), that for all the sometimes cynical political maneuvering of its partners, they were also genuinely animated by a profound, idealistic, moral commitment to the European project.

That said, in immigration and border matters at least, the other member states emerge in a positive light from British archives; and the Pieck case reveals the contrast between Britain's regard for other member states, versus the frustration, if not contempt, of dealing with the Commission. Regarding the other member states, the archives show a genuine interest from the British government - from ministers to middling civil servants - to be both informed, and where possible, in step, with their European counterparts. The 'FCO have circulated other EC capitals asking how they react to the judgement', wrote a senior Home Office official to the Cabinet Office, 'it will be important to collect these views together and consider them before we go any further.'[90] Repeated efforts were made by British diplomats in European capitals to obtain detailed information about immigration control in their respective countries, down to the minutest particulars.

What transpired from these soundings, however, was that Continentals had a much more relaxed attitude to the presence of EC nationals on their soil than did Britain, and seem to have accepted a degree of flexibility as part and parcel of Community membership. To begin with, EC workers usually received benefits along much the same lines as a country's own nationals. Continental authorities, though they might eventually require EC workers to apply for residence or work permits in theory, in practice did nothing but issue the occasional fine if they failed to do so. The Italians, for instance, would consider 'neither extradition nor imprisonment' where a 'failure to comply with requirements was due simply to negligence.'[91] In Luxembourg, 'Community workers have an absolute right to live and work in all other Member States'.[92] In Germany, EC nationals required neither the *Aufenhaltserlaubnis* (residence permit) nor the *Ausweis* (identity card) to enter.[93] Furthermore, renewal of the 5-year residence permit would not be adversely affected by unemployment. As Favell shows, the relative invisibility of Western European, as opposed to extra-Community and later Eastern European, migrants persists to this day: 'Immigrant' is a designation reserved for the global South.[94]

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[90] TNA, HO 394/437, 1980.08.07, Angel (HO) to Brown (CAB), 'Pieck'.

[91] TNA, FCO 30/4383, 1980.07.31, Rome to FCO, 'Immigration Procedures'.

[92] TNA, FCO 30/4383, 1980.08.01, Luxembourg to FCO, 'Immigration Procedure'.

[93] TNA, FCO 30/4383, 1980.08.05, Eastwood (British Embassy, Bonn) to Shearer (FCO), 'Free movement of Labour'.

[94] Favell, *Eurostars and Eurocities*.

Britain's somewhat grudging attitude to the presence of EC nationals on its soil cannot be attributed merely to aloofness or Euroscepticism (which at the time, was more the purview of the wings of each party). Of course these discussions were taking place against the backdrop of protracted debates on Britain's EC budget contribution. But for immigrations issues at least, too much sincere effort was put into discussions with the Commission and other member states for scepticism to credibly account for British positions. Rather, Britain's approach can best be explained by the fact that its tradition of border control was precisely that - one of border, rather than inland, control. Britain's entire system of border and population control had evolved from its lack of land borders.[95] Continental states, used to porous, changing borders, compensated with strong internal police powers that a British public would be unable to stomach.[96] Another important aspect, often stressed by interviewees, was a different cultural attitude to rules. Whereas in Britain they were taken seriously and applied, Continentals were markedly less concerned, leading to much looser interpretations of what constituted Treaty rights. Finally, Britain was increasingly espousing a model of small government, with expenses tightly monitored, and welfare spending reframed as profligate.

It must also be noted that on the broader issue of Commission interference, Britain's attitude was by no means an outlier: though it sought to apply (certain) EC provisions more narrowly than its partners, Britain's reluctance to see the Commission interfere too directly was widely shared, as in this scathing French echo below:

> [The Commission's] ambition holds an ambiguity between an objective, which can be shared across member states, and the practical measures of application, which we cannot consider accepting, namely the rampant communitarisation of problems of equality of treatment between nationals and non-Community third country nationals, problems that are the prerogative of each individual member state in the context of bilateral agreements … The approach according to which a "migration policy at the European level can be gradually built as an integral part of the Europe of citizens" is not acceptable in its current form … The Commission's approach in fact

[95] Of course the UK shares a land border with the Republic of Ireland. However, as we shall see, the Irish border and the movement of Irish citizens were considered more domestic than foreign.

[96] The ill-fated Identity Cards Act (2006) was scrapped in 2011, and the main database destroyed.

> only increases the latter's competencies … specific problems are already dealt with in the appropriate legal framework on the basis of European Council decisions.[97]

In contrast to member states, which emerge from reports as equal, mostly respected partners, the Commission appears terribly. 'Tiresome'; 'high farce'; 'difficult'; 'rather depressing'; 'rigidly legalistic'.[98] These are the words British officials used to describe their meetings with the Commission. The archives show the British meticulously prepared their case; the Commission, meanwhile, had mounted their assault 'without, apparently, any reference to earlier correspondence'.[99] The Commission man in charge of discussions freely admitted that the Pieck judgement was a 'technical disaster' and that the Commission's left hand did not know what the right was doing: DG III (Internal Market and Industrial Affairs) had handled the case, 'without consultation' with DG V (Employment, Social Affairs and Education).[100] Commission lawyers regarded it 'as dealing with a mere technicality and did not seem able to comprehend its significance for the UK's immigration and legislation and control system'. 'It is dismaying', a Home Office official concluded to his superiors, 'that our procedures and policies can be at the mercy of this level of competence and comprehension'.[101]

Leaving aside the question of competence, the disagreement highlights the nearly ontological gap between both parties. For the Commission, the Treaty guaranteed the free movement of workers to which all other claims were secondary. 'Too much discretion to the

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[97] '*cette ambition recouvre une ambiguité entre un objectif qui peut être partagé par les Etats-membres et des modalités d'application que nous n'envisageons pas d'accepter, à savoir la communautarisation rampante des problèmes d'égalité de traitement entre ressortissants nationaux et ressortissants d'États tiers à la Communauté, problèmes de la compétence de chaque Etat-membre dans le cadre de conventions bilatérales… L'approche selon laquelle "une politique migratoire au niveau européen peut se façonner graduellement comme partie intégrante du progrès vers une Europe des citoyens" n'est pas acceptable en l'état … L'approche de la Commission tend en fait à accroître les compétences de cette dernière … différents problèmes spécifiques sont traités dans un cadre juridique approprié sur la base d'une décision du Conseil Européen.'* FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1985.03.26, Secrétariat Général du Comité Interministériel pour les Questions de Coopération Economique Européenne, 'Transmission: 'Orientations pour une politique communautaire des migrations'.

[98] TNA, FCO 30/4383, 1980.09.15, Mackley (UKREP EC) to Youngs (HO), 'Immigration Rules etc'; TNA, HO 394/437, 1983.03.29, Soden to Lane, 'Meetings with the European Commission: 25 March 1983'; TNA, FCO 30/4383, 1980.11.20, Youngs 'Note of a meeting held in Brussels on 14 November 1980: EC: Immigration Control Matters'; TNA, FCO 30/4383, 1980.11.20, Youngs 'Note of a meeting held in Brussels on 14 November 1980: EC: Immigration Control Matters'.

[99] Namely a 1978 letter in which Britain addressed many of the points being raised. TNA, HO 394/437, 1980.09.29, Note by Youngs 'of a meeting held at the Home Office on 26 September 1980'.

[100] TNA, HO 394/437, 1980.10.01, Angel (HO) to Brown (CAB), 'Pieck'.

[101] TNA, FCO 30/4383, 1980.11.20, Youngs 'Note of a meeting held in Brussels on 14 November 1980: EC: Immigration Control Matters'.

immigration officer … [would render] an absolute right discretionary'.[102] For the British, meanwhile, Commission proposals produced a 'practical absurdity' whereby an EC national's 'simple self-declaration' that they would seek work was be enough to admit them, though facts may warrant their deportation the next day.[103] Reporting upwards to the Cabinet Office, the Home Office wrote that 'As in the past, we found the Commission people to be operating on a different wavelength and being either unable or unwilling to see beyond the words on a piece of paper to the practicalities or political implications behind them.'[104] Furthermore, British officials suspected that 'some of the antagonism springs from the personal attitude of the present Commissioner, Mr Vredeling, who is sore because of our opposition to his directive on illegal employment.'

Underpinning much British worry was the emphasis, in British politics, of cutting down on public spending. Many government outlays were being reduced or recast as wasteful. The archives, as we have seen, are rife with references to resource squeezes and the need to cut costs. 'Euroscroungers', however insignificant their actual numbers, were therefore a logical target, another illustration of how important it was for immigrants to be beyond reproach at a time of bitter domestic reform.

> It was not in the interests of the Community for Directives to be interpreted in ways which had ludicrous results. *For public opinion in Britain to learn that the Community meant in practice that Community nationals could not be prevented from coming here to live off public funds would be most damaging*. [emphasis added][105]

As the earlier Home Office memo also showed, this meant that foreigners - EC or other - had to be exemplary: no one could be perceived as benefiting from the public purse who was not unambiguously entitled to do so. This worry does not seem to have been shared by other states at the time.

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[102] TNA, FCO 30/4384, 1980.11.20, Youngs, 'Note of a meeting held in Brussels on 14 November 1980: EC: Immigration Control Matters'.

[103] TNA, HO 394/437, 1980.09.29, Youngs 'Note of a meeting held at the Home Office on 26 September 1980'.

[104] TNA, FCO 30/4383, 1980.11.25, Angel (HO) to Brown (CAB), 'EC: Immigration Control Matters'.

[105] TNA, FCO 30/4384, 1980.11.20, Youngs, 'Note of a meeting held in Brussels on 14 November 1980: EC: Immigration Control Matters'.

Despite this, an internal report on the effects of EC membership on immigration found that 'the effects of this policy on intra-community migration has been inconclusive'.[106] Indeed, free movement 'added no significant extra impetus to the volume of migration', though in some countries it did produce a substitution effect, with a larger proportion of EC, rather than extra-Community, migrants. Wage differentials, the report found, 'prove a far stronger incentive … [than] the abolition of formal restrictions'.

Thus British immigration policy from 1979 onwards did not suddenly change course, nor did British officials suddenly wholeheartedly embrace suggestions from Brussels. On the contrary, the most striking feature of British policy at the time is that it stayed - amplified, even - its chartered course of reducing access for New Commonwealth nationals, but that it also made some efforts to be seen to comply to the European project, though this compliance was very much a matter of style rather than substance. To the extent officials were mindful of adverse reactions abroad, they were worried about diplomatic and commercial fallouts with Commonwealth governments; mindful of being seen as a constructive partner in the Community; and hardly bothered about EC institutions at all. The nation state remained as relevant as ever.[107]

British immigration policy was therefore conducted largely independently of direct European influence. Things European featured more prominently in policy notes than in the memories of senior Home Office officials: There were many minutes concerned with Europe, but few, if any, substantive changes. The ECHR was only semi-effective, with states preferring the odd fine to any review of policy. The European Parliament was all but invisible, an occasional irritant. The Commission, the most powerful of Community organs, while frequently accused of overstepping its mark and seeking to extend its remit, did so cautiously and to little effect. The most powerful force was not official European institutions. It was other member states who harboured the same protectiveness of their own sovereignty they expected others to have. That, as well as the fact each state's immigration woes, though similar, were not yet perceived as interconnected, meant that other member states exerted virtually no pressure on Britain at all. How then did the policies of member states converge towards the Dublin Agreement of 1990, and the incorporation of immigration into the EU's Justice and Home Affairs pillar in 1992?

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[106] TNA, FCO 30/4383, 1980.05.15, Home Office Research Unit, 'Work Permit Migrants: An analysis of the nature of migration from Greece, Spain, Portugal and Turkey (revised copy)'.

[107] A. Milward, *The European Rescue of the Nation-State* (London ; New York: Routledge, 2000).

II. Converging European concerns

The following section examines the common, structural concerns facing Western European states and how the repeated interactions of officials facilitated the emergence of a largely unplanned, but mutually-reinforcing, common approach to immigration.

2.1. Specific differences

Until now, European member states had conducted their immigration policies very much independently from one another. As British officials were at pains to stress to a Mrs Susan Sumner, unhappy with having her passport requested by the French hotelier during dinner:

> The UK had its own system of immigration control … which, because we are an island, operates at points of entry in contrast to the French who favour a system of internal checks. *We would react strongly if the French were to interfere with our system and we therefore do not attempt to interfere with theirs.* Nor is the Community empowered to act in this sphere as the Treaties contain no universal or unrestricted provision for freedom of movement. [emphasis added][108]

Indeed, the Treaties only applied under certain conditions, though as the numerous letters to the Foreign Office show, this confused many people. Yet the reply of the British government to the myriad queries and complaints it received was invariably that same: to reaffirm the sovereign right of states to conduct their border and immigration policies as they saw fit. This was the case behind the scenes too, where for instance the French were understanding of the fact - more so than the Commission - that Britain's island history made for a different system of population control which they had no intention of trying to influence.

In addition to this mutual respect for each other's sovereignty in immigration matters, each state had its own geography; its own history; its own foreign policy goals; its own special friends abroad. The combined weight of these precluded a common approach.

Denmark, for example, was part of both the EC and the Nordic Union. Were intra-EC frontiers to be abolished, 'undesirables' could enter the EC via whichever Nordic state possessed the laxest visa regime. Finland was part of the Nordic Union, but not the EC, and did not require visas of Bulgarians, Hungarians, Poles, Rumanians or Czechoslovakians.[109] These nationals could enter Finland, and therefore Denmark, and thence the EC, unimpeded -

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[108] TNA, FCO 30/5702, 1983.11.02, Draft reply from Bone (FCO) to Maloney (PM's Office).

[109] These countries were still behind the Iron Curtain; migrant flows would have been minimal. Still, they worried the head of French border control.

a powerful argument the French chief of border police used against the removal of border controls.[110] Conversely, the French were the only ones not to require visas of Cubans, a problem for those Community partners who did.[111]

When the Germans, desperate to halt Turkish immigration, imposed visas for the first time and France followed suit, the British, whose own Turkish population was small, refrained. (This also allowed Britain, as far as Turkish public opinion was concerned, to 'remain on the side of the angels'.)[112] A British diplomat in Bonn noted two points 'which had not previously dawned on me' and illustrate the complexity of each country's web of historical ties and geopolitical interests, and how these tied into immigration. These were first, that the Turkish minority was 'a factor behind German pressure for Western economic aid to Turkey'; second, 'the substantial helot class which already exists in the form of foreign workers'.[113] Indeed, the *Gastarbeiter* problem was 'one of the main reasons why the Germans settled on aid to Turkey as their main contribution to Alliance burden-sharing post-Afghanistan.'[114] There could be 'no doubt that the Federal German authorities have a direct interest in helping to revive the Turkish economy and so to reduce the incentive for Turks to come … search for work.'[115] This was certainly true for Germany, but neither France nor Britain had any specific interest in Turkey.

Thus while Britain, France, and Germany shared a common desire to limit immigration, the question of *which* immigration should be limited, and how, depended on the particular circumstances of each. 'French immigration problems … developed for historical reasons'.[116] Italy's illegal immigrants came from Somalia and Ethiopia, former colonies. Britain had the Commonwealth and Ireland. A French note summed it up:

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[110] AN, 19910302/1/2, 1979.03.20, Chef du Service Central de la PAF au Directeur Général de la Police Nationale, 'Conférence des Hauts Fonctionnaires (TREVI)'.

[111] AN, 19910302/1/2, 1979.03.20, Chef du Service Central de la PAF au Directeur Général de la Police Nationale, 'Conférence des Hauts Fonctionnaires (TREVI)'.

[112] TNA, FCO 98/971, 1980.10.24, Laurence (British Embassy, Ankara) to Adams (Assistant Under-Secretary of State, FCO), 'Visas for Turks'.

[113] TNA, FCO 50/687, 1980.08.18, Bullard to Western Europe Department (FCO), 'Immigration in the FRG'.

[114] TNA, FCO 98/971, Not dated, British Embassy in Bonn to Lord Carrington (FCO), 'Immigration in the Federal Republic of Germany: The Gastarbeiter Problem'.

[115] TNA, FCO 98/971, Not dated, British Embassy in Bonn to Lord Carrington (FCO), 'Immigration in the Federal Republic of Germany: The Gastarbeiter Problem'.

[116] TNA, FCO 50/687, 1980.07.22, Gatty (MVD, FCO) to Adams, 'Visa policy'; TNA, HO 394/438, 1984.10.09, Bridges (Rome) to FCO, 'Easing of Frontier Controls on EC nationals: Immigration consequences'.

> When one says that in France like in Germany, the integration question is an old one, that it concerns primarily a strong core of non-Europeans, here North African, there Turkish, both steeped in Islam; that we find the same difficulties: rejection, ghettoes, unemployment, generational conflict, youth delinquency, and the same importance, too often forgotten, of economic flows towards the countries of origin, when one has said all this, one has said virtually nothing that is directly transposable or imitable.[117]

The British put it more succinctly: 'From an historical perspective the pattern of migration for each of these three countries [the UK, France and Germany] is significantly different'. There are 'geographical constraints inherent in intra European migration.'[118] The weight of each member state's history and geography therefore bore down too heavily for any real cooperation to be envisaged. How could a common policy possibly accommodate all of this?

2.2. Structural similarities

In both Britain and France, and Germany too, immigration - used as a confused shorthand both for incoming immigrants and their second and third generation offspring - had settled in the landscape as a public policy problem, one which transcended traditional left-right political divides.[119] Despite coming from opposite ends of the political spectrum, for instance, the immigration policies of Thatcher and Mitterrand differed more in emphasis than substance. Thatcher came to power promising to put the house in order: new or clandestine immigration was a threat to the British way of life, to already widespread unemployment, and, ultimately, to the peace and security of immigrants themselves.[120] Mitterrand, on the other hand, was

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[117] '*Quand on aura dit qu'en France comme en Allemagne, la question de l'intégration est posée depuis de nombreuses années; qu'elle concerne avant tout un fort noyau de population non-européenne, ici maghrébine, là turques, toutes deux imprégnées d'islam; que l'on retrouve les mêmes difficultés: rejet, ghetto, chômage, conflits de générations, délinquance des jeunes, et la même importance, trop souvent perdue de vue, des flux économiques vers les pays d'origine, on n'aura a peu près rien dit qui soit directement transposable ou imitable.'* FNSP, CHSP, AHC, fonds Patrick Weil (We 2), 1985.04.01, Directeur de Cabinet, Ministre des Affaires Sociales et de la Solidarité Nationale au Secrétaire Général du Comité Interministériel pour la Coopération Economique Européenne, 'Orientations pour une politique communautaire des migrations'.

[118] TNA, FCO 30/4383, 1980.05.15, Home Office Research Unit, 'Work Permit Migrants: An analysis of the nature of migration from Greece, Spain, Portugal and Turkey (revised copy)'.

[119] J. Hollifield, *Immigrants, Markets, and States : the Political Economy of Postwar Europe* (Cambridge, Mass. ; London: Harvard University Press, 1992).

[120] Conservative Party General Election Manifesto 1979, [https://www.margaretthatcher.org/document/110858, accessed 5 May 2021].

elected on a more optimistic and inclusive platform, though he remained vague on specifics. Of the '110 Propositions for France' in the Socialist manifesto, only three dealt with immigration.[121] Though the tone at the top may shape popular attitudes to immigration, and the tones of Thatcher and Mitterrand were indeed miles apart, in terms of practical policy, they shared the same fundamental assumptions. Opening borders, deciding that tracking and controlling movement were after all unimportant, or admitting that forces such as global wealth inequality made immigration an incontrovertible feature of a globalised world, were out of the question.[122] On the contrary, both explicitly premised their immigration policies on an identical tradeoff: closed (ideally, sealed) borders on the one hand, against better integration of already-settled immigrants on the other.[123]

Much of the literature on Western European migration and visa controls take the Schengen Implementation Agreement, and the common list of countries subject to visa requirements, as its starting point.[124] This section looks at how such a list was even made possible and shows how, despite the weight of their historical differences, member states were beginning to realize that they faced broadly similar structural problems - how to stop new immigrants arriving, while better integrating those already there. Not only that, but they were gradually coming to see their problems as interconnected. As wealthy, democratic, and variously entangled with developing or third world nations (though the colonial connection was fading), Western European countries were a draw for people seeking to improve their lot. Yet none required labour as they had in the immediate postwar years.[125] The boom years were over, unemployment a durable feature of their economies. As Figure 5 illustrates, the UK,

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[121] Programme de gouvernement préparé par le Parti socialiste (PS) pour l'élection présidentielle d'avril-mai 1981, '110 Propositions pour la France', [https://www.monde-diplomatique.fr/mav/124/A/51865, accessed 5 May 2021].

[122] Though a French interior ministry privately admitted, 'we are powerless in the face of illegal immigration'. TNA, HO 394/438, 1984.09.29, Fretwell (British Embassy, Paris) to FCO, 'Easing of Frontier Controls on EC Nationals: Immigration Consequences'.

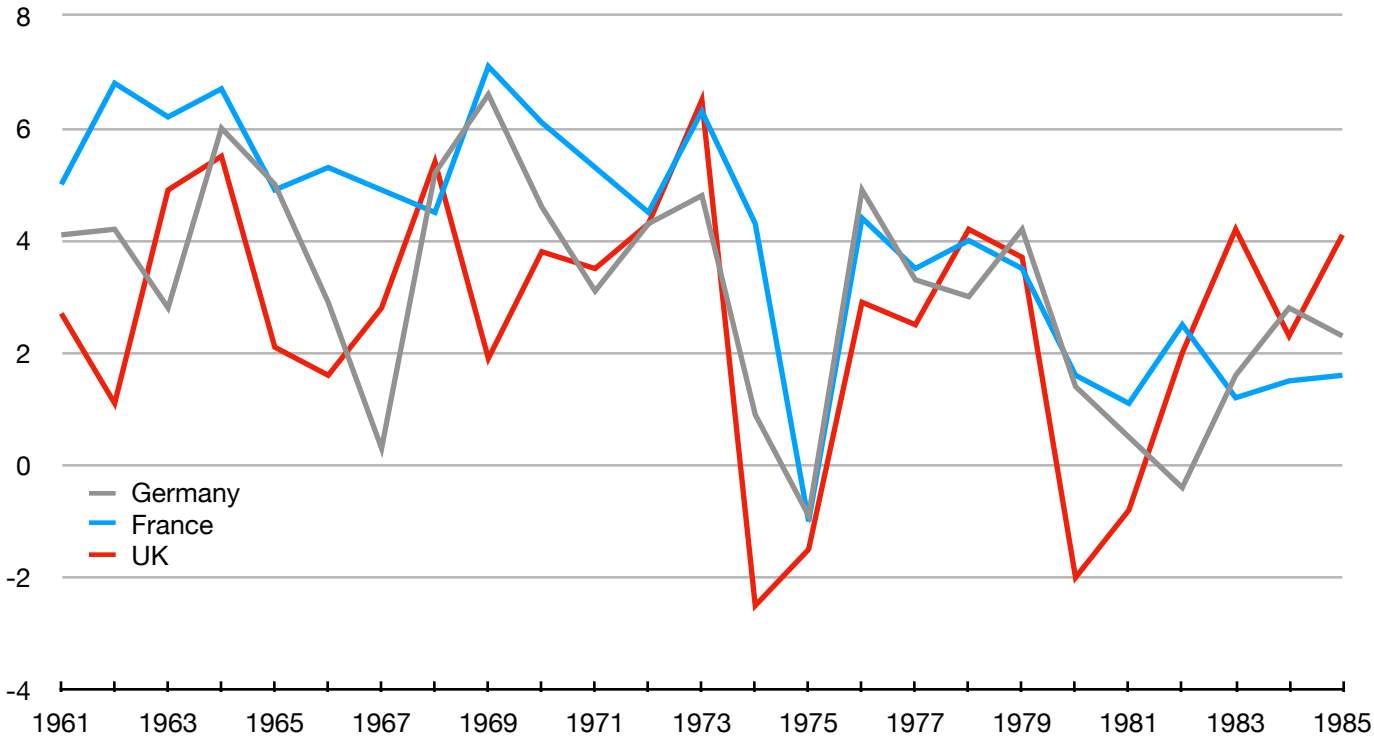
[123] Raymond goes so far as to argue neither Thatcher nor Mitterrand possessed a distinct or coherent ideology. An exaggeration, perhaps, but one which does highlight the inconsistencies and U-turns each undertook, as well as the power of their respective personalities. G. Raymond, 'Ideological Uncertainty and the Path of Convergence: The Impact of the 1970s in France and the UK', *Modern & Contemporary France*, 24:3 (2016), 317-30.

[124] G. Beaudu, 'La politique européenne des visas de court séjour', *Cultures et Conflits*, 50, (Summer 2003), 5-29; C. Finotelli and G. Sciortino, 'Through the Gates of the Fortress: European Visa Policies and the Limits of Immigration Control', *Perspectives on European Politics and Society*, 14:1 (2013), 80–101; E. Neumeyer, 'Bogus Refugees? The Determinants of Asylum Migration to Western Europe', *International Studies Quarterly*, 49:3 (2005), p. 75.

[125] As the Swiss novelist Max Fritsch put it, 'We wanted workers… we got people instead'.

France and Germany experienced very similar economic changes, whether in economic contractions or the steady increase in unemployment (Figure 4). The Commission noted the 'economic morass' sweeping the Community, and the common patterns of migration in member states: 'isolated workers considering only a brief stay, extension of that stay…'.[126]

Fig. 5 - GDP annual growth (%), UK, France, and Germany, 1961-85.



Source: World Bank; Maddison Project 2020.

Each state explicitly linked the end of immigration to the economy: 'There can be no question of weakening such a policy at a time of economic difficulty and high unemployment', cried the British.[127] However, though states had put a stop to immigration, they were nonetheless faced with what 'appeared to be a continuing in-flow' of new arrivals. This could only mean that, in the absence of legal routes in, these new arrivals would become illegal immigrants, creating new problems. As illegal immigrants, they would be 'forced into the black

[126] '*marasme dans l'ensemble de l'économie*'; '*Les flux d'immigration dans la Communauté ont suivi un certain schéma: travailleurs isolés n'envisageant qu'un bref séjour; prolongation du séjour*'. FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1983.09.09, Note au membres du comité consultatif, 'Projet de document sur les éléments d'une politique communautaire des mouvements migratoires de DG Emploi, Affaires Sociales et de l'Éducation'.

[127] TNA, FCO 50/915, 1982.10.12, Pym (FCO/Whitehall Information Department) to Routine - Certain missions and dependent territories, 'Immigration Rules'.

economy, a major preoccupation of the [French] government because of lost tax revenue and unfair competition with legitimate economic activity'.[128] In Italy too, authorities and unions 'fear[ed] the consequences of a fast growing section of the population living outside the law' for the depressing effect it would have on wages and employment standards.[129] In Belgium, 'the economic situation has deteriorated again', though the unemployment of foreigners was climbing more slowly than the national average.[130] And though, as the French Secretary of State of Immigrants pointed out, the number of foreign workers had remained stable since 1974, though unemployment had multiplied by 4.5 'in no case can unemployment be imputed to immigrants.'[131] (There was some queasiness in Britain too about linking immigration to unemployment. As a Home Office lawyer minuted, 'So far as the person who fails to find work is concerned, would you be prepared politically to argue that his deportation was conducive to the public good? It may be tempting, in the present economic climate, to conclude that one could so argue but I must say I am less than happy about it.')[132]

Many scholars have attempted to explain why states accept unwanted immigration: some argue for 'self-limited sovereignty' in the form of legal and moral constraints.[133] Others, that it is a paradoxical but necessary condition to project power globally.[134] Perhaps Sassen best summed up the views expressed by officials, namely 'the absence of any recognition that immigration may often be one of the trade-offs [of globalisation] … immigration is never seen as one of the trade-offs – it simply is not part of the map.'[135]

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[128] TNA, HO 394/438, 1984.09.29, Fretwell (British Embassy, Paris) to FCO, 'Easing of Frontier Controls on EC Nationals: Immigration Consequences'.

[129] TNA, HO 394/438, 1984.10.09, Bridges (Rome) to FCO, 'Easing of Frontier Controls on EC nationals: Immigration consequences'.

[130] FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1984.01.03, Note au Secrétaire d'État, 'Compte rendu du Comité Technique libre circulation - 6 décembre 1984 Bruxelles'.

[131] '*Depuis 1974 le nombre de travailleurs immigrés est resté pratiquement stable, alors que le chômage a été multiplié par 4,5. En aucun cas le chômage ne peut donc être imputé aux immigrés.*'

[132] TNA, HO 394/437, 1981.05.06, Evans (Legal Adviser's Branch, HO) to Angel (HO), 'Pieck'.

[133] C. Joppke, 'Why Liberal States Accept Unwanted Immigration', *World Politics,* 50:2 (1998), 266-93.

[134] C. Dauvergne, *Making people illegal: What globalization means for migration and laws, (*Cambridge; New York: Cambridge University Press, 2008), chapter 8.

[135] S. Sassen, 'Regulation Immigration in a Global Age: A New Policy Landscape', *parallax*, 11:1 (2005), p. 36.

Meanwhile, the factors pushing people to emigrate to Europe in the first place remained unchanged: war, poverty.[136] As the poet Warsan Shire put it, 'No one leaves home unless / home is the mouth of a shark'. Indeed, in terms of global disparities, Western Europe continued to concentrate a disproportionate amount of wealth relative to its population: 'North America and Europe together account for 57% of total household wealth, but contain only 17% of the world adult population' - a peaceful, prosperous draw, no matter what Western Europeans themselves might have felt.[137] At the same time, inequality was beginning to rise within British, French, and German societies, one reason, perhaps, explaining immigration's resurgence as a public policy issue.[138]

Now the Germans had issues with South Asians and Ghanaians.[139] In France, Prime Minister Chirac was concerned about a new wave of immigrants, anglophones from former British colonies.[140] The Greeks had trouble with Middle Eastern, Pakistani, Indian and Filipino migrants.[141] The fact that the 'undesirables' were less and less differentiated according to prior historical connexions made rapprochement at the Community level easier. As a note from the British embassy in Bonn put it: 'The Germans may seek to learn from our experience. If so, we should respond constructively to requests for advice or help.'[142] Indeed, as (ex)colonial ties loosened over time, so too did the lines between distinctive groups of 'undesirables' blur. In the British case, as we have seen, policymakers felt somewhat beholden to Commonwealth states, though every passing immigration and nationality act marked a distending of those ties.

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[136] E. Neumeyer, 'Bogus Refugees? The Determinants of Asylum Migration to Western Europe', *International Studies Quarterly*, 49:3 (2005), 389-409.

[137] Crédit Suisse, 'Global Wealth Report 2019', (October 2019), p. 9; J. Davies, S. Sanström, A. Shorrocks, and E. Wolff, 'The Global Distribution of Household Wealth', *United Nations University* (2006), [https://www.wider.unu.edu/publication/global-distribution-household-wealth#:~:text=The%20Global%20Distribution%20of%20Household%20Wealth,-by%20James%20B&text=While%20the%20richest%2010%25%20of,person%20in%20the%20bottom%2010%25, accessed 13 May 2021].

[138] As Piketty and Michael Sandel separately argue, part of the furor over immigration and borders has to do with the inability of traditional political parties, including, crucially, the left, to address redistribution. See: Piketty, *Capital and Ideology*; Michael Sandel, *Tyranny of Merit*.

[139] TNA, HO 394/438, 1984.10.01, Leslie (Bonn) to Varley (FCO), 'Immigration consequences of easing frontier controls'.

[140] TNA, FCO 33/6535, 1983.07.15, M.-A. Rendu, 'Les immigrés venus d'ailleurs: Le temps des anglophones', *Le Monde*.

[141] FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1984.01.03, Note au Secrétaire d'État, 'Compte rendu du Comité Technique libre circulation - 6 décembre 1983, Bruxelles'.

[142] TNA, FCO 98/971, 1980.08.18, Stubbs (FCO) to Cooper (FCO), 'Political asylum and Visas', attached note from Bonn Embassy, 'Immigration in the Federal Republic of Germany: The Gastarbeiter problem'.

France, too, was attempting to disentangle itself from the Maghreb countries. Germany was imposing visas for Turkey. By the early 1980s, Western European states no longer felt as bound to their erstwhile colonial possessions as they once had done. Instead, convergence was facilitated by the fact that as time distended post-colonial ties, so the practical difficulties of a common visa policy - a corollary of a common border area - also eroded.[143] As each country's 'special ties' with its erstwhile colonial territories became more distant (and cumbersome), it was easier for European member states to rally around a precise, shared notion of 'undesirable'.[144]

The Southern enlargement illustrates this convergence at work. Indeed, Spain and Portugal, as well as Greece, were negotiating their accession to the EC (Greece joined in 1981, Spain and Portugal in 1986). This, everyone recognized, was driven by political considerations: It was symbolically important (though economically impractical) for the Community to be able to welcome the newly democratic Southern states. Yet their economies were 'backward in comparison' to their Northern neighbours, and a transition agreement was therefore insisted upon by the Nine.[145] Only once Southern economies had closed the gap somewhat - that is, only once their economies had converged with those of their wealthier neighbours - would their nationals be granted freedom of movement.

In the meantime, a transition agreement would limit the rights of Spaniards, Portuguese and Greeks to travel in the Community. Britain was not overly concerned with a significant uptick in immigration because the Spaniards and the Portuguese would go to France, which already had big expat communities, and the Greeks would go to Germany, where the economy was stronger, and which was physically closer.[146] Britain would naturally be implementing the transition agreement just the same. The French, who already had significant Iberian

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[143] Viet comments on the effect of intra-European differences diminishing as global inequalities between North and South increase, see: Viet, *La France immigrée*, p. 261.

[144] Most studies of visa regimes are contemporary, and take the common list of countries of the Schengen Implementation Agreement (1990) as their starting point. E. Neumayer, 'Unequal Access to Foreign Spaces: How States Use Visa Restrictions to Regulate Mobility in a Globalized World', *Transactions of the Institute of British Geographers*, 31:1 (2006), 72-84.

[145] TNA, CAB 134/4197, 1978.01.19, Official Committee on European Questions, 'Enlargement the the European Economic Community: The Economic Costs'.

[146] TNA, FCO 30/4383, 1980.05.15, Home Office Research Unit, 'Work Permits: An analysis of the nature of migration from Greece, Spain, Portugal and Turkey'.

communities and were likely to receive more, were also relaxed.[147] Only the Germans were panicked. In an internal memo on the position to take during negotiations, the French director of the Populations and Migrations department rhetorically asked whether they shouldn't simply let the Germans sort themselves out with the Spanish, who were the 'most combative'.[148] No, the French official noted, 'we have to show our solidarity (and make them aware of it) to our Community partners (the FRG in particular)'. France's position on the point was therefore that 'we must not make any new concessions to the Spanish if our European partners also don't decide as much'.[149] Thus, in relation to extra-Community, or soon-to-be Community states, economic convergence was a key condition for freedom of movement. Within the Community, though historical and geographical differences remained, there were common interests and solidarity enough to maintain a common front.

The passage of time and distance from former colonies, combined with a pessimistic economic outlook were thus the twin drivers of a structural convergence in Community immigration policies. Indeed, 'one of the fundamental purposes of the immigration control' wrote the Home Office in 1983, is 'the prevention of unauthorized employment leading possibly to eventual settlement'.[150] As these provisions did not apply to Community nationals, a 'practical consequence' of EC membership was that the control applied to EC nationals remained 'less stringent that it is for non-EC nationals'.

2.3. Sites of convergence

Facing similar structural challenges is not, on its own, enough to breed a sense that these problems are shared, let alone interconnected. Viewing their immigration woes as not only shared but linked only became possible through the combined effect of the weakening of historical ties on the one hand, and repeated interactions on the other. In the previous chapter

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[147] The French also had a long history of bilateral agreements with sending countries. As early as 1919, Polish workers obtained the same rights as French workers for work-related injuries - which was not the case of French colonial subjects. Spire, 'La citoyenneté paradoxale des "Français musulmans d'Algérie"'.

[148] FNSP, CHSP, AHC, fonds Patrick Weil (WE 2), 1985.01.25, Note au Secrétaire Général du SGCI, 'Position française sur les questions d'adhésion de l'Espagne et du Portugal (libre circulation)'.

[149] *'nous devons faire preuve d'une certaine solidarité (et le leur faire savoir) avec nos partenaires de la Communauté (la RFA en particulier)'; 'Notre position est sur ce point que nous ne devons pas faire de concessions nouvelles aux espagnols si nos partenaires européens ne se décident pas à en faire autant.'* FNSP, CHSP, AHC, fonds Patrick Weil (WE 2), 1985.01.25, Note au Secrétaire Général du SGCI, 'Position française sur les questions d'adhésion de l'Espagne et du Portugal (libre circulation)'.

[150] TNA, FCO 30/5702, 1983.01.xx, Background note by the Home Office, 'Draft Council Resolution on the Easing of Frontier Formalities'.

we saw how the TREVI network regularly brought security bosses together, and how though immigration was occasionally discussed, it was hardly a priority. Here, we explore some other sites of convergence: shared borders, bilateral agreements, ad hoc meetings.

The most obvious place to begin looking at how border and immigration policies might converge is the border itself. As we have seen, police cooperation began precisely there, over petty cross-border crime. One of the French head of border police's key reservations regarding the suppression of internal frontiers was the loss of the 'particularly fruitful contacts that unofficially establish themselves between the agents of neighbouring countries with a common border'.[151] As governments across Western Europe attempted to seal their borders to 'undesirables', so immigration policies on one side of the border had knock-on effects on the other, creating a spiral of gradually more repressive policies.

One example of previously independent immigration policies converging at the border occurred in 1983 between the UK and France. As a retired official later recalled, it was a long hot summer with little in the way of front page news, which may account for some of the fuss. However, the episode also illustrates how British changes to nationality (and therefore immigration) laws had repercussions in France. The controversy revolved around the Franco-British agreement on No Passport Excusions (NPE), whereby British day-trippers did not require formal documentation to enter France, only an easily procured day-pass. However, a large number of Britons of West Indian descent were being turned back at the French border.[152] The press was in uproar.[153] At the meeting requested by British diplomats, the French argued that changes to British citizenship laws in 1972 and 1982 warranted a new agreement.[154] Thus the justification, on the French side, was ostensibly the negative impact of British policies on France's ability to conduct its own immigration policies.

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[151] '*Perte des contacts particulièrement fructueux qui se sont établis officieusement entre agents de deux pays ayant une frontière commune et qui constituent généralement une forme de coopération très efficace*'. AN, 19910302/1/2, 1979.03.30, Chef du Service Central de la PAF au Directeur Général de la Police Nationale, 'Réunion du Groupe de Travail Trevi des 11 et 12 avril 1979'.

[152] FNSP, CHSP, AHC, fonds Patrick Weil (WE2), 1983.08.04, Ministère des Affairs Étrangères to French Embassy in London, 'Refoulement des citoyens britanniques des Caraïbes'.

[153] *Times*, 'No Laissez-Passer', 4 August 1983; Ballantyne, A., 'Blacks are told to take passports to France', *The Guardian,* 8 August 1983 [https://ezp.lib.cam.ac.uk/login?url=https://search-proquest-com.ezp.lib.cam.ac.uk/docview/186515073?accountid=9851, accessed 6 May 2021]; *Sun*, 'Colour bar', 4 August 1983 in FNSP, CHSP, AHC, fonds Patrick Weil (WE 2), French Embassy, London to Counsellor for Social Affairs for the Minister of Social Affairs and National Solidarity, in charge of Family, Population, and Immigrant Workers; D. Hewson, 'No entry to France without passport', *Times*, 7 May 1984, p. 1, *The Times Digital Archive* [http://tinyurl.gale.com/tinyurl/C99w42, accessed 6 May 2021].

[154] The original agreement had been entered in 1960. FNSP, CHSP, AHC, fonds Patrick Weil (WE 2), 1983.08.09, 'Négociation Franco-Britannique'.

As British briefs noted, however, in the previous six years immigration 'had escalated into a serious factor in domestic politics'. The note detailed French difficulties: the difficult integration of the children of North African immigrants; how the Socialist government had 'consistently proclaimed its adherence to a policy based on integration of immigrants legally in the country and refusal of further immigration for settlement', but that this had 'wavered' following the North African protests[155]; that 'racial tensions were exploited in the municipal election campaign'; that the unions 'have already been staking out positions on the issue'; and that the government was having to proceed with 'extreme care' to 'avoid the kind of violent reaction from the left wing of the [Parti Socialiste]' which had been seen in 1981.[156] The note concluded that the French economy had moved into recession in much the same way that Britain had.[157] In the end, the talks broke down and the French withdrew from the agreement - a perceived, likely political, necessity to be seen firming up their border control.

This episode illustrates the detailed knowledge each had of the other, from historical quirks to the political chessboard to the latest statistics. As the French noted, 'for historical and sociological reasons, discrimination between the races is an extremely sensitive problem' in Britain.[158] It also suggests that while criss-crossing policies might be an official justification, ex-colonials remained on the fault lines of rapidly closing citizenship and immigration rules.[159] Of course, this distance (ambivalence, at the very least) to colonial subjects had been in-built from the Community's earliest days, with measures to phase out the rights of ex-colonials. The Treaty of Rome (1957) was signed before many states gained independence, and as decolonisation progressed, unevenly and idiosyncratically, these new countries were able to gain 'associate' status, which provided development aid and preferential trading, but no free

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[155] In 1983 major anti-racism protests took place in France, the first of their kind. Largely attended by youths of North African descent, it became known as the *Marche des Beurs* (*beur* being slang for Arab).

[156] TNA, FCO 33/6535, 1983.08.25, MacRae (British Embassy, Paris) to Young (WED, FCO), 'Immigrants in France'.

[157] TNA, FCO 33/6535, 1983.08.25, MacRae (British Embassy, Paris) to Young (WED, FCO), 'Immigrants in France'.

[158] *'Il semble malheureusement que les rapports de presse ne soient pas exagérés à ce sujet et que les refoulements d'aient bien concerné que des personnes de couleur. … l'opinion publique britannique qui, pour des raisons historiques et sociologiques, est d'une extrême sensibilité aux problèmes de discrimination entre les races.'* FNSP, CHSP, AHC, fonds Patrick Weil (WE 2), 1983.08.08, Note from French Embassy, London to Counsellor for Social Affairs for the Minister of Social Affairs and National Solidarity, in charge of Family, Population, and Immigrant Workers.

[159] The extent to which they had ever been truly open is of course highly debatable.

movement privileges.[160] An annex to the 1971 Act for instance, specified that French citizens from Guadeloupe and Dutch citizens from Surinam were specifically excluded from the free movement provisions for EC nationals, both having retained a somewhat ambiguous status vis-a-vis their respective metropoles, while not being independent states either. This also suggests that a practical approach taken to common problems: though interests may not always be aligned in the particulars, the rare disagreements arose over details in application, not fundamental approach.

There are more advanced examples of bilateral cross-border cooperation growing into something multilateral and European. These are of course to be found on the Continent, where states share land borders. The Franco-German border especially, which has been the object of much study, is such a one.[161] The preamble of the Schengen Agreement (1985), for instance, referred to a string of bilateral and multilateral arrangements: the Franco-German Sarrebrück accords of 1984; the Neustadt/Aisch conclusions adopted by Germany and the Benelux countries; a memo sent by the Benelux countries to France and Britain.[162] Not only did Schengen grow out of the Franco-German Sarrebrück agreement, but in some instances, it was explicitly subordinate to it. Full of pious wishes and plans to study subjects further (frontier posts did not begin to close until 1995), the 1985 Schengen agreement's 31st article nonetheless stated that the 'present Accord applies subject to the dispositions … of the Accord concluded at Sarrebrück on 13 July 1984' between France and Germany.[163] I shall not dwell on the Schengen Agreement: it has been extensively covered elsewhere; the UK was never a party to it; and because 1985 was merely a promise to do more (the implementation agreement was not signed until 1990). As a retired Home Office official said, the UK was

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[160] The Treaty of Rome bore this notice to the reader: '*A la suite de l'indépendance d'un certain nombre des pays et territoires énumérés dans la liste faisant l'object de l'annexe IV, une "convention d'association entre la Communauté économique européenne et les Etats africains et malgache associé à cette Communauté" signé à Yaoundé le 20 juillet 1963, est entré en vigueur le 1er juin 1964.*' Journal Officiel n. 93 du 11/06/1964 [https://www.vie-publique.fr/politiques-publiques/rub2056/rub2058/#sommaire_1, accessed 6 May 2021]; I. Gruhn, 'The Lomé Convention: Inching towards Interdependence', *International Organization,* 30: 2 (1976), 241-262; *Guardian, '*Hurdles for 'Eurafrique", 10 February 1972 [https://search-proquest-com.ezp.lib.cam.ac.uk/docview/185514593?accountid=9851, accessed 6 May 2021].

[161] See for instance, D. Nogala, 'Policing Across a Dimorphous Border: Challenge and Innovation at the French-German Border', *European Journal of Crime, Criminal Law and Criminal Justice,* 9:2 (2001), 130-143.

[162] Schengen Agreement, 1985.

[163] '*Le présent Accord d'applique sous réserve des dispositions des articles 5 et 6, 8 à 16 de l'Accord conclu à Sarrebrück le 13 juillet 1984'.* Schengen Agreement (1985), art. 31.

presented with the *fait accompli* - which it could not begrudge its EC partners, as it would never have joined in the first place.[164]

These semi-formal bilateral relationships and agreements were part of the fabric of European integration and were explicitly promoted by national officials at multilateral, European-level meetings.[165] In 1979, European senior civil servants meeting under the auspices of TREVI, concluded that bilateral arrangements had existed for many years, that they had proven especially useful for countries facing common challenges across a common border, and that it was 'necessary to promote such cooperation in the future'.[166] Summarising the meeting to the Chief of Police, the head of the French border police was even more sanguine: 'serious loosening [at the EC level] has already occurred allowing free movement' he said. Further changes could only be minor, and could only be conceived of as bilateral agreements 'between member states sharing a common border, allowing the entry country to exert control on behalf of the exit country.'[167] There are countless examples showing the importance of bilateral agreements: that bilateral contacts are 'an indispensable procedure' not only institutionally, but in case of terrorist attacks; that 'bilateral or multilateral contacts [should be used] every time a specific problem, especially an operational one, needs to be resolved';[168]

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[164] See also: A. Wiener, 'Forging Flexibility – The British `No' to Schengen', *European Journal of Migration and Law*, 1:4 (1999), 441-63.

[165] Commission itself promoting bilateralism: Commission paper: Role for Cty would be some financing and framework stuff, much would be bilateral. FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1983.09.09, Note de DG Emploi, Affaires Sociales et de l'Éducation aux membres du comité consultatif, 'Projet de document sur les éléments d'une politique communautaires des mouvements migratoires'.

[166] AN, 19910302/1/2, 1979.03.27, 'Réunion du Comité des Hauts Fonctionnaires (TREVI)'.

[167] '*des allègements sérieux sont déjà intervenus permettant la circulation sous la simple présentation d'une carte d'identité pour les nationaux des pays membres de la CEE. Il ne peut être recherché éventuellement que des aménagements aux contrôles qui subsistent: des accords bilatéraux pourraient être envisagés entre pays membres, ayant une frontière terrestre commune, permettant au pays d'entrée d'exercer le contrôle pour le compte du pays de sortie.'* AN, 19910302/1/2, 1979.03.20, Chef du Service Central de la PAF au Directeur Général de la Police Nationale, 'Conférence des Hauts Fonctionnaires (TREVI)'.

[168] '*que les contacts bi-latéraux entre services de police et de sécurité des Etats membres, à tous les niveaux, qui sont déjà très développés, apparaissent comme une indispensable procédure d'échange, non seulement au plan institutionnel mais aussi à l'occasion d'incidents terroristes ponctuels nécessitant l'adoption de mesures immédiates … En outre, le groupe TREVI I recommande le recours aux contacts bi-latéraux ou multi-latéraux chaque fois qu'un problème spécifique de coopération, en particulier sur le plan opérationnel, doit être résolu*'. AN, 19910302/1/2, 1979.04.11-12, 'Procès verbal de la réunion du groupe I - TREVI, Paris, 11 et 12 avril 1979'; '*une relance de la coopération européenne, soit au sein de la CEE soit par relations bilatérales.*' FNSP, CHSP, AHC, fonds Patrick Weil (WE 15), 1982, Note de synthèse, 'Les Grandes Orientations du Gouvernement pour les immigrés', Secrétariat d'État chargé des Immigrés.

that technical fact-finding missions should occur across EC member states, but that the actual exchange of data 'will be decided upon by bilateral agreement, respecting the national laws of each concerned country'.[169] Bilateral agreements were seen as a more practical way of navigating each country's specific legal and institutional legacies, and a way of preserving their sovereignty against the Commission's top-down, one-size-fits all approach.

Officials in every multilateral forum, whether in the policing or immigration spheres, agreed bilateral was better. The multilateral TREVI group was already thought of by the French as excellent cover for bilateral meetings. Ironically, it was derided barely six years after its founding by participants of yet another informal, multilateral club (this time, the Club des Cinq). This yearly gathering of Austrian, French, German, Italian and Swiss interior ministers (founded in 1979), declared that

> Analysing, with the necessary distance, the development of bodies supposed to increase European cooperation against terrorism, by bending them to constraining rules and formality - paralysing, in some cases, which is the case of the TREVI meetings - *it is plain to see that only the exchange structures and excellent bilateral relations between specialized departments … can adequately respond to the problems* posed by terrorism.' [emphasis added][170]

This web of overlapping, multi-levelled bilateral and multilateral relationships formed as many opportunities to gradually develop common understandings that in turn could evolve into formal agreements, themselves the basis for yet further agreements between yet more parties. An outgrowth of more pedestrian cross-border relationships, these layers of bilateral arrangements were another way in which the convergence of policy - and worldview - could slowly occur. Another way, to borrow Bastien Irondelle's phrase, for 'Europeanization without the European Union'.[171]

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[169] '*Les échanges de données … seront décidés par voie d'accords bilatéraux, en respectant les lois nationales de chaque pays concerné, et dans les conditions décrites dans le rapport final du sous-groupe no 22 'Informatique',* AN, 19910302/1/2, 1979.05.16, 'Compte-rendu de la réunion du Groupe de Travail no II tenue à Paris le 16 mai 1979'.

[170] '*En analysant, avec le recul nécessaire, le développement des instances qui ont, depuis, prétendu accroître cette coopération européenne contre le terrorisme, en la pliant à des règles et à un formalisme contraignant, et, à la limite, paralysant - c'est le cas des rencontres TREVI - il est aisé de constater que seules les structures d'échange et les excellentes relations bilatérales existant entre Services spécialisés (quelle que soit leur autorité de tutelle) sont à même de répondre aux problèmes posés par le terrorisme.',* AN, 19910302/6, 1982, 'Réunion du "Club des Cinq"'.

[171] B. Irondelle, 'Europeanization Without the European Union? French Military Reforms 1991-96', *Journal of European Public Policy*, 10:2 (2003), 208–26.

2.4. An emerging community of understanding

Time was smoothing out the specifics that had precluded a common approach. The weight of colonial immigration was decreasing, that of immigrants with no historical connection to their destination country increasing. The immigration 'problem', as it were, was increasingly being defined in terms of extra-Community migrants and illegal immigration, a mass which time was rendering less and less differentiated.

The following episode illustrates the weakening of colonial ties, the shared understanding of which immigrants were considered problematic, and the budding interconnectedness of European member state policies. In the spring of 1979, a lecturer from Newcastle Polytechnic took students of the European social policy course to Luxembourg, Strasbourg, and Brussels. When the party got off in Belgium, a Nigerian student was 'put on a ferry and returned to England'. The following year, the lecturer had the same problem with three Rhodesian students.[172] The students, all black, were caught in a catch-22: British officials not providing extra time on their passports, though it was their responsibility to do so; French officials refusing to issue transit permissions without one. Writing to his MP, the lecturer stressed that 'this apparently applies only to New Commonwealth citizens: not to South Africans, New Zealanders, Australians or (even!) Americans.' 'I was enraged by this treatment', he continued, 'particularly when the Brussels immigration officer told me that both they and the French were only really operating this rule because of Britain's increasingly punitive immigration laws and the fear that they might be landed with people we refused re-entry to.'[173]

Thus, while France and Belgium might otherwise have let the students in, albeit reluctantly, it was the anticipation of having to deal with the fallout of *British* policy that sealed the French decision. Even if the immigration officer had been speaking out of turn, the interconnectedness of neighbouring immigration policies were plausible enough grounds to put forward to explain his decision. This shows the extent to which Western European states shared a common understanding of what constituted an 'undesirable' person. On either side of the Channel, the only people of any real concern were non-whites.

Against the backdrop of the more passive structural convergence we discussed earlier, we have also seen how officials from across European member states had a history of actively working together, and by and large enjoyed doing so. From the British and French archives there emerges, from the early 1980s especially, the sense that officials were aware of the

[172] Rhodesia became Zimbabwe in 1980.

[173] TNA, FCO 30/4383, 1980.03.14, Ronald McGraw (Senior Lecturer, Newcastle upon Tyne Polytechnic) to Alex Lyons MP.

similarities of their predicaments, aware and increasingly open to learning from each other's experiences.[174]

The British, for instance, sought to benchmark their experience of the Pieck case against those of their Community counterparts. The Germans, meanwhile, sought Community, and especially British, advice on the 'Turkish problem'. In August 1980, panicked by dramatic increases in the number of asylum-seekers, the German government sent a message to all EC capitals requesting a crisis meeting.[175] After detailing the increase in asylum seekers - 8,600 in 1970; 70,000 by June 1980 - the Germans wrote:

> As existing working groups do not lend themselves to the exercise, the one-off convocation of a meeting of ad hoc experts could be considered. The *exchange of experiences* in this area should consider to what extent other EC member states face *analogous problems* and what are the measures taken by different countries to maintain the problem within politically and economically defendable limits. [emphasis added][176]

So it was too, that in the midst of the budget crisis, the British sought to mollify the Germans by being helpful, ready, and available on immigration questions. The 'problem' had only recently erupted onto the German political stage, and officials turned to their British counterparts for advice.

> They [the Germans] are well aware that we are treading ahead of them through this particular mire, and that there are many parallels between the South Asian communities in industrial Northern England and the Turkish community in the Ruhr … For all our continuing problems, this is an area in which we have relatively long experience and some successes to our credit. And as you know well, My Lord, Anglo-German relations need every gesture we can manage if they are

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[174] A British memo noted that **'**the French really are making quite a determined effort to reintroduce visa requirements wherever possible'. TNA, FCO 33/6535, 1983.01.06, Armour (Western Europe Department, FCO) to Lane (Immigration and Nationality Department, HO), 'Immigration control in France'.

[175] TNA, FCO 98/971, 1980.08.08, Bonn Coreu to Lux Coreu, 'Problèmes se rapportant aux étrangers qui demandent l'asile en République Fédérale d'Allemagne'.

[176] '*Les groupes de travail existants ne s'y prêtant pas, la convocation unique d'une réunion d'eksperts [sic] ad hoc pourrait être envisagée. L'échange d'ekspériences [sic] dans ce domaine devrait porter sur la question de savoir dans quelle mesure les Etats membres de la CE se trouvent placés devant des problèmes analogues et quelles sont les mesures prises par les différents pays membres pour maintenir dans les limites politiquement et économiquement défendables.'* TNA, FCO 98/971, 1980.08.08, Bonn Coreu to Lux Coreu,'Problèmes se rapportant aux étrangers qui demandent l'asile en République Fédérale d'Allemagne'.

> to be restored to a level commensurable with our mutual interests. So the more we can share with the Germans what we have learned about immigrants, the better.[177]

This note was accompanied by a lengthy and detailed memo on immigration in Germany: its history; recent and historical statistics; an analysis of labour market problems; religious, cultural and social problems; security problems; the findings and political impact of the recent Kühn report; the division of resources and responsibilities between the Federal State and the Länder; and predictions on the likely ways in which immigration would play out during and after the upcoming federal election.[178] The British were extremely well-informed about the situation in Germany and the Germans, in turn, were keen to turn to the British for advice - yet another beltway for common approaches and assumptions to develop.

The British kept similarly detailed briefings on France, noting, in and among detailed statistical and political analyses, that 'the French economy has moved into recession … In a way France might be said to [be] undergoing since then the *same sort of socio-political stresses that started to be felt in Britain a decade earlier*.' [emphasis added][179]

Another way for the common conceptualization of the immigration 'problem' to develop was through the fact that smaller states, such as Denmark or Ireland, not yet immigration destinations in their own right, nonetheless partook in meetings on the subject. In response to the German call, for instance, Belgium replied that 'Although our asylum system does not pose any particular problems at the moment, Belgium is ready to join a meeting of experts'.[180] Denmark, Italy and Ireland responded similarly: they were happy to attend, though refugees and asylum were not, at present, problems.[181] The Dutch reply noted with satisfaction that 'the need for a restrictive admissions policy is increasingly well understood by public opinion', and

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[177] TNA, FCO 98/971, 1980.08.18, British Embassy, Bonn to Lord Carrington (FCO), 'Immigration in the Federal Republic of Germany: The Gastarbeiter Problem'.

[178] TNA, FCO 98/971, 1980, Memorandum by Labour Counsellor Edwards Toms, 'Immigration in the Federal Republic of Germany: The Gastarbeiter Problem'.

[179] TNA, FCO 33/6535, 1983.08.25, MacRae (British Embassy, Paris) to Young (WED, FCO), 'Immigrants in France'.

[180] '*Bien que son système de droit d'asile ne pose pas de problèmes particuliers pour le moment la Belgique est prête à participer à une réunion d'experts*', TNA, FCO 98/971, 1980.08.18, Bru Coreu to Lux Coreu, 'Problèmes se rapportant aux étrangers qui demandent l'asile en Belgique'.

[181] TNA, FCO 50/687, 1980.07.18, Cooper (FCO) to Gatty (FCO), 'Political Committee Luxembourg 16/17 July: Immigration'; TNA, FCO 98/971, 1980.09.15, Rome Coreu to Lux Coreu, 'Asile politique et visas'; TNA, FCO 98/971, 1980.09.17, Dublin Coreu to Lux Coreu, 'Problems of political asylum and visas'.

said it would be happy to 'participate at any exchange of views between Benelux countries and the German Federal Republic, or any other state confronted to analogous problems'.[182]

These frequent interactions likely contributed to building a set of conceptual and legal tools for when the smaller states eventually became immigration destinations themselves. The Dutch reply also illustrates the direction of travel of national European immigration policies, towards more 'restrictive' policies than before. This more restrictive bent was shared and driven by the member states, which as we have seen for Britain and France, did so as a result of their own internal logics. The Commission did try to intervene in this expanding area of mutual interest - but its efforts were dismissed. The French deplored the 'timidity of the Commission's analysis', adding it was 'especially unacceptable in a period where different member states have affirmed their determination to fight resolutely against these [illegal immigration] practices.'[183] If anything, the archives sometimes read as if opposition to the Commission served to unite the Nine against it, and affirm their resolution, less in terms of immediate policy, than in the willingness to defend informal, fluid, flexible channels.

For in all this the objective remained firmly that of information exchange, not active cooperation: 'The Germans stressed that they were not advocating a common policy on immigration, but simply wanted to exchange views.'[184] This occasionally went as far as explicitly requesting copies of laws and rules passed abroad. When the French were considering changes to their family reunification laws, they produced briefings on the minutiae of family immigration law in Belgium, Germany, Sweden, the Netherlands, and Luxembourg.[185] They also produced an inventory of the recent evolution of immigration policy in the 'main

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[182] *'La nécessité d'une politique restrictive en matière d'admission des étrangers est de mieux en mieux comprise par l'opinion publique. Les Pays Bas sont prêts à participer à tout échange de vues entre les pays de Benelux la République Fédérale d'Allemagne ou d'autres Tas qui se voient confrontés à des problèmes analogues'.* TNA, FCO 50/688, 1980.10.20, LaHaye Coreu to Lux Coreu, 'Problèmes se rapportant au droit d'asile et aux visas'.

[183] *'Les départements regrettent la timidité de l'analyse de la Commission relative aux migrations clandestines et à l'emploi illégal des travailleurs migrants qui donnent le sentiment de vouloir "communautariser le laxisme". Cette insuffisance n'est pas acceptable notamment dans une période où différents Etats membres ont affirmé leur volonté de lutter résolument contre ces pratiques.'* FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1985.03.26, Secrétariat Général du Comité Interministériel pour les Questions de Coopération Economique Européenne, 'Transmission: 'Orientations pour une politique communautaire des migrations'.

[184] TNA, FCO 50/687, 1980.07.18, Cooper (FCO) to Gatty (FCO), 'Political Committee Luxembourg 16/17 July: Immigration'.

[185] For the series of briefs, see: FNSP, CHSP, AHC, fonds Patrick Weil (WE 2), 1984.10.10, 'Système belge d'immigration familiale pour les étrangers non-CEE'; 1984.10.10, 'Système allemand d'immigration familiale pour les étrangers non-CEE'; 1984.10.12, 'Système suédois d'immigration familiale pour les étrangers'.

industrial countries'.[186] Conversely, Germany, Belgium, and the Netherlands were especially interested in new French legislation, and asked for copies of the French laws at the February 1985 Technical Committee on Free Movement in Brussels.[187] The questions asked the French delegation, especially on the *titre unique*[188] and family immigration, clearly showed that 'French solutions are perfectly understood by our partners and provoked great interest'.[189] Indeed, French 'preoccupations were, on many points, very much shared'.[190] 'Family immigration, illegal immigration, limitation of legal immigration from third countries, integration - these are the preoccupations we find in the declarations of Member states.'[191]

A French memo summed it up neatly: 'France can only wish for a veritable cooperation between European member states under the triple aspects of: (i) the *rapprochement* of their respective rules; (ii) a permanent exchange of information and technical collaboration; (iii) a division of labour allowing each member state to concentrate its efforts on its extra-Community

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[186] 'Questionnaire de la Commission des Affaires Étrangères, Assemblée Nationale, Rapporteur M. Asensi, Question no 20, Note sur l'évolution récente de l'immigration et de la politique à l'égard des populations immigrées dans les principaux pays industriels en 1981 et 1982', in FNSP, CHSP, AHC, fonds Patrick Weil (WE 2).

[187] FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1985.02.07, Directeur de la Population et des Migrations au Ministre des Affaires Sociales et de la Solidarité Nationale, 'Compte-rendu de la réunion du Comité technique sur la libre circulation (Bruxelles, 22 janvier 1985)'.

[188] Single permit combining residence and work permits.

[189] *'Les questions posées à la délégation française … en particulier au sujet du titre unique et de l'immigration familiale, ont cependant montré à l'évidence, que les solutions retenues en France sont parfaitement comprises chez nos partenaires et suscitent chez eux un grand intérêt.'* FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1985.02.07, Directeur de la Population et des Migrations au Ministre des Affaires Sociales et de la Solidarité Nationale, 'Compte-rendu de la réunion du Comité technique sur la libre circulation (Bruxelles, 22 janvier 1985)'.

[190] '*nos préoccupations étaient sur bien des points largement partagées'.* FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1985.02.07, Directeur de la Population et des Migrations au Ministre des Affaires Sociales et de la Solidarité Nationale, 'Compte-rendu de la réunion du Comité technique sur la libre circulation (Bruxelles, 22 janvier 1985)'.

[191] '*Immigration familiale, immigration clandestine, limitation de l'immigration régulière en provenance des pays tiers, réinsertion, telles sont les préoccupations que l'on retrouve dans les déclarations des représentants des États membres, telles sont également celles qu'ils ont pu noter dans la déclaration qu'a faite selon les instructions reçues la Délégation Française.'* FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1984.01.03, Note au Secrétaire d'État, 'Compte rendu du Comité Technique libre circulation - 6 décembre 1983 Bruxelles'.

borders'.[192] The main issues were not a Community approach set in stone, a shared approach from which a state could not deviate, but a steady stream of information that would gradually make room for more coordination, if not outright cooperation.

Shared membership to the European club - and its many spinoffs - facilitated the emergence of common understandings and their gradual convergence. The relationships that grew out of common borders, bilateral agreements, and belonging to the same set of clubs were as many ways in which common conceptualisations of the immigration 'problem' - and appropriate solutions - could emerge and spread. Membership to the European club provided a variety of avenues for crossovers between countries more or less faced with similar problems: those countries who did not yet consider themselves to have an immigration problem were frequently confronted to those that did, sending their officials to the same meetings. These officials in turn fed the content of these meetings back into various home departments, which fed their own preoccupations back to the European arena. A key aspect of this process was that it was flexible. For though the wealthy Western European states making up the European Community agreed they wanted no more Third World immigration, agreed they wanted to loosen the EC's internal frontiers so their own nationals could move freely, the practical implications were more complicated. While informal and unhurried convergence was something both Britain and France could support, they were also extremely wary of Community institutions spreading outwards and regarded Commission creep with suspicion. The opportunities for convergence described above were successful precisely because they were gradual, informal, and allowed states the necessary autonomy to manage their specific legacies and interests.

III. Origins of the immigration/terrorism overlap

We have seen how convergence in immigration policies emerged in the EC, that is, what repeated and varied opportunities there were for certain ways of seeing and doing to spread against the backdrop of weakening historical ties. What this does not tell us is how immigration came to be seen as a security threat, merely that the attitude was shared and reinforced. We have also seen how the immigration concerns of the Nine were beginning to be viewed as not only similar, but interconnected. In this section, we explore how immigration explicitly came to

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[192] *'la France ne peut que souhaiter l'institution d'une véritable coopération des États membres de la CEE sous le triple aspect: Du rapprochement des règlementations; D'un échange permanent d'informations et d'une collaboration technique; D'une répartition des tâches enfin permettant à chaque État membre de concentrer ses moyens sur ses frontières extra-communautaires.'* FNSP, CHSP, AHC, fonds Patrick Weil (WE 15), 1982, 'Contrôler les flux migratoires et lutter contre l'emploi clandestin'.

be discussed as a threat alongside drugs and terrorism. We begin with the compensatory logic underpinning the freedom of movement; followed by the hollowing out of the notion of asylum; ending with the moment immigration and terrorism policy began to overlap in official conversations. It is the origin story that explores the years leading up to Schengen, when most of the securitisation literature begins.[193]

3.1. Compensating free movement

Much of the literature on the Europeanisation of immigration policies, their securitisation, or the advent of a transnational network of policing and surveillance in the Schengen area (and then the European Union), begins with Schengen.[194] Simplifying the argument somewhat, the story goes that Schengen introduced, and then cemented, the notion that the removal of internal European borders had to be met with 'compensatory measures' ultimately leading to Fortress Europe: strong external borders to compensate the removal of internal ones. This intuitive (but contested) logic was diffused and promoted by security professionals operating from within European interior ministries and police forces, largely hidden from public scrutiny. They subsequently 'created' a problem to which they so happened to have a solution.[195]

My research qualifies and historicises this narrative. To begin with, I find that early discussions surrounding the removal of intra-European border controls were not especially concerned with immigration. Of course, the possibility that 'undesirables', be they criminal or foreign, could transit freely between countries was a major topic of discussion. But to begin with at least, it was the criminal and terrorist elements that were emphasized. The agendas for early meetings of TREVI's *Comité des Hauts Fonctionnaires* show that immigration was a secondary priority compared to arms or drugs trafficking. Immigration was sometimes on meeting agendas, sometimes not. To begin with, senior civil servants vehemently opposed the removal of internal border checks for mostly policing reasons. Without systematic border checks, France would not have been able to carry out 4,677 of the 7,196 arrests carried out at its borders in 1978. Nor would it have been able to follow up on 35% of its wanted and

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[193] See for instance Guiraudon, 'Les effets de l'européanisation des politiques d'immigration et d'asile', but also Big, Joppke, Van Munster or Huysmans.

[194] Huysmans, 'The European Union and the Securitization of Migration'; R. Van Munster, *Securitizing immigration: The politics of risk in the EU* (New York: Palgrave Macmillan, 2009); R. Zaiotti, 'The Hybrid Continent: Tensions and Resilience in Europe's Neoterritorial Model', *Journal of Contemporary European Studies*, 23:1 (2015), 82-99.

[195] Guiraudon, 'Les effets de l'européanisation des politiques d'immigration et d'asile'.

signalled persons files.[196] As Casella-Colombeau shows, however, the French border police had also gradually been developing measurement categories which brought migration and criminality closer together (though they were not in fact immediately used for immigration purposes).[197] Immigration was important, but not initially one of the main arguments used against the removal of intra-European border controls: the loss of surveillance and intelligence capabilities were. This confirms Sheptycki's argument of border crossings as 'perfect "choke points" for the more or less unobtrusive application of surveillance technology', but infirms his emphasis on immigration. Though immigration worries featured, they were secondary to and separate from the criminal dimension.[198]

Initially it was ministers, rather than senior civil servants, pushing for the removal of internal border controls, to which the latter were opposed.[199] As early as 1964, the French government had accepted the idea of studying the 'simplification (and even suppression)' of intra-European border controls.[200] The French Interior Minister had attempted to bring the subject up again in 1969 and 1971, with no luck. In the mid-seventies, the French pursued deeper transborder cooperation with Germany, but the focus remained strictly criminal. Immigration was not included.[201] By the late 1970s, the issue of the removal of internal frontiers had fallen 'into abeyance'.[202]

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[196] AN, 19910302/1/2, 1979.03.20, Chef du Service Central de la PAF au Directeur Général de la Police Nationale, 'Conférence des Hauts Fonctionnaires (TREVI)'.

[197] S. Casella-Colombeau, 'Des "faux touristes" aux "filières": la reformulation de la cible des contrôles par la police aux frontières (1953-2004)', *Cultures & Conflits*, (Spring/Summer 2017), 105-106.

[198] J. Sheptycki, 'Patrolling the New European (In)Security Field; Organizational Dilemmas and Operational Solutions for Policing the Internal Borders of Europe', *European Journal of Crime, Criminal Law and Criminal Justice*, 9:2 (2001), p. 148; AN, 19910302/1, 1977.05.19, Nagler (HO) to TREVI, 'Conference of Ministers of the Interior'.

[199] AN, 19910302/1/2, 1979.09.25, Rapport aux ministres sur la réunion des Hauts fonctionnaires à Dublin le 25 septembre 1979, 'Coopération européenne en matière de lutte contre le terrorisme'; AN, 19910302/1/2, 1979.04.11-12, Procès-verbal de la réunion du groupe I - TREVI, Paris, 11 et 12 avril 1979.

[200] '*Dès 1964 le Gouvernement français avait accepté le principe de faire étudier les modalités de la simplification (et même de la suppression) des contrôles systématiques aux frontières intérieures'.* AN, 19910302/6, 1973, 'Simplification des contrôles de police aux frontières des pays de la communauté'.

[201] AN, 19910302/6, 1975.08.01, Cabinet du Directeur Général de la Police Nationale pour le Directeur Adjoint de la Police Judiciaire. Attached document: 'Convention entre ____ et la France sur l'assistance mutuelle entre leurs polices respectives, pour la lutte contre la criminalité et l'organisation de la prévention et de la sécurité'; AN, 19910302/1,1976.12.07/08, 'Coopération aux frontières dans le cadre d'une surveillance, Accord Franco-allemand de Kehl'.

[202] AN, 19910302/1, 1977.05.19, Nagler (HO) to TREVI, Telex 05049, 'Conference of Ministers of the Interior'.

Ministers, however, were keen to pursue the idea of the removal of internal border checks, a tangible way for Europe to exist in the eyes of its citizens. Senior security officials therefore agreed to 'prepare a report on the consequences, in terms of security, of the suppression of passport controls along the internal borders of the European Community'.[203] This report on the consequences quickly turned into a 'catalogue of inconveniences', a 'detailed and precise inventory of all the inconveniences'.[204] Faced with the prospect of being stripped of their purpose and authority, as well as deprived of some of the tools with which to do their job, it is perhaps unsurprising senior border officials were reticent. Despite the literature emphasizing the role of senior officials in the policing and surveilling of the Schengen area, in the 1970s and early 1980s at least, they were unconvinced about the wisdom of such a development. Not only that, but immigration was a secondary concern.

Secondly, one must recall that framing border and immigration control in terms of compensation was a logic that already had widespread traction within member states. Roy Jenkins, the British Home Secretary from 1974 to 1976, had spoken about race relations and the numbers of new immigrants as 'two sides of the same coin', a phrase that captured an established cross-party consensus. In France, discussions about the '*seuil de tolérance*', the threshold above which France could not decently welcome new arrivals, had been gaining momentum since the 1970s.[205] According to a British note, 'The shift of attention to control at the point of entry [in France] is a *corollary* of the present government's desire to promote the integration of foreigners who are legitimately settled within the country'; these two aspects have 'consistently been linked' [emphasis added].[206] Thatcher and Mitterrand embraced these narratives too, albeit emphasizing different sides of the tradeoff. As another British diplomat noted, 'The socialist government announced in 1981 its intention of reinforcing frontier controls, as a *corollary* of greater security and freedom for foreigners established within the country, and of basing admission on objective criteria' [emphasis added].[207] In Germany, the standing conference of the *Länder*'s interior ministers had also drawn up a draft on

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[203] '*La Présidence a décidé de préparer un rapport sur les conséquences, sur le plan de la sécurité, de la suppression du contrôle des passports aux frontières au sein de la Communauté Européenne'*. AN, 19910302/1, 1977.05.19, Nagler (HO) to TREVI, Telex 05049, 'Conference of Ministers of the Interior'.

[204] '*catalogue des inconvénients', 'inventaire précis et détaillé de l'ensemble des inconvénients'.* AN, 19910302/1/2, 1979.03.27, 'Réunion du Comité des Hauts Fonctionnaires (TREVI)'.

[205] Laurens, *Une politisation feutrée*, p. 155, pp. 195-6.

[206] TNA, FCO FCO 33/6535, 1983.01.04, Reed (British Embassy, Paris) to Armour (FCO), 'Immigration Control in France'.

[207] TNA, HO 394/438, 1984.09.29, Fretwell (British Embassy, Paris) to FCO, 'Easing of Frontier Controls on EC Nationals: Immigration Consequences'.

'compensatory measures to accompany the implication of border controls.'[208] Though this logic did not have an explicitly securitarian bent, underpinning it was the assumption that should an unspecified number of immigrants be reached, or reached too fast, domestic tranquility would be threatened. Conversely, that efforts to better integrate existing immigrants would only bear fruit if borders were closed to new ones - that a harsh border policy was *compensated* by better integration within those borders. Thus the very notion of 'compensation' in immigration matters had widespread political currency at the member state level before it did at the European one. This notion formed part of the accepted wisdom in each of the EC's major countries, regardless of the party in power, and long before immigration was discussed at a European level.

Thirdly, one of my key findings is that senior officials from different member states initially opposed the removal of internal frontiers because they feared the impact it would have on their *own* nationals. Indeed, the compensation for free movement on which so much has been written was not immediately assumed to occur though the tightening of external borders: that dimension really took off after Schengen (1985, 1990).[209] On the contrary, most senior civil servants seemed to assume that any compensation for the loss of control and intelligence at intra-European borders would be through an increase in *internal* checks, that is, in checks on their own nationals (in much the same way that France had more internal checks than Britain because of the porosity of its land borders). They were doubtful that such a compromise would be domestically acceptable.[210] Indeed, it would 'involve not only a change in the character of the UK system of control but a change in the way of life and freedoms enjoyed by the British people who would, more than likely, resent them.'[211]

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[208] TNA, HO 394/438, 1984.10.01, Leslie (British Embassy, Bonn) to Varley (FCO), 'Immigration consequences of easing of frontier controls'.

[209] Much of the literature on migration control in Europe focuses on borders: A. Neal, 'Securitization and Risk at the EU Border: The Origins of FRONTEX', *Journal of Common Market Studies*, 47: 2 (2009), 333–56; S. Léonard, 'EU Border Security and Migration into the European Union: FRONTEX and Securitisation through Practices', *European Security,* 19: 2 (2010), 231-54; S. Casella-Colombeau, 'Des "faux touristes" aux "filières": la reformulation de la cible des contrôles par la police aux frontières (1953-2004)', *Cultures & Conflits*, (Spring/Summer 2017), 105-106.

[210] However, Casella-Colombeau shows how the activities of the French border police and customs did turn 'inwards' - in the 1990s - and so doing, confirmed their new immigration prerogatives (significantly, the border police (*Police aux Frontières*) was rechristened Central Directorate for the Control of Immigration and Fight Against the Employment of Clandestine Migrants (*Direction Centrale du Contrôle de l'Immigration et de la Lutte contre l'Emploi de Clandestins*) in 1994). S. Casella-Colombeau, 'Des "faux touristes" aux "filières": la reformulation de la cible des contrôles par la police aux frontières (1953-2004)', *Cultures & Conflits* (Spring/Summer 2017), 105-106.

[211] TNA, FCO 30/7502, 1983.01.xx, Background note by the HO, 'Draft Council Resolution on the Easing of Frontier Formalities'.

This was one of the reasons the British had never adopted identity cards or registers: fear of the strain and loss of liberty it would entail for Britons. In 1978, the Labour Home Secretary, Merlyn Rees, had written:

> I can see no acceptable way in which a system of immigration control relying primarily on internal checks could be set up, without the universal introduction of identity cards and powers to require their production. This would require major changes in practices and powers reaching far beyond immigration control. In the past such changes have been contemplated only in war: the Government does not believe they could be justified on immigration control grounds alone.[212]

Indeed, he had opposed it 'on the grounds that that would lead inevitably to the introduction of identity cards for everyone'.[213] In France, the head of border control had had a similar reaction: the removal of border controls and of all the 'interventions and observations carried out along the border' would have to be compensated by a 'massive intensification' of internal checks, which would 'rapidly become unbearable for people of good faith, and which would become a source of incidents'.[214] British diplomats in Paris noted the same: 'the increasingly apparent difficulties controlling frontier crossings are forcing the government to intensify its checks on immigrants within the country. This … must sap the credibility and effectiveness of measures designed to promote harmonious settlement of the foreign population.'[215] The Danes also noted that the 'raising of frontier controls would raise formidable difficulties for Denmark and might eve[n] have the counterproductive effect of making travel more difficult for Danes'.[216] They also noted that while 'frontier checks are regarded as an extremely important deterrent to potential immigrants and for drug control purposes … the real obstacle to would-be illegal immigrants is the all encompassing social benefit register', an

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[212] TNA, CAB 130/1007, 1978.03.xx, Draft statement by the Home Secretary to the Select Committee of Race Relations and Immigration.

[213] TNA, FCO 50/687, 1980.07.29, Jones (Nationality and Treaty Department, FCO) to Gatty (Migration and Visa Department, FCO), 'Visa Policy'.

[214] *'qui deviendraient rapidement insupportables pour les personnes de bonne foi et seraient source d'incidents.'* AN, 19910302/1/2, 1979.03.20, Chef du Service Central de la PAF au Directeur Général de la Police Nationale, 'Conférence des Hauts Fonctionnaires (TREVI)'.

[215] TNA, FCO 33/6535, 1983.09.02, Reed (British Embassy, Paris) to Armour (FCO), 'Immigrants in France'.

[216] TNA, HO 394/438, 1984.10.12, Lambert (Copenhagen) for European Integration Department, Internal (EID-I) (FCO), 'Easing of frontier controls on Community nationals: Immigration consequences'.

internal mechanism of control tied to the provision of welfare.[217] Another illustration, perhaps, of the combined care and control dimensions of welfare.[218]

As the decade progressed, however, squeamishness regarding internal identity checks or their discriminatory nature seemed to wear off. Controls of dubious fairness and legality were beginning to seem like a reasonable price to pay for tightening (or appearing to tighten) immigration controls. Britain's man in Paris found it 'noteworthy' that 'the increasingly apparent difficulties controlling frontier crossings are forcing the government to intensify its checks on immigrants within the country. This will inveitably [sic] bear on legitimate as well as clandestine immigrants and must sap the credibility and effectiveness of measures designed to promote harmonious settlement of the [legitimate] foreign population.'[219] Indeed, in France,

> identity checks in connection with a serious crime appear to be the only regular positive method of post-entry check open to the authorities (though this is not to say that the police and gendarmes do not stop people who look like illegal immigrants and ask to see their papers).[220]

In Germany, though extensive internal checks were controversial,

> border officials [still] had instructions to carry out "spot" checks on any travellers of "non-European appearance", and if in doubt to check rather than wave the driver through. Since they would no longer be checking EC travellers so thoroughly officials would have more time for the others. (We pointed out that many British citizens have a "non-European appearance".)[221]

Looking like an illegal immigrant, possessing a 'non-European' appearance. These terms were understood by officials, and understood to mean non-white. Perhaps the main difference with earlier times was that a 'non-European' appearance was openly becoming a

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[217] The double use of the old Poor Laws for both welfare provision and social control makes for an interesting historical parallel. See: S. Walker, 'Expense, Social and Moral Control. Accounting and the Administration of the Old Poor Law in England and Wales', *Journal of Accounting and Public Policy,* 23:2 (2004), 85-127; S. Hindle, 'Power, Poor Relief, and Social Relations in Holland Fen, c. 1600-1800', *The Historical Journal,* 41:1 (1998), 67-96. The Danish quote is drawn from: TNA, HO 394/438, 1984.10.12, Lambert (Copenhagen) for ECD-I (FCO), 'Easing of frontier controls on Community nationals: Immigration consequences'.

[218] See also: Foucault, *Sécurité, territoire, population*; O'Neill, 'The Disciplinary Society'; Polanyi, *The Great Transformation*; Torpey, *The Invention of the Passport*; Viet, *La France immigrée*, p. 259.

[219] TNA, FCO 33/6535, 1983.09.02, Reed (Paris) to Armour (FCO), 'Immigrants in France'.

[220] TNA, HO 394/438, 1984.09.29, Fretwell (Paris) to FCO, 'Easing of Frontier Controls on EC Nationals: Immigration Consequences'.

[221] TNA, HO 394/438, 1984.10.01, Leslie (Bonn) to Varley (FCO), 'Immigration consequences of easing frontier controls'.

legitimate motive to be searched.[222] In Britain, Thatcher's use of the 'sus laws', which derived from the 1824 Vagrancy Act allowing police to stop, search and potentially arrest suspicious persons, overwhelmingly targeted non-whites. In 1980 and 1981, riots erupted in the deprived inner city areas of Brixton, Liverpool, Birmingham, and Leeds. The riots, which took place in predominantly Afro-Caribbean areas, were partly a reaction against brutal policing tactics, and a disproportionate use of stop and search powers on Black people.[223] Indeed, within her first few months in office, Thatcher approved a 45% pay rise for the police, whom the left derided as her 'boot boys'.[224] Police pay doubled in real terms between 1979 and 1994, and young police officers soon earned more than teachers and junior doctors.[225] Meanwhile, the effect of the government's monetarist policies was to precipitate Britain into a recession that hit industry especially hard.[226] Manufacturing output fell by 15% between the fourth quarters of 1979 and 1980. Unemployment reached 2.1 million in 1980, up from 1.3 million the year before.[227]

In France, 1983 saw a number of racially-motivated murders against North Africans , prompting a 'March for Equality and Against Racism', christened 'Marche des Beurs' (after the slang word for Arab) by the media. (Meanwhile, the far-right Front national had its first major electoral breakthrough in the small town of Dreux.) The French government itself recognised the legitimacy of this anger, noting that 'social tensions are relentlessly increasing under the combined pressure of the dramatic shortcomings of welcome and social integration policies, of

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[222] As Gastaut argues in the case of France, however, it is extremely unlikely that racism 'appeared' in the 1980s. Rather, the latent xenophobia, made dormant by a buoyant, labour-starved postwar economy, resurged when the factors suppressing it disappeared. See: Y. Gastaut, 'Français et immigrés à l'épreuve de la crise (1973-1995)', *Vingtième Siècle. Revue d'histoire*, 84 (October-December, 2004), 107-18.

[223] Something which the government's own Scarman report admitted. N. Jackson, '"A Nigger in the New England": "Sus", the Brixton Riot, and Citizenship', *African and Black Diaspora,* 8:2 (2015), 158-70.

[224] R. Chesshyre, 'Thatcher's "boot boys": When the unholy trinity of police, press and government took root', *The Independent*, 14 September 2012, [https://www.independent.co.uk/voices/comment/thatchers-boot-boys-when-the-unholy-trinity-of-police-press-and-government-took-root-8139816.html, accessed 5 May 2021].

[225] S. Jenkins, *Thatcher and Sons: A Revolution in Three Acts* (London: Penguin, 2006), chapter 12.

[226] Regarding her monetarist policies and the 1980-1 recession, see: D. Needham and A. Hotson (eds), *Expansionary Fiscal Contraction: The Thatcher Government's 1981 Budget in Perspective*, (Cambridge: Cambridge University Press, 2014); J. Tomlinson, 'Mrs Thatcher's Macroeconomic Adventurism, 1979-1981, and its Political Consequences', *British Politics*, 2 (2007), 3-19; W. Keegan, *Mrs Thatcher's Economic Experiment*, (London: Penguin Books, 1984). For a cinematic take on the de-industrialisation that followed Thatcher's policies, see *The Full Monty* (1997), which was nominated for four Academy Awards.

[227] A. Britton, *Macroeconomic Policy in Britain: 1974-87*, (Cambridge: Cambridge University Press, 1991), p. 49.

an inhuman and segregationist urban policy, of the development of the crisis, of the revolt of youth without social or professional perspectives.'[228]

These immigration policies were therefore playing out amid a diffuse repressive turn happening within member states and a higher collective threshold for more intrusive policing - which is not to say there was not considerable pushback from the communities at the sharp ends of policing and systemic racism. As we have seen in Britain, harsher immigration policies were partly motivated by worries about the public purse and the deservingness of its beneficiaries; partly by a belief that a variety of societal problems could be solved through a law and order approach.[229] Meanwhile on the Continent, where stronger internal policing was already the norm, there was also the sense of increased intrusiveness. This was driven not by fears of immigration, but by terrorism and banditry.

An article from the right-leaning *Figaro* in France noted the growing desire for security, commenting that 'little by little, French bosses are realising that kidnapping is not exclusive to Italians or Germans', noting that Italians readily spent as much on the best breeds of German shepherd as on a Rolls Royce, and that Germany's 350 private security companies were unable to keep up with demand.[230] The left-leaning *Humanité* also picked up on the trend and its European dimension. It noted with disapproval the general spiral of repression engendered by the 'punitive cooperation between Messrs. Giscard d'Estaing and Schmidt'. The German police, the paper said, 'seems to consider France as a legitimate playing field and exonerates itself from any kind of control. In Brussels, the opening of mail, phone tapping and the political tracking of European functionaries is now daily, nearly banal. The handing over of political dissidents between police forces is a common occurrence on the Franco-Spanish border.'[231]

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[228] '*Les tensions sociales ne cessent de croître sous l'effet conjugué de l'insuffisance dramatique de la politique d'accueil et d'insertion sociale, d'un urbanisme inhumain et ségrégatif, du développement de la crise, de la révolte des jeunes sans perspectives sociales et professionnelles.*', FNSP, CHSP, AHC, fonds Patrick Weil (WE 15), 1982.xx.xx., Note de synthèse, 'Les Grandes Orientations du Gouvernement pour les immigrés', Secrétariat d'Etat chargé des immigrés.

[229] For an overview of criminological research in 1980s Britain, see: T. Jefferson and J. Shapland, 'Criminal Justice and the Production of Order and Control - Criminological Research in the UK in the 1980s', *British Journal of Criminology,* 34:3 (1994), 265-290.

[230] AN, 19910302/1, 1978.01.10, J.-P. Mogui, '"Anges gardiens": du muscle et de la cervelle', *Le Figaro*.

[231] '*La police allemande paraît considérer la France comme terrain légitime de manoeuvre et se passe de tout contrôle. A Bruxelles, l'ouverture du courrier, les écoutes téléphoniques et le fichage politique des fonctionnaires européens relèvent du quotidien, presque banal. La remise d'opposants politiques de police à police est fait courant à la frontière franco-espagnole.'* AN, 19910302/1/2, 1979.06.07, M. Naudy, *L'Humanité*, 'Justice: le virus répressif européen', interview with Claude Michel, president of the Syndicat des avocats de France and Dominique Coujard, president of the Syndicat de la magistrature.

The lawyers interviewed by the paper, presidents of the French union of lawyers and French union of prosecutors, described what they saw as the negative transfer of German rhetoric and practices to France:

> The German example certainly plays a very strong negative role. For very specific historical reasons pertaining to the existence of two German states, it is in the name of the defense of the state that there developed in the FRG a restrictive legislation concerning rights and liberties, namely professional prohibitions. The trend is to import into French ideology, into the doctrine of security and judicial practice in France, the negative elements that developed in other European states from crisis situations there.[232]

These articles show how much more diffuse and divorced from immigration the repressive shift was, but also that it did have a collective, European dimension. This suggests that the emphasis on interior ministry officials promoting a securitarian view of immigration might be exaggerated: a much broader societal shift was under way.

Meanwhile, cooperation had long since outgrown petty crimes along the border. Indeed, Giscard, the French president, went so far as to suggest a 'European judicial area', which though it never really took off, did not preclude a near-permanent exchange of information on criminal and terrorist activities, and how member states' immigration policies were converging independently of one another.

To summarise, compensation for the removal of Europe's internal borders was not solely conceived of through the strengthening external borders. To begin with, officials were opposed to the removal of internal borders, largely due to the loss of technical capabilities this would entail (not to mention the loss of influence). Second, the logic of compensation itself was old. Members states had long since embraced, at the national level, the idea that freedom and integration within were guaranteed by hard borders and a stop to immigration without. Third, compensation for the removal of internal European frontier checks was initially conceived of as an increase in *internal* controls on European nationals, 'legitimate' immigrants, individuals of 'non-European' appearance - in short, on society as a whole, with a special emphasis, nonetheless, on non-whites. While many interior ministry officials opposed the removal of

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[232] '*L'exemple allemand joue certainement un très fort rôle négatif. Pour des raisons historiques tout à fait particulières tenant à l'existence de deux États allemands, c'est au nom de la défense de l'État que s'est élaborée en RFA la législation restrictive des droits ou de libertés, les interdits professionnels notamment. La tendance est à importer dans l'idéologie, à travers la doctrine de sécurité et dans la pratique judiciaire française, les éléments négatifs qui se sont développés dans d'autres pays européens à partir de situation de crise.'* AN, 19910302/1/2, 1979.06.07, M. Naudy, *L'Humanité*, 'Justice: le virus répressif européen', interview with Claude Michel, president of the Syndicat des avocats de France and Dominique Coujard, president of the Syndicat de la magistrature.

internal frontiers on civil liberty grounds, at the same time there emerged during this period a higher collective threshold for law and order approaches. This shift, whose roots were more diffuse than immigration, was shared across Britain, France and Germany, albeit for slightly different historical reasons.

3.2. Asylum

i. An immigration 'loophole'

The broader political and social context was becoming more accepting of law and order approaches, and in Britain at least, the deserving/undeserving dichotomy already had widespread political currency. If one's own nationals could be suspected of scrounging, what chance did foreigners stand? It was against this backdrop that the notion of asylum began to be hollowed out, and began to straddle both an immigration and a terrorism dimension.[233] Primary, work immigration had ceased across the Community in 1973-4. Secondary, family immigration had been curtailed as far as the courts would allow.[234] Yet immigration was still very much on the political map, with xenophobic parties like the French and British National Fronts highly visible. As Conservative MP Tony Marlow reminded the Prime Minister,

> I represent an urban, marginal seat won by us at the last election for the first time. The victory was largely due to massively increased support amongst trade unionists, council tenants and the members of our working men's clubs. Amongst the reasons for this movement in support was our commitment to reduce immigration. … Whatever we may consider to be the differences between immigrants and refugees it is a distinction that our new-found supporters will not be readily persuaded to make.[235]

The working class pressure to be seen to reduce immigration was echoed in nearly identical terms, albeit less articulately, in France, where on Christmas Eve 1980, a group of Communists, led by the mayor of the Parisian suburb of Vitry, used a bulldozer to damage a hostel where migrants had been relocated by the central government. 'By and large', noted the British envoy in France, 'it is Communist members and supporters who are competing most

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[233] One could add that it was being hollowed out - again. In 1939, the *St Louis* carrying 900 Jewish asylum-seekers was turned back from Cuba, the USA, and Canada before being forced back to Europe.

[234] Weil, *La France et ses étrangers*; Hollifield, *The Political Economy of Postwar Europe.*

[235] Thatcher MSS, THCR 2/1/4/77, f119, 1979.07.13, Tony Marlow MP to the Prime Minister.

directly with immigrants for jobs and accommodation'. The French Communist Party was 'unlikely to suffer significantly in electoral terms'.[236]

There were fewer and fewer ways in which governments could do, or be seen to do, something about immigration (without directly addressing the tradeoffs inherent to globalisation, that is).[237] Curtailing asylum was one such way. The development of the genuine/false lexicon, of the political versus the economic refugee, was the semantic stretch that enabled the working men's club members to be satisfied there would be no further immigration, while maintaining a state's self-image as a generous safe-haven.[238] At the same time, the expanding use of visas (to which we return) aimed at preventing people arriving in Europe, and thence claiming asylum, in the first place. As a German telex freely admitted, 'the mandatory visa has been introduced for the main countries of origin of asylum seekers: Ethiopia, Afghanistan, Bangladesh, India, Pakistan, Sri Lanka, Turkey'.[239]

As German diplomats were keen to stress to their European colleagues, 'The purpose of the right to asylum is to protect against political persecutions. … The problem resides in the distinction to operate between claimants who are persecuted for political reasons on the one hand, from those who file an asylum request for economic reasons, with the goal of sojourning or working on the territory'.[240] Meanwhile, the Germans were 'flying planeloads of Pakistanis back home in the attempt to discourage an uncontrollable East-to-West Berlin flow of entrants falsely seeking political asylum on decanting from the train in West Berlin.'[241] Rarely did officials seem to have entertained the possibility that the asylum claims might be justified:

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[236] TNA, FCO 33/4822, 1981.01.06, British Embassy, Paris to Armour (FCO), 'French Immigration Policy'.

[237] Slaven and Boswell, 'Symbolic policy-making in the 1960s'.

[238] R. Stern, '"Our Refugee Policy is Generous": Reflections on the Importance of a State's Self-Image', *Refugee Survey Quarterly*, 33:1 (2014), 25-43. For a more theoretical investigation into the illiberal roots of liberal political philosophy, see: U. Mehta, 'Liberal Strategies of Exclusion', *Politics & Society*, 18 (December 1990), 427-54.

[239] '*le visa obligatoire e été introduit pour les principaux pays d'origine des demandeurs*'. TNA, FCO 98/971, 1980.08.08, Bonn Coreu to Lux Coreu, 'Problèmes se rapportant aux étrangers qui demandent l'asile en République Fédérale d'Allemagne'.

[240] '*Le droit d'asile a pour but de protéger les persécutés politiques … La problématique réside dans la distinction a opérer entre les demandeurs qui sont poursuivis pour des raisons politiques, d'une part, et ceux qui engagent une procédure d'asile pour des raisons économiques, dans le but de séjourner et de travailler sur le territoire … (réfugiés économiques).'* TNA, FCO 98/971, 1980.08.08, Bonn Coreu to Lux Coreu, 'Problèmes se rapportant aux étrangers qui demandent l'asile en République Fédérale d'Allemagne'.

[241] TNA, FCO 50/687, 1980.07.22, Gatty (MVD, FCO) to Adams.

much like Tony Marlow's council tenants, the distinction between refugee and immigrant was not one officials seemed inclined to make.

For the Germans were alarmed over Turkish immigration and the sustained increase in asylum requests they had received following their closing of borders. In 1970, when Turks could freely come to Germany, there had been only 8,645 asylum requests. By June 1980, the number had increased ten fold, 65% of whom were Turks.[242] As a British official minuted, 'Over the past 2 years the Federal Republic of Germany has seen the arrival of large and ever growing numbers of persons - particular from Turkey but also from the Indian subcontinent and other countries - attempting to be admitted to the country as political asylum seekers. In fact their overwhelming majority is trying to get access to the German labour market.'[243] The Germans might indeed have had a 'phoney' asylum problem, and primary immigration flows do seem to have been diverted to asylum after the former avenue closed.[244] Nothing indicates Britain had such a problem in the early 1980s, though it certainly had the rhetoric. Gone were the days of André Postel-Vinay, Resistance hero and French civil servant: he had resigned as head of French immigration after barely a year, over his government's failure to acknowledge the role of global inequalities in immigration flows.

On the contrary, asylum was increasingly seen by officials as 'an important loophole' through which (undeserving) immigrants could penetrate.[245] Despite their 'post-war conscience [which] produced a presumption of 'political refugee' status which it takes a long time to rebut', the Germans were 'as we all know, coming round to the belief that they had made it too easy for undesirable foreigners to enter the FRG in the past.'[246] They had been 'trying for some time to block this loophole in their immigration defences.'[247] In France too, the office responsible for asylum seekers, the OFPRA, had 'reinforced [measures] on the grounds that too many

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[242] TNA, FCO 98/971, 1980.08.08, Bonn Coreu to Lux Coreu, 'Problèmes se rapportant aux étrangers qui demandent l'asile en République Fédérale d'Allemagne'.

[243] TNA, FCO 98/971, 1980.07.15, Bonn Coreu to Lux Coreu, '98me réunion du Comité Politique'.

[244] That said, as Schönwalder shows, post-war German immigration policy has consistently demonstrated a marked preference for European, or white, migration. K. Schönwälder, 'Why Germany's guestworkers were largely Europeans: The selective principles of post-war labour recruitment policy', *Ethnic and Racial Studies*, 27:2 (2004), 248-265.

[245] TNA, FCO 50/687, 1980.07.18, Cooper (ECD-E, FCO) to Gatty (MVD, FCO), 'Political Committee Luxembourg 16/17 July: Immigration'. 'Even with more stringent visa rules, asylum represented an important loophole.'

[246] TNA, FCO 50/687, 1980.07.22, Gatty (MVD, FCO) to Adams; TNA, FCO 98/971, 1980.10.29, Bullard to Middle-Eastern Department (FCO), 'Iran: Visas'.

[247] TNA, FCO 50/687, 1980.07.22, Gatty (MVD, FCO) to Adams.

immigrants slip in this way (although in fact half the applicants are rejected already).'[248] Loopholes, defences, penetration… asylum was regarded as an underhand way for 'undesirable' immigrants to access Europe.[249] No longer was it an unconditional human right, enshrined in the Geneva Convention (to the extent it had ever been unconditional - the original convention only extended to 'events occurring in Europe before 1 January 1951').[250] Now that other avenues for immigration had closed (and nothing had been done about Postel-Vinay's global inequalities) it was a breach in defences, the last awkward opening for unwanted, poor, non-white immigration. The undertone of moral righteousness, already gaining broader currency under Thatcher, marks a semantic shift with the previous decade. It is a shift that easily allowed for something perceived as illegitimate to become something perceived as dangerous. It was a shift occurring simultaneously but separately across Britain, France, and Germany.

How could wealthy Western European states 'close the loophole'? There is a vast literature on 'remote control', or states attempting to block immigration not at their own borders, but from afar.[251] This includes stricter visa policies, where the main sites of control are not borders, but foreign consulates; and aircraft carrier sanctions, whereby airline companies are fined for transporting individuals who do not possess what the destination country considers appropriate documentation. This literature, however, is recent, and tends not to examine this historical origins of the phenomenon.[252] My findings confirm these studies and

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[248] This suggests a certain cognitive dissonance: despite rejecting applications and maintaining control over that process, the official sentiment was still one of being 'had'. For further reading on the OFPRA, and how to category of 'refugee' says more about the state defining it than the refugees themselves see: K. Akoka, *L'asile et l'exil: Une histoire de la distinction réfugiés/migrants*, (Paris: La Découverte, 2020). TNA, HO 394/438, 1984.10.11, Fretwell (Paris) to Priority FCO, 'New French Immigration Measures'.

[249] German policymakers explicitly referred to 'Afro-Asians', see: K. Schönwälder, 'Why Germany's guestworkers were largely Europeans: The selective principles of post-war labour recruitment policy', *Ethnic and Racial Studies*, 27:2 (2004), 248-265.

[250] The 1951 Geneva Convention dropped its geographical and historical limits with the 1967 New York Protocol.

[251] A. Zolberg, 'Matters of state: Theorizing immigration policy', in *The handbook of international migration: the American experience*, eds. C. Hirschman, P. Kasinitz, and J. DeWind (New York: Russell Sage Foundation, 1999); N. Ostrand and P. Statham, 'Street-level' agents operating beyond 'remote control': how overseas liaison officers and foreign state officials shape UK extraterritorial migration management, *Journal of Ethnic and Migration Studies*, 47:1 (2021), 25-45.

[252] See for instance C. Finotelli and G. Sciortino, 'Through the gates of the fortress: European visa policies and the limits of immigration control', *Perspectives on European Politics and Society*, 14:1 (2013), 80-101; E. Neumayer, 'Unequal Access to Foreign Spaces: How States Use Visa Restrictions to Regulate Mobility in a Globalized World', *Transactions of the Institute of British Geographers,* 31:1 (2006), 72-84.

bring documentary proof that policymakers conceived of it in these terms, namely that visa requirements were to apply differentially according to the immigration or asylum 'risk' posed by the sending country. The higher the likelihood their nationals would seek asylum, the stricter the visa requirements and the lower chance they would be granted it: 'obligatory visas have been introduced for the principal countries asylum seekers come from: Ethiopia, Afghanistan, Bangladesh, India, Pakistan, Sri Lanka, Turkey.'[253] France was following suit, and Britain was bulking up its own entry clearance system. This shift was knowingly undertaken and highlights a convergence in the people deemed 'undesirable' by European policymakers.

To summarize, asylum was seen as a weakness in the emerging ramparts against immigration. This was due to a combination of factors: that immigration was a hot political issue, with the heat maintained by persistent unemployment, widespread perception of the previous decade as one of crisis, and the increasing visibility of earlier immigrants' disaffected offspring.[254] Time had all but severed colonies ties, and with Western economies stagnating, neither politicians nor voters seemed willing to address the root causes of persistent emigration. European societies were also warmer to law and order approaches than they previously might have been.

ii. The end of political crime

The erosion of the right of asylum was also manifest in official discussions about terrorism. This erosion had a nineteenth century echo, when British officials redefined 'political offence' (and resulting extradition and asylum laws) so as to exclude the very people most likely to benefit from them, namely anarchists.[255] One of the questions this research set itself was the precise way in which, in the late twentieth century, the *rapprochement* between immigration and terrorism was made. I argue that a crucial link was asylum, attacked separately but simultaneously on political *and* immigration grounds. Indeed, the key development of the late 1970s, which crystallised in the 1980s, was the hollowing out of the notions of political crime

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[253] *'le visa obligatoire a été introduit pour les principaux pays d'origine des demandeurs [d'asile]: Ethiopie, Afghanistan, Bangladesh, India, Pakistan, Sri Lanka, Turquie.'* TNA, FCO 98/971, 10980.08.08, Bonn Coreu to Lux Coreu, 'Problèmes se rapportant aux étrangers qui demandent l'asile en République Fédérale d'Allemagne'.

[254] Though at the time of their emigration their parents had most likely been imperial subjects or citizens. On the perception of crisis, see: C. Hay, 'Chronicles of a Death Foretold: the Winter of Discontent and Construction of the Crisis of British Keynesianism', *Parliamentary Affairs*, 63:3 (2010), 446-470.

[255] Gilbert explores American, French and Swiss approaches. *Plus ça change*… G. Gilbert, 'Terrorism ad the Political Offence Exemption Reappraised', *International and Comparative Law Quarterly*, 34 (October 1985), 695-723.

and asylum in the context of the fight against terrorism.[256] In a bid to prevent mostly European terrorists escaping prosecution in neighbouring countries, European governments made extradition and deportation easier, and denied that a crime's political dimension made it worthy of special treatment.[257]

In the last chapter, we saw that Europe in the 1970s was blighted by largely homegrown terrorism: independence movements, anarchist leftists, neo-fascists. From Belfast to Bologna, nearly all European governments were confronted with spectacular attacks on the status quo. Some of these attacks were material, others symbolic. The Bologna train station massacre of 1980, for instance, had killed 85 people and wounded over 200. During the 1977 Easter service at Paris's Notre-Dame cathedral, on the other hand, protesters merely unfurled a banner in support of the imprisoned members of the Baader-Meinhof gang - a victimless act, but one which nonetheless was cited by the *Direction Centrale des Renseignements Généraux* as an example of efficient media manipulation by international terrorist organisations.[258]

All protested the established order which, in many cases, had not been established very long. The Federal Republic of Germany had only had its *Grundgesetz* (Basic Law, or constitution) since 1949, and had been governed by the Allied High Commission until 1955. Between 1943 and 1946, Italy experienced a brief civil war, the abolition of its constitutional monarchy, the foundation of a new republic - and no real reckoning with its fascist past. As for the Southern European states, in various stages of negotiating accession… in Spain, Franco had died in 1975, though the transition to democracy was arguably not complete until the 1982 general elections, as there had been a failed coup only the year before. Portugal's Carnation Revolution, meanwhile, took place in 1974; the same year Greece's military junta fell. Thus in many respects the period was a fraught one, with live memories of fascism, generational discord, and tense political contest over the shape these emerging democracies should take.[259] At the same time, the Western European model of capitalist liberal democracy was becoming more and more entrenched. France had come back from the brink of civil war in 1946, and fully endorsed de Gaulle's Fifth Republic in 1958. West Germany's political order was

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[256] Gilbert also shows how this was more easily achieved in the relatively homogenous political systems of post-war Western Europe than it was in the fractured context of the nineteenth century.

[257] For a fascinating discussion of political crime and a plea for its recognition in 1920s United States, see: R. Ferrari, 'Political Crime', *Columbia Law Review*, 20:3 (1920), 308-316.

[258] Central Directorate of General Intelligence, or French intelligence services. AN, 19910302/1/2, 1979.03.22, Note rédigée par la Direction Centrale des Renseignements Généraux, 'Violence politique: terrorisme et medias'.

[259] T. Judt, *Postwar : A History of Europe since 1945* (London: Vintage, 2010); M. Conway, *Western Europe's Democratic Age: 1945-1968* (Princeton: Princeton University Press, 2020).

largely accepted; Southern European states were fast moving towards Western European models; and Britain had never bothered with a post-war reckoning in the first place. For all its faults, this was the political model that had managed to rebuild Europe, improve its citizens life expectancies and living standards, and largely deliver on the promise of peace and prosperity.[260]

The appetite of European Community nationals for violent political contestation or radical politics was waning and violence was losing legitimacy as a political tactic.[261] As Margaret Thatcher declared in 1981, 'Crime is crime is crime: it is not political'.[262] Before we explore how political crime was de-politicised and the impact this had on immigration, a brief aside on Northern Ireland. Thatcher made this denial of the political dimension of crime in the context of the Troubles in Northern Ireland. Yet, whether in Whitehall discussions of immigration and border policy, or European summit discussions of terrorism, Northern Ireland is remarkable by its absence. Why was Britain's defining post-war conflict absent from discussions about its very essence - borders and terrorism? I would suggest that Northern Ireland was not a live issue in these fora simply because it was seen as a domestic crisis, not a conflict with a foreign 'other'. The Northern Ireland Department was located in the *Home* Office from 1924 to 1972, after which the British government announced direct rule from Westminster. In immigration discussions, the Common Travel Area (CTA) with the Irish Republic was always sacred. As a Home Office memorandum put it, 'although the citizens of the Republic of Ireland are EEC nationals they are not dealt with in the same way as the others … by long tradition immigration or employment controls have not been imposed on Irish nationals'.[263] On the contrary, internal notes, memos and diplomatic correspondence systematically include a few separate lines on the Irish, guaranteeing their freedom of movement in the CTA independently of the vagaries of British immigration and border policy. 'Incidentally', reads one typical such note, 'we do not see the treatment of Irish citizens as being a problem'.[264] British officials even

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[260] A. Avdeev et al., 'Populations and Demographic Trends of European Countries, 1980-2010', INED, *Population-E*, 66:1 (2011), pp. 43-44.

[261] K. Hanshew,'"Sympathy for the Devil?" The West German Left and the Challenge of Terrorism', *Contemporary European History,* 21:4 (2012), 511-532.

[262] Margaret Thatcher, 1981.04.21, 'Press Conference ending visit to Saudi Arabia (IRA hunger strikes)', [https://www.margaretthatcher.org/document/104501, accessed 10 May 2021]; Margaret Thatcher, 1981.04.05, 'Speech in Belfast', [https://www.margaretthatcher.org/document/104589, accessed 10 May 2021].

[263] TNA, FCO 30/3967, 1978.02, 'Memorandum by the Home Office: Enquiry into the effect of the United Kingdom's membership of the EEC on immigration and race relations'.

[264] TNA, HO 394/437, 1980.09.23, Brown (CAB) to Angel (HO), 'Pieck'.

wore down the Commission, which had taken issue with Britain's preferential treatment of the Irish: reporting home from Brussels, the UK representative noted with satisfaction that the Commission had finally let the matter drop.[265] The Irish were not immigrants like the others. In fact, to policymakers they were barely immigrants at all.[266] The Northern Irish border was simply not a foreign one.[267]

The cases that were problematic for British officials involved 'proper' foreigners, and it is in the context of these cases that ministers and officials first floated the possibility of using immigration rules for anti-terrorism purposes and vice-versa. The general attitude to immigration had in any case been hardening. What is more, both areas had traditionally benefited from considerable discretionary powers. Sir John Graham, twice Deputy Under-Secretary at the FCO and Ambassador to Iran, and Lord Carrington, Foreign Secretary, were both 'inclined to think there would be more substance in changing the immigration rules so that the Home Secretary could swiftly deport suspected terrorists without running into the Agee/ Hosenball difficulties and in extending the Prevention of Terrorism Act'.[268] Agee and Hosenball were two American journalists deported by Britain to the USA in 1977. Agee was an ex-CIA operative, who after 12 years of service, resigned, disgusted by the CIA's destabilization of progressive regimes abroad. He published *Inside the Company* and revealed the identities of alleged CIA operatives in London. Hosenball, meanwhile, had undertaken less controversial activity, though he had investigated British government activities in South Africa and Northern Ireland. Despite major public campaigns defending them - a petition gained more than 10,000 signatures - they were deported to America by the Labour government.[269] Closing asylum 'loopholes' was therefore a key step in expediting deportations the government deemed politic.

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[265] TNA, FCO 30/4383, 1980.11.28, Wilson (UKREP EC) to Angel (HO), 'Immigration Control Matters'.

[266] This might have been the case for policymakers; it wasn't for some English landlords, who stipulated 'No Blacks, No Irish, No Dogs'.

[267] A complex situation British politicians have had immense difficulty grappling with in the wake of the 2016 Brexit referendum.

[268] TNA, FCO 50/687, 1980.08.26, Burton (Maritime, Aviation and Environment Department, FCO) to Phillips (HO), 'Near East/North African Terrorism in Great Britain', copied to Gatty (FCO); TNA, FCO 50/687, 1980.08.13, Sir John Graham to Chief Clerk, handwritten note in the margin, possibly from Douglas Hurd.

[269] H. Norden, 'A nasty, sordid business', *Index on Censorship*, 6:2 (1977), 44-46; L. Wiznitzer, 'Expulsés de Grande-Bretagne: MM. Agee et Hosenball diffusaient des informations sur les activités des services américains en Afrique australe', *Le Monde*, 24 November 1976 [https://www.lemonde.fr/archives/article/1976/11/24/expulses-de-grande-bretagne-mm-agee-et-hosenball-diffusaient-des-informations-sur-les-activites-des-services-americains-en-afrique-australe_3121957_1819218.html, accessed 10 May 2021].

Across the Channel, and virtually simultaneously, the French had run into very similar difficulties with Klaus Croissant. This time, however, pressure did not come from the 'special relationship' with the United States, but from the 'tandem' with West Germany. Klaus Croissant was a lawyer for the Red Army Faction (otherwise known as the Baader-Meinhof Gang). Arrested in Germany for his proximity to the gang, he absconded to France in July 1977. In September, he was arrested, applied for asylum, and was rejected, despite a vigorous defence campaign that rallied Sartre and Foucault.[270] In October, three members of the Red Army Faction were found dead in their prison cells in Germany. In November, Croissant was extradited to Germany. As Liora notes,

> He was part of an interconnected network of politically active lawyers engaged in a pan-European campaign regarding the right to defence, more especially, the defence of civil liberties in the context of the fight against terrorism. This fight mainly took place in Germany and Italy, but was echoed in the rest of Europe, namely in France. At the time, the first elements of a European judicial area were progressively falling into place, leading to increased cooperation between states on judicial and security questions.[271]

Thus in Britain, France and Germany, asylum rules were being rewritten to accommodate cooperation in the terrorism and political spheres.[272] 48 hours after the deportation of Croissant, the Committee of Ministers of the Council of Europe (a body distinct from the EC, but including all its members) declared its intention to 'maintain a liberal

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[270] The Croissant affair would influence Foucault's work on neoliberal intergovernmentalism. For an analysis of the impact of the affair on his work, see: A. Poama, '"Poser des questions à la politique" : le concept de sécurité chez Michel Foucault et sa postérité théorique', communication au congrès de l'Association française de science politique 2009, [http://www.congresafsp2009.fr/sectionsthematiques/st50/st50poama.pdf, accessed 10 May 2021].

[271] '*Il s'inscrit dans un réseau d'interconnaissances entre avocats engagés dans une mobilisation européenne relative aux protections des droits de la défense, et plus particulièrement à la défense des libertés, dans le contexte de la lutte contre le terrorisme. Ce combat concerne en premier lieu l'Allemagne et l'Italie, mais rencontre un écho ailleurs en Europe, et en premier lieu en France, alors que se mettent progressivement en place les premiers éléments d'un espace judiciaire européen amenant au renforcement de la coopération entre les États sur les questions de justice et de sécurité.*' I. Liora, 'Défendre le défenseur de l'ennemi public. L'affaire Croissant', *Le Mouvement Social*, 3:240 (2012), 67-84.

[272] This convergence antedates Sheptycki's analysis, which emphasizes the 1990s as the start of convergence. J. Sheptycki, 'Patrolling the New European (In)Security Field; Organizational Dilemmas and Operational Solutions for Policing the Internal Borders of Europe', *European Journal of Crime, Criminal Law and Criminal Justice*, 9:2 (2001), 144-160.

application of the right of asylum', a right which 'was a peaceful and humanitarian act, that could not be considered inimical towards another state'.[273]

3.3. Visas and the overlap of convenience between immigration and terrorism

We now turn to instances where the *rapprochement* between immigration and terrorism was made explicitly, one of the main contributions of this thesis. Indeed, much of the literature on the securitisation of immigration takes as its starting point the fact that immigration is discussed and policed as a security threat, rather than a labour or humanitarian issue, and explores how this translates into contemporary practices at state borders or media representations, for instance.[274] The studies that do attempt to trace the origins of the link tend to rely on discourse analysis and public pronouncements.[275] To my knowledge, Smith is the only historian to have examined the 'black box' in which the linkage was first made: he finds that in the 1970s and 1980s, blanket restrictions were placed on Middle Eastern and North African travellers by the UK border control system, in an effort to meet the UK's anti-terrorism objectives.[276] Though the measures were inefficient - one official pointed out that of over 1,600 interviews, they had not 'not identified and weeded out a single potential Libyan (or other) terrorist' - the measures were kept in place largely because of xenophobic and stereotypical assumptions, maintaining the divide between 'white British' and 'non-white' alien.[277] My

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[273] '*Le comité des Ministres du Conseil de l'Europe a réitéré le 18 novembre son intention de maintenir une application libérale du droit d'asile' … 'Ils ont souligné que cet octroi "est un acte pacifique et humanitaire, qui ne saurait être considéré comme inimical à l'égard d'un autre État et qui devrait être respecté par tous les autres États".'* AN, 19910302/1/2, 1979.12.06, AFP, 'Conseil de l'Europe: Le Comité des Ministres réaffirme sa politique d'application libérale du droit d'asile'.

[274] B. Holzberg et al., 'Figures of Crisis: The Delineation of (Un)Deserving Refugees in the German Media', *Sociology,* 52:3 (2018), 534-50; G. Orsini, 'Securitization as a Source of Insecurity: A Ground-Level Look at the Functioning of Europe's External Border in Lampedusa', *Studies in Ethnicity and Nationalism,* 16:1 (2016), 135-47.

[275] A. Buonfino, 'Between unity and plurality: the politicization and securitization of the discourse of immigration in Europe', *New Political Science*, 26:1 (2004), 23-49; R. Van Munster, *Securitizing immigration: The politics of risk in the EU* (New York: Palgrave Macmillan, 2009); S. Lavenex, 'Common Market, Normative Power or Super-state? Conflicting Political Identities in EU Asylum and Immigration Policy', *Comparative European Politics,* 17:4 (2019), 567-84.

[276] E. Smith, 'Creating the National/Border Security Nexus: Counter-Terrorist Operations and Monitoring Middle Eastern and North African Visitors to the UK in the 1970s–1980s', *Terrorism and Political Violence*, 31:3 (2019), 595-614.

[277] TNA, FCO 93/2356, 1980.09.29, British Embassy Tripoli, 'UK Visas for Libyans', in Smith, 'Middle Eastern and North African Visitors to the UK in the 1970s–1980s', p. 603.

research bears out Smith's findings, especially regarding the measures' inefficiency - and continued use. Based on interviews and archival research, I show that that in addition to asylum being a point of convergence, two further drivers explain how anti-immigration and anti-terrorism efforts converged and overlapped.

First, both shared a cross-border dimension. Terrorist networks, as we have seen, had an international dimension security bosses were all too aware of and were struggling against. Separately, unemployment and a less rosy economic outlook were contributing to Western European countries closing their borders to immigration. Meanwhile, interior ministry officials were pondering the removal of internal frontiers in order that Europe might become a more tangible reality for its citizens. This, combined with the fact that interior ministry civil servants would, over the course of a career, inevitably touch on a variety of areas, from drug trafficking to asylum to penal reform, meant that the association was initially above all a pragmatic one. Immigration was less conceived of as a threat, but dealt with alongside other issues it shared some fundamental traits with, cross-border matters under the remit of interior ministries. That immigration and terrorism shared this cross-border dimension is something we have already explored at length, and I shall therefore not dwell on it longer.

Instead, I find that officials were also beginning to recognize the similarities, fortuitous until now, between both sets of legislation, and were beginning to consider using immigration and terrorism legislation opportunistically and interchangeably. I find evidence of officials considering which was most expedient, and terrorism being used quite explicitly as a front for immigration practices that would otherwise have been unpalatable. Considering the extent to which the Criminal Justice Bill could be used for immigration legislation, the British working group on the Immigration Act and Rule found there were nonetheless 'clearly limits to the extent to which [it] could be used'.[278] At a meeting between the Migration and Visa Department and the Security Service, 'the question was raised, in the context of the use of Immigration Act powers to counter Arab terrorism, whether a loophole existed for visa-requiring nationals'.[279]

One area in which anti-terrorism measures were explicitly used as an anti-immigration front was visas. Previously, visas had been used only in diplomacy to signal disapproval, not as a tool of immigration control.[280] However, Britain, France and Germany were each moving towards using visas as an immigration tool, and keeping an eye on each other as they did. In

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[278] TNA, FCO 50/687, 1980.08.06, B2 Division, 'Working Group on the Immigration Act and Rule, Minutes of the 7th Meeting held 24 July'.

[279] TNA, FCO 50/687, 1980.08.11, Angel (HO), 'Arrival from the Republic of Ireland'.

[280] Torpey, *The Invention of the Passport*.

the summer of 1980, Britain's man in Bonn wrote that he was 'struck by a remark made in Ankara by [the French] to the effect that France was in the process of changing her whole policy on visas'. The French 'foresaw a time when (except presumably for France's partners in the European Community, and perhaps other special cases) France would require visas from citizens of all other countries except the United States.' 'During the same conversation' he continued, 'reference was made to the decision by the FRG to abrogate its Visa Abolition Agreement with Turkey … The French and German experience prompts me to ask whether we ourselves are contemplating any revision of the trend of our own policy'.[281] Meanwhile the Germans wanted to know whether the British were planning to introduce visas either for certain nationals, or 'for all states except fellow Community members and other friendly states (and if so, what public reaction would be)'.[282] Indeed, the Germans had 'admitted that their thinking was not very far advanced' and 'thought there would be scope for an exchange of expertise'. To which the Brit replied that this 'was further evidence of the way in which even outside the security field Interior Ministers have problems in common' and 'wondered aloud whether there might not be some scope for increasing links'. The German's 'welcome for the idea was immediate and notably enthusiastic.'[283]

The novelty aspect of this new visa regime - one which would extend to all but a few friendly states - was captured by a British official, who, slightly out of step with what would occur, mused **'**I find it hard to believe that a change as radical as the one suggested will, in fact, take place … In an era of increasing mobility the bureaucratic structure needed to maintain a high degree of pre-entry control is both ponderous and expensive.'[284] Maintaining a visa regime was indeed 'ponderous and expensive'. It also ran into a paradox: it was in the Foreign Office's interest to reduce manpower in the most dangerous regions, yet these were the regions likely to produce the highest immigration and asylum demands, and therefore to need the most staff to process requests.[285] Administrative delays as 'an alternative method of

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[281] TNA, FCO 50/687, 1980.07.02, Bullard to Adams, 'Visa Policy'.

[282] TNA, FCO 50/687, 1980.08.27, Adams to Chief Clerk 'Entry Clearance Policy'.

[283] TNA, FCO 98/971, 1980.09.26, Eastwood (British Embassy, Bonn) to Marsden (FCO), 'Relations between the Home Office and the Bundesministerium des Innern (BMI)'.

[284] TNA, FCO 50/687, 1980.07.22, Gatty (MVD, FCO) to Adams, 'Visa Policy'.

[285] Officials gave the examples of Tripoli and Tehran, 'where the threat from terrorists or overstayers may peak at a time when we wish to limit the numbers of staff at risk and visibly reduce the size of our representation as a sign of disapproval'. Near identical concerns were voiced in in Italy, see: TNA, FCO 30/4383, 1980.07.31: Rome to FCO, 'Immigration Procedures'.

economizing on manpower' were only effective up to a point.[286] Despite the cost, the visa system was considered a 'first line of defence', a 'deterrent' against unwanted immigration.[287] In addition to which, it was a system that bred less ill-will than turning people away at British ports, after they had already arrived.[288] A British memo summed up the rationale:

> There is thus a dilemma. The Entry Clearance [visa] system can offer only imperfect protection against undesirables (ranging from petty criminals to Government-sponsored terrorists) and pseudo visitors whose real intention is to seek settlement in Britain. At a time of particular financial stringency, what is the point of diminishing return on the application of manpower within such a system? It is intended as a first line of defence behind which lies the main screen of immigration officers at ports of entry. It needs to be as thorough as possible but it cannot be completely watertight. It has a deterrent value, and, in many cases can provide essential early warnings to the Security Service. To abandon the system would be unthinkable.[289]

Despite the memo's reference to the potentially security/terrorist dimension of visa controls, their purpose was nearly exclusively immigration-based. Though the odd official seems genuinely to have believed in visa interviews' usefulness from a security perspective, this view was clearly a minority.

> What is the point of a 20 minute interview for everyone when you have virtually no chance of detecting a terrorist … If the aim is simply to slow up entry we must say so … But if the name of the game is spotting killers we must say clearly that a heavy time of visa regime [sic] is pretty useless.[290]

> Once again there is an intellectual blurring of what interviews can achieve. They can sometimes unmask someone trying to obtain a right of abode or someone who has insufficient means or reason for visiting the UK. They are unlikely to unmask any but the most inefficient terrorist.[291]

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[286] TNA, FCO 50/687, 1980.07.22, Gatty (MVD, FCO) to Adams, 'Visa Policy'.

[287] TNA, FCO 50/687, 1980.07.22, Gatty (MVD, FCO) to Adams, 'Visa Policy'.

[288] TNA, FCO 50/687, 1980, Gatty (MVD, FCO) to Top 15 Visa Issuing Posts, Draft memo, 'Visa Policy: Resources and Requirements'.

[289] TNA, FCO 50/687, 1980.07.22, Gatty (MVD, FCO) to Adams, 'Visa Policy'.

[290] TNA, FCO 50/687, 1980.08.07, Adams to Gatty (MVD, FCO).

[291] TNA, FCO 50/687, 1980.08.07, Adams to Gatty (MVD, FCO).

> I am not at all convinced that even a full system of interviews for visas would be effective in excluding trained and determined terrorists, with or without government support.[292]
>
> Lord Carrington [the Foreign Secretary] … is unconvinced that the imposition of a tighter visa regime in the countries concerned would be cost effective because it is unlikely to prevent terrorist activity in this country.[293]
>
> The view was maintained that the visa system was largely a "cosmetic" one in relation to terrorism.[294]

Neither the Home Office nor the Foreign Office were under any illusions as to ability of visa controls to serve any anti-terrorism purpose. However, there were compelling reasons to outwardly maintain that there were. Indeed, 'this would help us more than anything else, would be very popular (unlike identity cards) and is in tune with our new nationality legislation'.[295] Indeed, an increase in internal controls would always risk being unpopular domestically. Exporting control abroad for a mix of immigration, diplomatic, and ostensibly security reasons, however, would encounter no such resistance. This was not solely a British phenomenon. In France too, visa requirements were 'generally presented as a weapon in the fight against terrorism'.[296] Indeed, the French foreign ministry itself, 'while acknowledging that Argentina, Brazil, Colombia and Mexico presented no particular problem [in terms of terrorism], also pointed to the problem of refugees from Central America'.

To summarize, the system of remote control, that is of control in countries of departure rather than arrival, was expanding. Increasingly, Community member states (associated, on occasion, with the USA), saw themselves as part of a 'friendly' whole in which free movement was highly desirable. For nationals from poorer, less politically stable states on the other hand, visa requirements were becoming the norm. Visas had traditionally been used as a diplomatic tool to signal disapproval. Now, however, they were becoming a tool of immigration control, targeting in priority countries that produced a high volume of asylum seekers. Imposing visa

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[292] TNA, FCO 50/687, 1980.08.13, Sir John Graham to Chief Clerk.

[293] TNA, FCO 50/687, 1980.08.26, Burton (Maritime, Aviation and Environment Department, FCO) to Phillips (HO), 'Near East/North African Terrorism in Great Britain'.

[294] TNA, FCO 50/687, 1980.09.03, Handwritten note of a telephone conversation between Gatty and Broadley.

[295] TNA, FCO 50/687, 1980.08.07, Adams to Gatty (MVD, FCO).

[296] TNA, FCO 33/6535, 1983.01.04, Reed (British Embassy, Paris) to Armour (FCO), 'Immigration Control in France'.

restrictions on terrorism and security grounds was a fig leaf of sorts, a plausible, useful, front to avoid having to make the anti-asylum and anti-immigration rationale explicit.

Conclusion

This thesis set out to do three things. First, explore the impact that being part of the European Community had on British immigration policymaking. Second, investigate whether, how, and when it was that immigration came to be 'securitised' - that is, when immigration came to be perceived as a security threat, rather than a labour, humanitarian, or indeed non-issue. And third, the extent to which the phenomenon might be linked.

Part one of this chapter looked at immigration policymaking during the early Thatcher years. A striking feature is that it remained, broadly speaking, in the continuity of previous policy, limiting as much as possible the ability of New Commonwealth nationals to settle in the UK. Unlike previous policy, however, it was carried out against a backdrop of more repressive policing and a shift towards a more law and order approach to social problems. A stricter approach to immigration therefore occurred alongside a hardening in other spheres: the increasing use of the deserving/undeserving dichotomy was not solely applied to immigrants, but was gaining political currency across Britain. Thus while the policies themselves did not mark a break with the past, the rhetoric accompanying them did. As for Europe, it remained a secondary consideration, if that. European institutions, formal or otherwise, barely inflected British policy at all. What hiccups there were had to do with the inherent ambiguity of the European project and the freedom of movement rights derived from it. The solutions were minor and administrative.

Part two examined how the border and immigration policies of EC member states, so jealously guarded, began to converge. We saw how the historic specificities and imperial networks that had precluded a common approach were slowly receding in the face of the overwhelming structural similarities between Western European states. Despite their own sense of crisis and high unemployment, they remained in comparison to much the rest of the world: a peaceful, prosperous, and attractive destination. Migration patterns increasingly reflected the differences between European rich and Third World poor, rather than imperial networks. Meanwhile, civil servants from across member states were in the habit of meeting frequently. Gradually, they came to perceive their immigration woes as not only similar, but intertwined, all the more so that discussions regarding the removal of internal frontiers, which at the very least

would require a common visa policy, were beginning. Thus common structural features as well as regular meetings and a common (albeit loose) commitment to a certain idea of 'Europe' were chipping away at states' ability and desire to conduct siloed policies.

Part three explored the origins of the immigration/terrorism overlap in policy. We recall that European security bosses initially perceived the removal of internal frontiers as requiring compensation through an increase in internal checks on their *own* nationals, not heavily policing external borders. The logic of compensation itself already had widespread currency within member states. How then did immigration and anti-terrorism provisions converge? Immigration was not perceived by policymakers as a security threat to the body politic. It had, however, become increasingly undesirable. What brought it into a similar orbit as terrorism was a combination of factors, both accidental and opportunistic: its cross-border dimension, which the possible removal of internal frontiers was rendering more relevant, for one; the fact both were areas under interior ministries' traditional remit for another. Meanwhile, asylum was another area in which immigration and properly security issues could converge and was being hollowed out on two fronts: immigration, where it was perceived as a way to circumvent increasingly tighter controls; and terrorism, where it was being restrictively redefined to exclude political crimes, preventing largely European, homegrown terrorists and political dissidents from taking refuge abroad. The idea of using immigration, criminal or anti-terrorist legislation according to whichever was most expedient was also being mooted.

These findings call into question the extent to which European security bosses, meeting informally and beyond national or European parliamentary oversight, cannibalised immigration, turning it into a security issue where previously it had not been one. On the contrary, the shift to more repressive immigration policies was mirrored by much broader, more diffuse repressive turn occurring independently in a number of member states, which suggests European integration remained largely state-driven. Ironically, this shift was occurring as both immigration and terrorism were declining: a British memo noted that 'since 1973 there has been a gradual decline in the absolute numbers of long term permit holders entering the United Kingdom'; and a TREVI briefing noted that 'terrorist activity has diminished'.[297]

[297] TNA, FCO 30/4383, 1980.05.15, Home Office Research Unit, 'Work Permit Migrants: An analysis of the nature of migration from Greece, Spain, Portugal and Turkey'; '*l'activité terroriste a diminué mais la menace reste constantel'.* AN, 19910302/1/2, 1979.10.23, Coopération européenne contre le terrorisme (TREVI), 4e conférence des Ministres, Dublin, 23 octobre 1979, Compte-rendu de la réunion, 'Le terrorism dans les pays occidentaux depuis un an'.

Chapter 3
The emergence of a European migration regime
1986-1990

We cannot entertain ... any demand for the expulsion of refugees ... You must be aware that no government which complied with such demands could exist a month in England.

— Lord Malmesbury, 1852.[1]

This third chapter spans from the Single European Act of 1986, to the Dublin Convention of 1990, which attempted to organise the asylum process across the EC. The Single European Act (SEA), was the realisation of the goals first set out in the 1957 Treaty of Rome: the freedom of movement for goods, services, capital, and, crucially, people. The Act was the result of the

[1] In C. Shaw, *Britannia's Embrace: Modern Humanitarianism and the Imperial Origins of Refugee Relief,* (New York: Oxford University Press, 2015).

activism and energy of Commission president Jacques Delors, internal markets commissioner Lord Cockfield, and, perhaps surprisingly given her subsequent Euroscepticism, British prime minister Margaret Thatcher. The SEA was one of Thatcher's key ambitions for Europe, and one of Britain's most lasting contributions to the Community. For while the Treaty of Rome had promised a single market for Europe, by the 1980s businesses were still navigating a patchwork of national legislations. Turning the Single Market into a reality for citizens and businesses was therefore of particular importance to Thatcher, committed as she was to free markets. 'Just think for a moment what a prospect that is', she told British business leaders, 'a single market without barriers - visible or invisible - giving you direct and unhindered access to the purchasing power of over 300 million of the world's wealthiest and most prosperous people'.[2] Freedom of movement was an important aspect, but still something of an afterthought as we shall see. 1990, where our story ends, corresponds to the signing of the Dublin Convention, still in operation today. The Convention (now Regulation) determines which European member state is responsible for examining asylum requests, regardless of the country in which the request was lodged. The main purpose is to avoid 'asylum shopping', that is, asylum seekers lodging requests in multiple European jurisdictions. Dublin (re)affirmed the principle of 'first safe country': applications must be examined by the first European country the asylum seeker arrived in; that country's decision is considered final, representing the collective decision of all member states.

The worry about asylum shopping seems to have grown out of domestic worries of 'deservingness' as a way the square the circle between asylum as a universal, sometimes foundational right, and the fact that states only wanted to honour it for a small number of people. Primary immigration, had all but ceased, as had family reunifications. Sanctions were tightening against illegal immigrants. When asylum requests 'exploded' in the mid-1980s, notably due to the Sri Lankan crisis, it threw state administrations into disarray. They were overworked, under-resourced, and already loathe to let people in. The Dublin Convention seemed like a practical, morally plausible, solution to the above. I do not dwell on the Dublin Convention, partly for this reason: it was a feat of coordination, but one whose constitutive logics, as I hope to show, much pre-dated it. I also do not dwell on it because neither my interviewees nor archives do, and because much scholarship has already been devoted to it.[3]

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[2] Thatcher archive, 1988.04.18, 'Speech opening Single Market Campaign', [https://www.margaretthatcher.org/document/107219, accessed 20 May 2021].

[3] A quick Google Scholar search for 'Dublin Convention' yielded 244,000 results, while 'Dublin Convention origin' yielded 76,600.

As in previous chapters, this one splits into three. First, I examine British immigration policymaking proper, from the domestic political context in which immigration policy was formed, to the judicial and administrative changes impacting the immigration and border regime. Second, I look to Europe, exploring the implications of the Single European Act on the movement of people. Finally, I turn to where concerns both domestic and European, immigration and security, converged: asylum, and the emergence of the European Ad Hoc Working Group on Immigration, which formalised cooperation between interior ministry officials on immigration issues.

This chapter was researched and written during the covid-19 pandemic; access to national archives was intermittent, if not impossible. I therefore came to rely on interviews with seven former Home Office officials who graciously shared their memories and impressions with me. Their collective experience in government spans from 1961 to 2015, from headquarters to port control, from the legal department to the European Commission, and informs much of this chapter. I also drew heavily on the online Margaret Thatcher archives, a treasure trove of private and public papers.[4] Combined, I trust these sources paint a true enough picture of British immigration policymaking and European integration in the late 1980s, and allow me to state my conclusions with relative confidence.

These are that:

(i) Border and immigration policy remained firmly national prerogatives, despite intensifying cooperation at the Community level and initiatives such as Dublin. Structural convergence, more than politics or ideology, drove cooperation.

(ii) The gradual criminalisation of immigration emerged more out of convenience to cool down an overheated administrative apparatus and changing domestic attitudes, not out of European cooperation.

(iii) The core paradox underpinning immigration policy - that it is an inevitable trade-off of globalisation - remained taboo among policymakers, and was eventually forgotten by them.

I. British immigration policy for a brave, new, globalised world

Previously, the Home Office's chief immigration concerns had been to regulate and limit migration from the New Commonwealth - the Indian sub-continent especially - and to test

[4] www.margaretthatcher.org.

immigrants' 'primary purpose' in coming to Britain: no scam students or bogus marriages if applicants' true purpose (according to immigration officers, that is) was to settle.[5] The end of the decade pushed these worries to the sidelines. The two key drivers of British immigration policy from the mid-1980s onwards were first, the 'explosion' of asylum and the rapid reconfiguring of an administrative system on the brink of collapse; second, the Single Market and its implications for the freedom of movement. The core paradox British immigration officials struggled with was managing a single European market on the one hand, without relinquishing control of the movement of people on the other. Underpinning this was a deeper paradox, one linked not to European integration but to globalisation: how to promote the flow of goods, capital, and services, while controlling the movements of different classes of people. These dilemmas played out against the domestic backdrop of the definitive loss of power of the trade unions following the strikes of 1984-85, privatisations, and an economic recovery that nonetheless failed to generate employment. From 1982 to 1987, no fewer than 3m people remained unemployed, a historic high.[6]

This shift in immediate immigration priorities should not make the reader forget that the overall goal of British policy remained unchanged: to limit the settlement of ex-colonial, Third World migrants.[7] There had been active recruitment in the colonies during the post-war reconstruction boom. Yet the implicit official hope had been that workers would eventually return home. (In Germany, this expectation was such that foreign workers were called guest workers.) An economy whose boom was limited only by its ability to procure labour made for a more capacious host society. The imperial connection was also still live, colonial workers not yet seen - as later they would - as altogether foreign. This ambivalent approach has remained consistent, regardless of the party in power. As Sir Hayden Philips, head of the Immigration and Nationality Department of the Home Office from March 1983 to June 1986, put it, 'the tone which successive governments have thought it right to adopt has always been "firm but fair"'.

This mantra runs straight from the Thatcher era to the present day. David Waddington, Minister of State at the Home Office (HO) said in 1986 that 'an immigration policy … which is

[5] For much of the 1970s settlement figures were the key figures against which the success of British immigration policy was measured.

[6] The figure was partly cut by economic recovery, partly by a government redefinition of 'unemployed' which cut 600,000 from the headline figure. A. Gamble, *The Free Economy and the Strong State: The Politics of Thatcherism* (Basingstoke: Macmillan, 2nd ed. 1994), p. 126.

[7] The term 'global South' was not then in use, and archives refer to the Third World instead. I therefore use the terms interchangeably.

both firm and fair … forms the foundation for building a united and harmonious society'.[8] Michael Howard, employment minister under Thatcher and later Home Secretary said in 1995, 'we have excellent race relations in this country … Firm, but fair, immigration policies are an essential element in maintaining that'.[9] His Labour successor, Jack Straw, hoped the Asylum and Immigration Bill of 1999 would make the system 'firm, fast and fair'.[10] In 2002, Labour Home Secretary David Blunkett wanted a 'fair but firm' system too.[11] In 2020, Conservative Home Secretary Priti Patel promised to create a 'firm but fair' asylum system.[12]

Coleman, meanwhile, described the UK's immigration policy as 'firm, but fair - and failing'.[13] In neither style nor substance have successive Labour and Conservative governments much differed since the 1950s.[14] Indeed, the imperative for both parties had long been to be *seen* to be tough. 'It was hard for the Conservatives' said one interviewee, 'they had to pretend to be tougher than they actually were'. Likewise for Labour, far from being more liberal on immigration, was 'just as concerned to make people believe that they were really rather tough'.[15]

Interviewees repeatedly stressed how difficult immigration was for their ministers to grapple with, and how loathe they were to do so.[16] As Willie Whitelaw (Home Secretary from 1979 to 1983) told Sir Hayden Philips, 'I don't care how you do it, but try to keep immigration

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[8] Speech given in Banstead, on 4 July 1986, quoted in the Conservative Campaign Guide 1987, [https://www.margaretthatcher.org/document/110801, accessed 20 May 2021].

[9] *Times, '*What They Said', 18 April 1997, p. 14, *The Times Digital Archive* [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/IF0501207087/TTDA?u=cambuni&sid=TTDA&xid=3bdcabd6, accessed 20 May 2021].

[10] *Times, '*False Asylum', 10 February 1999, p. 17, *The Times Digital Archive* [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/IF0500225311/TTDA?u=cambuni&sid=TTDA&xid=16c42047, accessed 20 May 2021].

[11] *Guardian*, Leader, 'Blunkett's bold try', 8 February 2002 [https://www.theguardian.com/politics/2002/feb/08/immigrationpolicy.immigration, accessed 20 May 2021].

[12] J. Cameron-Chileshe and S. Payne, 'Patel promises to create "firm and fair" UK asylum system', *Financial Times,* 4 October 2020 [https://www.ft.com/content/2c0b7af3-9c3e-4f1d-a908-32b15a370255, accessed 20 May 2021].

[13] Failing according to its own stated aim of ending immigration for settlement purposes. D. Coleman, 'UK immigration policy: 'Firm but fair', and failing?, *Policy Studies*, 17:3 (1996), 195-214.

[14] Spencer, *British immigration policy since 1939.*

[15] Interview with Sir Hayden Philips, Head of the Immigration and Nationality Department of the Home Office from March 1983 to June 1986, 18 November 2020.

[16] Oral, semi-structured interviews were conducted in June and November 2020 with seven former Home Office officials, over videoconference (Zoom).

out of the newspapers'. Along with capital punishment, immigration was one of the two most intractable topics at Conservative party conferences, he said. Out of political savviness more than progressive instincts perhaps, Whitelaw sought at all costs to avoid bringing attention to immigration. When such attention was inevitable, he sought the consensus view - patrician instincts becoming of a scion of the Scottish landed gentry, Cambridge graduate, and former Scots Guardsman. As his successor, Douglas Hurd (Home Secretary from 1985 to 1989), reminded a Labour MP in Parliament, 'It is no part of our approach to raise the public temperature on theses issues. The right hon. Gentleman knows perfectly well that we could have taken a combative stance on this matter during the election campaign [of June 1987], but we deliberately refrained from doing so.'[17]

Politicians were extremely nervous about things *appearing* problematic, such as letting people in for reasons the public would not approve of (rather, say, than any objective strain on domestic resources). For instance, though cases were exceptional and amending the relevant legal provisions a minefield, Hurd sent many memos to Lord Hailsham, the Lord Chancellor, begging him to address polygamous marriages in the upcoming Family Law Bill - and this for strictly immigration purposes.[18] The 'Home Office and the Lord Chancellor's Department are waging hostilities', an MP noted, 'though the numbers are small, the problem is vexed and the Home Office are exposed to public pressure'.[19] At the same time, they were afraid of correcting the electorate's misapprehensions, whether in terms of the relatively low numbers of actual immigrants; or that in a globalised world - a globalisation Britain itself fiercely promoted - borders could ever truly be sealed. As one interviewee put it, 'we would have been crucified' for saying some degree of immigration was inevitable, independently of whether or not it might have been desirable. Reconciling the reality of immigration and population control on the one hand, and the emotive rhetoric surrounding it on the other, was therefore a constant pressure on officials.[20] Some interviewees unflatteringly contrasted debate in Britain to that in Germany. Despite numbers several orders of magnitude higher than Britain's (49,000 people claimed

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[17] He proceeded to say 'nearly all of us share a public commitment to firm but fair controls on immigration.' *Hansard*, 'Immigration Bill', 16 November 1987, Vol. 122, Col. 779-858 [https://api.parliament.uk/historic-hansard/commons/1987/nov/16/immigration-bill, accessed 20 May 2021].

[18] TNA, PREM 19/1800, f41, 1986.03.13, Hurd (HO) to Lord Hailsham, 'Family Law Bill and second wives'; TNA, PREM 19/1800, f15, 1986.03.24, Hurd (HO) to Lord Hailsham, 'Admission of second wives'. Vigorous opposition to Hurd's proposal from the Lord Chancellor and others can be found here: TNA, PREM 19/1800 [https://www.margaretthatcher.org/source/prem19/prem19-1800, accessed 20 May 2021].

[19] TNA, PREM 19/1800, 1986.03.21, Hartley Booth to Mr Wicks, 'Immigration' [https://www.margaretthatcher.org/source/prem19/prem19-1800, accessed 20 May 2021].

[20] Slaven and Boswell, 'Symbolic policy-making in the 1960s'.

asylum in Germany in the first four months of 1980, against 2,300 in Britain that whole year), the German debate had seemed - from a distance at least - 'more adult'.[21] The French noticed this too. In a memo from Bonn to Paris, a French diplomat remarked that Germany had managed to conduct a brief campaign to finance the return of some 300,000 Turks 'to the satisfaction of all parties concerned' - a stark contrast to Giscard's controversial and abortive attempts in the 1970s. 'Their tradition of political discourse', he continued, 'like their young democracy, is steeped in guilt … but aims, through the pragmatism, slowness and perseverance which characterize social life, for solid action on the ground'.[22]

The pressure of appearing tough but fair, the divergence between the reality of immigration and its rhetoric, and the failure to recognize fully or explain - let alone resolve - the trade-offs inherent to globalisation, increasingly became features of British immigration policymaking. With time, the notion that these pressures are fundamentally intractable, that there exists no immigration 'solution', that the wisest policy, in terms of social order, was to manage the issue discreetly, intermittently, and from afar - were forgotten.[23] A symptom, perhaps, of a broader shift towards more ideological, less consensual politics.[24] According to Philip Hammond, former Conservative Foreign Secretary (2014-16) and Chancellor (2016-19), this shift cost the UK dear. He described Theresa May as a 'Prime Minister [who] was obsessed by migration, as were a sizeable chunk of the Tory Party'. This blinded them to the reality of the UK economy's reliance on low-skilled European labour, and blinded them to the fact that

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[21] See Figure 6 'First-time asylum requests in the UK, France, and Germany, 1979-1994'. For the first four months of 1980 in Germany, see also: TNA, FCO 50/687, 1980.07.18, Cooper (ECD-E, FCO) to Gatty (MVD, FCO), 'Political Committee Luxembourg 16/17 July: Immigration'.

[22] *'la leur [tradition de discours politique], aussi jeune que la démocratie, imprégnée de culpabilité … mais visant par le pragmatisme, la lenteur et la persévérance qui marquent tout le social, à une action solide, sur le terrain.'* FNSP, CHSP, AHC, fonds Patrick Weil (WE 2), 1985.04.01, Conseiller pour la politique sociale, Ambassade de France à Bonn, 'Note d'information: quelques aspects de la politique d'intégration des étrangers'.

[23] One interviewee described superiors' reaction to the suggestion one might not be able to fully control immigration as 'mild hysterics'. Another recalled the Immigration and Nationality Directorate's (IND) head of enforcement prompting a media frenzy (of which he later bore the scars) when he admitted to the Commons home affairs committee he did not 'have the faintest idea' of the number of illegal immigrants in the UK - a number by definition unknowable. See also: BBC News, 'Illegal workers prompt new probe', last updated 19 May 2006, [http://news.bbc.co.uk/2/hi/uk_news/politics/4995764.stm, accessed 20 May 2021].

[24] For Thatcher's move away from consensual, towards more conflictual, politics, see: H. Young, *One of Us,* (London: Pan Books, 2013, originally published 1989); M. Smith,'From Consensus to Conflict: Thatcher and the Transformation of Politics', *British Politics,* 10:1 (2015), 64-78. For a broader history of Conservatism, see: E. Fawcett, *Conservatism: The Fight for a Tradition*, (Princeton: Princeton University Press, 2020).

maintaining some sort of narrative on the freedom of movement for the benefit of their EU ex-partners could have been a crucial bargaining chip during Brexit negotiations.[25]

In this section, we examine the immediate effects of the sharp increase of asylum seekers on the UK's immigration system, including the introduction of the Carriers' Liability Act (1987), and the gradual criminalisation of illegal entry.

1.1. The explosion of asylum

i. From 'cottage industry' to mass migration

Until the mid 1980s, the asylum desk at the Home Office had consisted of a handful of people. An 'arcane' outfit, a 'backwater of specialist caseworkers', it was a 'cottage industry' specialized in the occasional Soviet asylum seeker. The conception of asylum was 'very nineteenth century liberalism', according to Sir Hayden. Asylum seekers were political. They were individual. And they comforted Britain's self-image as a capacious, liberal safe-haven, without putting undue strain on its resources.[26] It was considered morally correct and uncontroversial that Britain should open its arms to asylum seekers, and if it provided an occasional irritant to the Soviet Union, so much the better.[27] As the *Economist* gleefully noted in 1979, 'When the Russians are acutely embarrassed, they remain silent. And the recent wave of defections to the west [including leading Bolshoi dancers and figure-skating champions] has been embarrassing.'[28] The former head of Ports, Kate Collins recalled that in the 1970s if a Russian arrived at a British (air)port and said 'I claim asylum', instructions were to get them out of sight and ring security services immediately, and that was the extent of it. The idea, according to a former immigration official, that asylum seekers would fly 5,000km in the numbers they eventually did was inconceivable.

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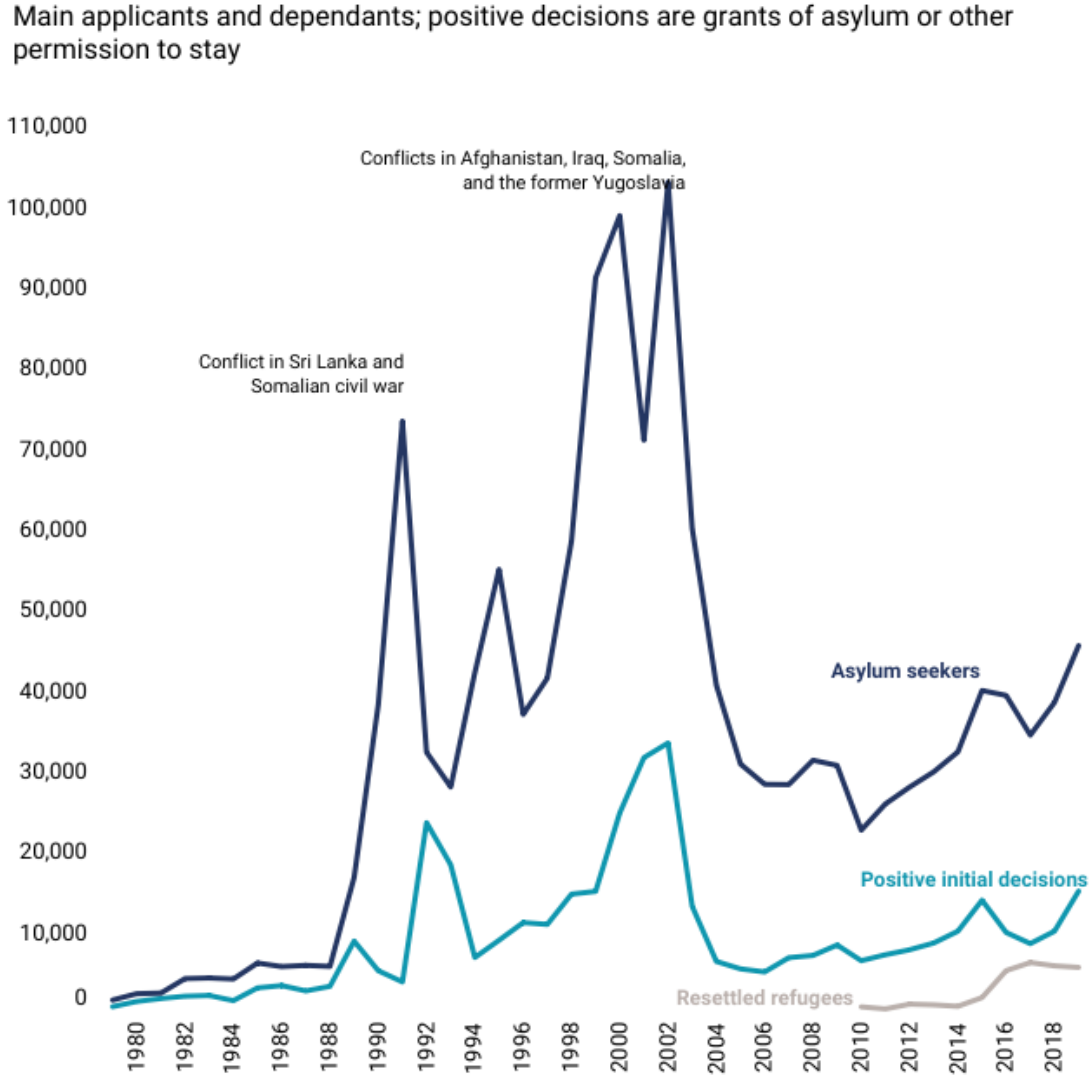
[25] 'Brexit interview: Philip Hammond', *UK in a Changing Europe* (2020), [https://ukandeu.ac.uk/interview-pdf/?personid=42190, accessed 20 May 2021].

[26] For an account of the complexities of nineteenth century asylum in Britain, see Catherine Shaw's *Britannia's Embrace: Modern Humanitarianism and the Imperial Origins of Refugee Relief* (New York: Oxford University Press, 2015).

[27] The press conference given in 1948 by a refugee Russian colonel was attended by over 100 journalists. *Times,* 'Refugee Russian Colonel', 7 September 1948, p. 3, *The Times Digital Archive* [https://go-gale-com.ezp.lib.cam.ac.uk/ps/i.do?p=TTDA&u=cambuni&id=GALE%7CCS51726119&v=2.1&it=r&sid=TTDA&asid=f7cce068, accessed 20 May 2021].

[28] *Economist,* 'No more voting with your feet', 6 October 1979, p. 57. *The Economist Historical Archive, 1843-2015,* [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/GP4100124788/ECON?u=cambuni&sid=ECON&xid=abc06636, accessed 20 May 2021].

Fig. 6 - Number of people who claimed asylum, positive initial decision and refugees resettled, per year, UK, 1979-2019.



Source: The Migration Observatory, University of Oxford.

In 1986, a 'seismic shift' occurred. All of a sudden, the caseload exploded. Interviewees were at pains to stress how 'sudden', 'dramatic', 'enormous', and unexpected the 'explosion' of asylum seekers was. Though Figure 6 shows numbers skyrocketing as of 1989, the number of asylum seekers increased from 4,171 in 1984 to 6,156 in 1985, an increase of nearly 50% - enough to make a mark on officials, who had no way of imagining what was to come.[29]

[29] Data from: The Migration Observatory, University of Oxford [https://migrationobservatory.ox.ac.uk/resources/briefings/migration-to-the-uk-asylum/, accessed 20 May 2021].

The reasons for this sudden increase were varied, though officials did not have much time to reflect on them. One important driver was the civil war in Sri Lanka, which pitted the minority Tamils and the Liberation Tigers of Tamil Eelam (better known as Tamil Tigers) against the majority Sinhalese Sri Lankan government.[30] The conflict broke out in 1983, but escalated dramatically in 1986 with the massacre of Tamil farmers by government forces, and the intervention of the Indian Army the following year. One million people fled the country, many heading for Europe.[31] Unlike for the Vietnamese 'boat people' of the previous decade (whose numbers were finite and whose resettlement was internationally coordinated), public sympathy for the Sri Lankans' plight was limited.[32] In 1990, an internal government memo described the horrors under way in Sri Lanka in unusual detail: 'Corpses at the roadside and floating in rivers remain common place … Reports of systematic torture of detainees are common'.[33] With globalisation, its diasporas, its cheap travel, a bloody conflict over 15,000km away could throw a spanner in the British bureaucratic machine.[34]

Another factor behind the surge was the growing ease of air travel. The price of tickets was falling, the number of passengers skyrocketing. Across the world in 1979, 648 million

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[30] The Somali civil war also broke out in the late 1980s, but it was the Sri Lankan case that most captured the attention of Home Office officials.

[31] UNHCR, 'Sri Lanka: Emerging from the Ruins - The Road to Recovery', *Refugees,* 1:130 (2003), [https://www.unhcr.org/3e954fb54.pdf, accessed 20 May 2021].

[32] I have not found any studies comparing both experiences, but my impression is that the Tamils stoked more controversy than the Vietnamese had done. Possible reasons might be that the Vietnamese refugee crisis was the first such crisis in the post-war era, and Western publics were not yet 'fatigued'; that immigration was less salient in domestic politics and asylum was still seen as exceptional; that air travel was not widely accessible and most Vietnamese stayed in South East Asia (some eventually relocated through the UNHCR), while Sri Lankans arrived directly. Finally, racial stereotypes might have mattered: the Vietnamese were seen as docile and industrious, while the Sri Lankans were often portrayed as drug dealers.

[33] TNA, HO 394/911, 1990.01.25, Sanderson (HO) to Spencer, 'Sri Lankan Asylum Applicants'.

[34] Hungarians had fled the Soviet takeover in 1956, and small number of Chilean asylum seekers arrived in the 1970s following the Army coup, but in neither case did the strain challenge the old liberal model. Furthermore, one must recall that in absolute and percentage terms, the vast majority of refugees are hosted not in the West, but in neighbouring countries. Of a population of 42 million, for instance, Uganda hosts 1.4 million refugees. In Jordan, over a quarter of the population are Palestinian refugees. UNHCR, 'Refugee Data Finder' [https://www.unhcr.org/refugee-statistics/download/?url=8XhS, accessed 20 May 2021]; E. Irvine, I. Bickerton and K. Jaber, 'Jordan', *Encyclopedia Britannica*, 9 April 2021, [https://www.britannica.com/place/Jordan, accessed 20 May 2021].

passengers had travelled by air.[35] In 1984, 854 million had.[36] By 1990, it was 1.1 billion.[37] In the five years from 1980 to 1985, the average American domestic airfare fell by 20%, from just over $600 to $460 (in 2011 dollars).[38] In the UK, with the early 1980s recession rapidly fading and deregulation accelerating, the aviation industry was in a 'buoyant mood': In 1973, 25.8m passengers transited through London airports. Ten years later, 35.8m had, an increase of 40%. The increase was even starker in regional airports. As Heathrow and Gatwick reached saturation despite new terminals, the number of passengers transiting through regional airports doubled. In 1973 they had 'handled 5.2m passengers, but by 1983 there had been an increase of 100 per cent to 10.4m'.[39]

Interviewees also stressed the fact that, in their view, it was becoming known abroad that asylum was a loophole which all but guaranteed leave to enter the UK. Many former Home Officials mentioned anecdotal cases of travellers, especially South Asian, 'flushing their papers down the airplane loo' thus making it impossible to ascertain their identity or nationality upon arrival - and impossible, by the same stroke, to refute their claims to asylum. Travel agents are said to have facilitated, even encouraged, this strategy, sometimes boarding the same flight as their clients and collecting their papers on board, an alternative to flushing them away. In France and Germany, officials shared much the same view: that asylum represented an 'important loophole', used by economic refugees to make false asylum claims.[40] That said, by

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[35] The World Bank, 'Air transport, passengers carried. 1970-2015', [https://data.worldbank.org/indicator/IS.AIR.PSGR, accessed 20 May 2021].

[36] S. Aris, 'Crisis of confidence in the air', *Times*, 23 August 1985, p. 10. *The Times Digital Archive*, [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/CS168136983/TTDA?u=cambuni&sid=TTDA&xid=301496a0, accessed 20 May 2021].

[37] The World Bank, 'Air transport, passengers carried. 1970-2015', [https://data.worldbank.org/indicator/IS.AIR.PSGR, accessed 20 May 2021].

[38] D. Thompson, 'How Airline Ticket Prices Fell 50 Percent in 30 Years (And Why Nobody Noticed)', *The Atlantic*, 28 February 2013, [https://www.theatlantic.com/business/archive/2013/02/how-airline-ticket-prices-fell-50-in-30-years-and-why-nobody-noticed/273506/, accessed 20 May 2021]; M. Garcia, 'What flights used to cost in the 'Golden Age' of travel', *Travel and Leisure*, 13 August 2017 [https://www.travelandleisure.com/airlines-airports/app-in-the-air-will-help-you-recover-lost-airline-miles-from-2020, accessed 20 May 2021].

[39] A. Reed, 'Britain's airports', *Times*, 14 September 1984, p. 13, *The Times Digital Archive* [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/CS218337070/TTDA?u=cambuni&sid=TTDA&xid=0cf46ffb, accessed 20 May 2021].

[40] TNA, FCO 50/687, 1980.07.18, Cooper (ECD-E, FCO) to Gatty (MVD, FCO), 'Political Committee Luxembourg 16/17 July: Immigration'; TNA, FCO 98/971, 1980.09.09, 'PUS's lunch with the FRG Ambassador, 10 September 1980: Political Asylum and Immigration'; TNA, HO 394/438, 1984.09.29, Fretwell (British Embassy, Paris) to FCO, 'Easing of Frontier Controls on EC Nationals: Immigration Consequences'.

1990, as internal memos readily admitted, 'The UK has not in the main received many blatantly abusive asylum applications … Most of our applicants come from countries suffering a substantial degree of disturbance or repression'.[41] Indeed, Hatton finds that violence and terror did account for much for the variation in the number of asylum-seekers; while Hooge et al. find that the structural determinants of overall migration to Europe can be attributed to labour market conditions, but also to the persistence of colonial linkages, and this despite globalisation.[42]

Back in Lunar House, the Home Office's immigration HQ in Croydon, government officials did not have much time to consider the reasons behind the sudden increase. The tiny civil service team dedicated to asylum was instead 'moving urgently to prevent the system from collapsing'. Indeed, a severe backlog had begun to build up, approaching 80,000 in 1994. This was briefly reduced in the mid-1990s, but began to climb again at the end of the decade, eventually peaking at over 100,000.[43] A 1990 memo noted that

> It took a long time to increase the Refugee Unit's staffing to match the increase in applications from the early 1980s and partly because of that delay a large backlog accumulated, hampering efforts to accelerate decision-making … Applications have more than doubled this year but the only staffing adjustment so far has been the addition of two executive officers.[44]

Interviewees stressed the 'acute sense of crisis' and their 'great sense of powerlessness'. They described the 'dramatic shift from a world that we could control by policy change … to a world in which [we were] at the mercy of population movements, income disparity'. Admitting as much to the public, however, was out of the question, and immigration policy remained sealed-off from any broader discussions about globalisation.[45] As one official bluntly put it: 'we would have been torn to pieces' for suggesting some degree of immigration was inevitable. It is worth noting that this feeling of being submerged by events, this loss of control, was mentioned by officials exclusively in connection to phenomena driven by globalisation: global wealth inequalities, ease of air travel, far-flung diasporas, a sense of

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[41] TNA, HO 394/911, 1990.01.25, Sanderson (HO) to Spencer, 'Sri Lankan Asylum Applicants'.

[42] T. Hatton, 'The Rise and Fall of Asylum: What Happened and Why?', *The Economic Journal*, 119:535 (2009), 183-213; M. Hooghe et al., 'Migration to European Countries: A Structural Explanation of Patterns, 1980–2004', *International Migration Review*, 42:2 (2008), 476-504.

[43] Interview with David Cooke, former Head of Asylum, 23 November 2020.

[44] TNA, HO 394/911, 1990.01.25, Sanderson (HO) to Spencer, 'Sri Lankan Asylum Applicants'.

[45] As Sassen observed, 'a key issue in the case of immigration policy is the absence of any recognition that immigration may … be one of the trade-offs' of globalisation. S. Sassen, 'Regulating Immigration in a Global Age: A New Policy Landscape', *parallax*, 11:1 (2005), 35-45.

proximity to various conflicts. Globalisation, and the way it compressed space and time, was behind this sense of powerlessness, of a world changing faster than the British administrative apparatus could cope. Europe, as usual, was hardly mentioned at all. Another aspect which may have contributed to this sense of crisis, according to Sir Hayden, was that many of these new asylum seekers were economic migrants - a class of people for whom there was no clear moral framework in terms of Britain's duty of care to them. Previous acceptance rates had been as high as the number of asylum seekers had been low.[46] All this was rapidly changing.

ii. Administering asylum

The unprecedented increase in the number of asylum seekers and resulting strain on the administrative and judicial machines led to significant changes in how Britain's asylum system was run, including a rapprochement of the administrative and criminal systems.

Under existing law, if an individual came to the UK and was refused entry, there was no way for them to lodge an appeal from within the country. Instead, they had to return to their country of origin and lodge an appeal at the British consulate there.[47] While a useful instrument of delay for regular immigration applications, such a system was impossible to implement for asylum seekers, who by definition were at risk of persecution at home, and whom international law prevented from being forcibly returned.[48] With no right of appeal in the UK, and no possibility of lodging one from home, cases often went straight to judicial review.

Judicial review is a system that allows individuals to seek redress through the courts if they believe the state has unduly, or unlawfully, exercised its power. Unlike in the US, British high courts are not legislators of last resort. They do not determine the validity of laws. Instead, they determine whether existing laws were applied correctly: no corners cut, no procedures infringed, no rights curtailed. Asylum, intimately linked as it is to life and liberty, was therefore particularly liable to end up in judicial review (another is prisoner rights). As Lord Bridge concluded: 'The most fundamental of all human rights is the individual's right to life and when an administrative decision under challenge is said to be one which may put the applicant's life

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[46] This was also the case in France, where until the early 1980s, 80% of asylum requests were granted. By 1990, acceptance rates had dropped to 15.4%. OFPRA [French Office for the Protection of Refugees and Stateless People], 'La mission études et statistiques', [https://www.ofpra.gouv.fr/fr/l-ofpra/l-ofpra-en-chiffres/la-mission-etudes-et-statistiques, accessed 20 May 2021].

[47] TNA, PREM 19/1800 f85, 1985.11.20, Hurd (HO) to Howe (FCO), 'Entry Clearance from Bangladesh', [https://www.margaretthatcher.org/document/147949, accessed 20 May 2021].

[48] The principle of *non-refoulement* is the principle according to which asylum seekers cannot be turned away or sent back to their countries.

at risk the basis of the decision must surely call for the most anxious scrutiny.'[49] This dictum of 'most anxious scrutiny' became the standard by which officials and courts attempted to process asylum claims.

When asylum was still in its infancy as a policy area and the caseload was small, there had existed two overlapping systems which could be used by asylum seekers and their counsel to obtain a favourable hearing. First was MP representations: a constituent would petition their MP on behalf of an asylum seeker. The MP would then make a representation to the Home Secretary. However, this system only worked when the caseload was small. As the Home Secretary wrote to the Foreign Secretary, 'it is the enormous growth in such interventions that has contributed to the difficulty of operating the control as was originally intended'.[50] What is more, the system was liable to cause embarrassment to MPs who had to tread the fine line between honouring petitions from their constituents without appearing to advocate for immigration.[51] Caught between Scylla and Charybdis, many MPs were glad to accept ministers' circulated advice that asylum cases were best referred to the statutory appellate and courts system, though this risked an increase in applications for judicial review, it was judged preferable to continuing the present somewhat random state of affairs.[52] And to judicial review, henceforth, was where the majority of asylum cases went.

This gave rise to some spectacular - and for the Home Office, embarrassing - cases. In 1987, just as the Carriers' Liability Act was coming into effect, a group of 64 Tamils arrived in Britain.[53] Only six were given leave to remain; the others were to be deported immediately. Time, as interviewees stressed, was always of the essence. In the short term, the faster the removal from the UK, the unlikelier the removal process could be interrupted by the courts. In the longer term, having a prompt and efficient removal system was seen by ministers and

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[49] *Budgaycay v Secretary of State for the Home Department* [1987] A.C. 514 at 531. In P. Craig, 'Judicial Review and Anxious Scrutiny: Foundations, Evolution and Application', Public Law 60, *Oxford Legal Studies,* Research Paper No. 20 (2015).

[50] TNA, PREM 19/1800 f85, 1985.11.20, Hurd (HO) to Howe (FCO), 'Entry Clearance from Bangladesh', [https://www.margaretthatcher.org/document/147949, accessed 20 May 2021].

[51] Zoom interview with Robert 'Bob' Morris, Head Immigration Policy, Nationality and Passports, 1986-91, November 2020.

[52] In fact, MPs did need some persuading. In the end, however, 'concerned by the deeply unsatisfactory strains placed upon the system', Hurd issued new guidelines. TNA, PREM 19/1800, f71, 1986.01.15, Hurd (HO) to Biffen, 'Immigration cases', [https://www.margaretthatcher.org/document/147946, accessed 20 May 2021].

[53] The Act made carriers liable for a fine of £1,000 per passenger for bringing to Britain travellers without appropriate documents.

officials as a deterrent. As Geoffrey Howe, then Foreign Secretary, noted to Hurd, the Home Secretary, while 'we cannot be sure of the reasons' behind a reduction in arrivals from Bangladesh, 'there are good grounds to think that the decrease had been partly because the word got around that those who came without the appropriate clearances were returned forthwith to Bangladesh … It is most important … that we should reinforce this impression.'[54] More importantly, however, rapid removal prevented people from falling off the state's radar, from disappearing. It also prevented them from settling in the UK and putting down roots, which, regardless of the legality of their initial entry into the UK, with time gave them rights under the European Convention on Human Rights. (Importantly, this Convention is separate from the EC, drafted not by any Community organ, but by the Council of Europe.)[55] The case of the 'Tamils on the tarmac' was therefore a race against the clock - from the Home Office, to deport them; from the Tamils, to win permission from the High Court to challenge the government's attempt to expel them. As the plane was about to take off on a cold February day, the Tamils stripped on the Heathrow tarmac, buying just enough time for the High Court to grant an injunction order preventing their immediate deportation, citing procedural improprieties on the Home Office's part.[56]

By the early 1990s, there were more asylum cases in judicial review than any other kind of case combined - asylum represented four of every five judicial review cases across government.[57] The high courts were clogged up by rote cases, their very volume at odds with the purpose of the judicial review system. A case could return to the courts multiple times, once for every new government decision. It could return to judicial review even after having been through an elaborate two-tier appeals system. For review could only determine if the

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[54] In 1986, Howe again made the case that summary removal constituted 'a most useful practice in deterring those who have a tenuous claim to admission' - suggesting yet again that the Home Office was far from being the only, or main, instigator of harsher policies, see: TNA, PREM 19/1800, f56, 1986.02.10, Howe (FCO) to Hurd (HO), 'Review of entry clearance policy', [https://www.margaretthatcher.org/document/147944, accessed 20 May 2021]; TNA, PREM 19/1800 f81, 1985.12.02, Howe (FCO) to Hurd (HO), 'Entry clearance for Bangladeshis', [https://www.margaretthatcher.org/document/147948, accessed 20 May 2021].

[55] Despite confoundingly similar names, the Council of Europe is not connected to the EC, but is an independent organisation founded after World War 2 to promote human rights and democracy in Europe.

[56] The House of Lords would eventually overturn it. P. Evans, 'Tamils win High Court challenge', *Times*, 25 February 1987, p. 1, *The Times Digital Archive* [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/IF0503099081/TTDA?u=cambuni&sid=TTDA&xid=c403aa3a, accessed 20 May 2021]; BBC, 'On this day: Tamils strip off at Heathrow', 17 February 1987, [http://news.bbc.co.uk/onthisday/hi/dates/stories/february/17/newsid_4162000/4162645.stm, accessed 20 May 2021].

[57] Interview with David Cooke, former Head of Asylum, 23 November 2020.

government had acted lawfully in accepting or refusing an asylum request, not weigh the facts and pronounce on the validity of the request itself.

Officials were frequently frustrated by what they perceived to be the courts' obtuseness. For while it was right and just that courts should weigh in on the individual facts of a case, officials were concerned with managing flows - two logics that often came into conflict. What might be right for one individual, interviewees noted, could not function on a mass or systemic level. That said, most viewed the courts positively, frustrating though they were to manage. As one official put it, 'courts were an irritant in terms of individual cases, not policy', and they did prove a useful tool forcing the government to clarify and systematize its processes, such as explicitly justifying the grounds for removing someone. Though time consuming for Home Office officials, courts did not create 'bureaucracy for its own sake' (in the words of one official), but formed a necessary part of the democratic process.

This view rather contradicts the argument, put forward by securitisation scholars, that 'governments have circumvented national constraints on migration control by creating transnational co-operation mechanisms dominated by law and order officials'.[58] Indeed, by all accounts national constraints such as the judiciary hardly seemed insurmountable. To the extent that they were, it is unclear that British officials turned to trans-national networks to overcome them. In the case of carrier sanctions, which Guiraudon cites as an example of European trans-governmental groups circumventing domestic constraints, the impetus - in the British case at least - was entirely domestic. This is not to say that what trans-national networks did emerge were accountable, nor that interior ministry officials' had no role in framing immigration as a threat. Rather, I suggest that the roots of illiberal border and population control policies were domestic, and caused in no small degree by an urgent reaction to administrative overload and changing domestic attitudes.

So what to do? How could the British apparatus cope with what was - perhaps for the very first time - seemingly unmanageable numbers? The response that evolved over the next decade launched the instruments that persist until this day: tools to prevent, as far as possible, the very arrival of potential immigrants on British soil. This was achieved through a combination of visa requirements, which moved the decision point from British ports to British consulates abroad; the Carriers' Liability Act of 1987, which fined carriers for transporting passengers with improper documentation; and the Dublin Agreement of 1990, which reaffirmed the principle of

[58] V. Guiraudon, 'European Integration and Migration Policy: Vertical Policymaking as Venue Shopping', *Journal of Common Market Studies*, 38:2 (2000), 251-272.

first safe country and developed a common, intergovernmental approach to asylum.[59] It was also achieved through a gradual convergence of administrative sanctions and law enforcement. Yet the response also included a seemingly paradoxical extension of asylum seeker rights, on paper at least, including the creation of a special tribunal and granting asylum seekers the right of appeal.[60] It also included something of a honeymoon period for asylum seekers through the granting of exceptional leave to remain. Driven by sheer practical necessity born of a crippling caseload, rather than special regard for refugee welfare, the government periodically (and discreetly) granted mass amnesties in an attempt to dissolve the backlog and set the numbers clock back to zero.[61]

This policy was known as selectivity, in that resources should be diverted selectively to where they would be most efficient. Indeed, refusing asylum seekers was much more resource-intensive than admitting them: 'we have recently estimated', wrote one official, 'that a refusal takes on average 5-10 times as much case working effort as a positive decision ie. some 20-40 hour per case. Furthermore, the older the case the more difficult it is to enforce'.[62] This was especially true insofar as the UK 'has not in the main received many blatantly abusive asylum applications': most asylum seekers could make a prima facie case, and came from countries 'suffering a substantial degree of disturbance or repression'. Selectively granting asylum seekers exceptional leave to remain therefore allowed 'resources to be better targetted [sic] … on those cases which are more likely to result in removal'. The fact that the impetus behind this policy was administrative was stressed again and again:

> 'exceptional leave is granted for a range of reasons including straightforward administrative convenience'[63]

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[59] In 1990 it was still not a Community instrument.

[60] Simon eloquently demonstrated this ambivalence in the US immigration context: on the one hand, imprisonment 'remains a status that tends to be generative of rights' given the historical link between imprisonment and the emergence of liberal democratic government; on the other, in practice it is applied with near-monarchical discretion and arbitrariness. J. Simon, 'Refugees in a Carceral Age: The Rebirth of Immigration Prisons in the United States', *Public Culture,* 10:3 (1998), 577-606.

[61] Semi-structured Zoom interviews with former Home Office officials (June and November 2020).

[62] TNA, HO 394/911, 1990.01.25, Sanderson (HO) to Spencer, 'Sri Lankan Asylum Applicants'.

[63] TNA, HO 394/911, 1990.02.22, Morris to Dent, 'Asylum Applications and the Carrier Liability Act'.

> 'It took a long time to increase the Refugee Unit's staffing to match the increase in applications from the early 1980s and partly because of that delay a large backlog accumulated … This was the reason for the selectivity policies'[64]

> 'Within the system as it is now resourced … there seems to be little practical alternative to the continuing level of use of exceptional leave in resolving asylum applications. It would be possible to construct tighter criteria for the use of exceptional leave, but not without extensive resource implications'[65]

> 'there is little practical alternative to our present use of exceptional leave as an expedient to keep control of the burgeoning asylum caseload.'[66]

> 'The reasons for the increase in the numbers of decisions to grant exceptional leave are rooted in the rising number of asylum applications, the difficulty of enforcing return in many cases (both in resource terms and because of conditions in the countries concerned) and the conscious decision in selectivity policies approved by Ministers to prefer granting exceptional leave to accumulating growing backlogs of undecided cases.'[67]

This approach had achieved nothing less than allow 'the Refugee Unit to avoid collapse under the enormous strain of the present year'. Nor was the UK alone in this approach:

> Other western countries receiving comparable (or greater) levels of asylum application resort to options between refugee status and outright refusal. They are differently structured and titled (eg German "B-status", Canadian "humanitarian leave", American "parole") but have the same effect of allowing flexibility.[68]

With Ministers' blessing, the Refugee Unit therefore operated a presumption in favour of exceptional leave to remain in cases where no action had been taken in 12 months. Of course, this approach was not to be publicized: 'for presentational purposes … it might be better to stress the relatively low number of applicants arriving than the security of their treatment afterwards. Alternatively, the existence of stern defences could be contrasted with the clement treatment of those who arrive. As ever, something would depend on the occasion and on the

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[64] TNA, HO 394/911, 1990.01.25, Sanderson (HO) to Spencer, 'Sri Lankan Asylum Applicants'.

[65] TNA, HO 394/911, 1990.01.25, Sanderson (HO) to Spencer, 'Sri Lankan Asylum Applicants'.

[66] TNA, HO 394/911, 1990.02.22, Morris (HO) to Dent, 'Asylum Applications and the Carrier Liability Act'.

[67] TNA, HO 394/911, 1990.01.25, Sanderson (HO) to Spencer, 'Sri Lankan Asylum Applicants'.

[68] TNA, HO 394/911, 1990.01.25, Sanderson (HO) to Spencer, 'Sri Lankan Asylum Applicants'.

audience.'[69] The Home Secretary himself had decided that, due to 'particularly disturbed and fragile situation in Sri Lanka there should be a temporary, unannounced pause in returns of failed asylum seekers'. The measure should be kept discreet, however, though he requested the Tamil community be made aware of it. Broadly speaking then, exceptional leave to remain was used in two cases: on an individual basis for applicants who did not satisfy the strict requirements of the Geneva Convention, but could nonetheless not reasonably be returned to their country; and on a national group basis (such as Poles or Tamils) following some major upheaval. The rationale was that these people required temporary protection, but would return home once conditions improved (an aspiration rarely realised).

Other options considered by officials had included enforcing refusals, but this would require '5-10 times the present case working input', that is, 'an increase of between 35 and 130 staff' which was unlikely to happen. Given the department's 'strained financial state', enforcing refusals would mean 'deliberately to increase the Refugee Unit's backlog, with longer decision times, greater inefficiency and lowered staff morale' - 'a very unattractive option'. Another option was to consider refusals without enforcement. As many asylum seekers arrived in ports, however, this would require Immigration Service to refuse leave to enter - and then allow asylum seekers to enter temporarily 'in the (very probably forlorn) hope that [they] will depart voluntarily'. Yet another discarded option was to 'limit further the eligibility of social benefits of applicants', but this risked 'colluding with vagrancy or, wor[s]e, encouraging the growth of a criminalised underclass with no legal means to live and support themselves'.[70]

So what to do? How could the British immigration control apparatus manage the volumes of mostly legitimate asylum seekers at its ports? 'As so often is the case in immigration policy, prevention is better than cure. That is, *once people have arrived* to enter into the determination system, the accessible cost effective options are limited' [emphasis added].[71] Furthermore, 'the longer the person has been in the UK the more difficult it is to secure his departure. For that reason … we would prefer to target new arrivals'.[72] And target new arrivals is what the British government did.

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[69] TNA, HO 394/911, 1990.01.25, Sanderson (HO) to Spencer, 'Sri Lankan Asylum Applicants'.

[70] This option, discarded in the 1980s, would become a touchstone of the 'hostile environment' policy of the 2010s.

[71] TNA, HO 394/911, 1990.01.25, Sanderson (HO) to Spencer, 'Sri Lankan Asylum Applicants'.

[72] TNA, HO 394/911, 1990.02.22, Morris (HO) to Dent, 'Asylum Applications and the Carrier Liability Act'.

1.2. Exporting borders

As we have seen, the use of visas as an immigration - rather than diplomatic - tool had slowly been gaining currency, not just in Britain, but in France and Germany too.[73] In many ways, this marked the definitive end of Empire and of the political relevance of the Commonwealth that grew out of it. International high politics fell away before domestic pressures to limit - or be seen to limit - immigration. Besides, high politics had turned to Europe. Europeans were the ones traveling visa-free now, not ex-colonials. This aligned with both Home Office and Foreign and Commonwealth Office (FCO) orientations, though the former increasingly had the final say over Britain's borders, and the latter found the distending of Commonwealth ties 'difficult to stomach'. These borders were increasingly being pushed abroad: foreign consulates were staffed by Home Office officials, as much as 50% in some South Asian cities.

i. Visas

The spread of visas was not inevitable.[74] On the contrary, a number of alternatives were considered by Douglas Hurd, the Home Secretary and Geoffrey Howe, his Foreign Office counterpart, to stem the flow of unwanted travellers. To begin with, entry clearance certificates, a system of proto-visas, had been in place for some years. Non-visa nationals, such as Commonwealth citizens, required entry clearance certificates to enter Britain for specific long-term purposes, such as joining a settled spouse or parent. Short-term visitors could also apply for voluntary entry clearance to establish their likely admissibility before travel, for instance if they had been refused before, or were businessmen making frequent trips. These were obtained by travellers from British consulates and certain travel agents before departure. While they did not guarantee admission, they did facilitate it: entry clearance certificates were sometimes mandatory and in any case did create a favourable presumption, they nonetheless did not constitute leave to enter. That could only be granted on arrival by the immigration office. In addition, the system was patchy and differently applied.[75] Some countries issued them systematically, others not. The fact they were not always compulsory but intended only to facilitate travel without nonetheless guaranteeing it, merely added to the confusion. Things

[73] Previously, visas (or lack thereof) had been used to signal the state of diplomatic relations, not for immigration control.

[74] Visas are a form of prior entry clearance issued by diplomatic or consular authorities, which are compulsory for nationals of certain countries listed in the Immigration Rules.

[75] Having an entry clearance certificate did confer a right to appeal before removal for certain categories, such as visitors, who otherwise would have had to lodge their appeals from abroad.

came to a head in 1985, with a sudden increase of single, young Bangladeshi men being turned away by Heathrow immigration officers. As Hurd noted,

> the recent increase in Bangladesh traffic compared to the *overall number of passengers arriving is small*. But as passenger traffic is rising year on year a small increase in arrivals which are difficult, in immigration terms, has a *quite disproportionate effect on the overall control system*: our detention facilities are full and doubtful passengers who ought to be detained are being admitted temporarily; increasing numbers are managing to get MPs to take up their cases and get their removal stopped, and increased numbers of staff are being diverted from their primary task of clearing passengers at the front line. [emphasis added][76]

Numbers were 'four or five times higher' in the last months of 1985 than they had been the previous year; Immigration Service was 'under strain' and faced 'a very worrying backlog' of casework.[77] A brief aside on numbers. That two of the government's most senior ministers, the Home and the Foreign secretaries, should have entertained a lengthy correspondence about Bangladeshi travellers might suggest that numbers were skyrocketing. In some respects there were, or were felt to be, as they were enough to create a backlog that put the system under strain. A nearly ten-fold increase in refusals to Bangladeshis had indeed occurred between the summer months of 1984 and 1985. Yet, in absolute terms, numbers seem remarkably low, especially compared to the 73,000 asylum seekers being processed in Germany at the time.[78] The number of Bangladeshis refused in 1984 was 72; in 1985, it was 684.[79] The precise number of passengers, incidentally, a Piccadilly line train can carry from Heathrow to central London.[80] Yet worries about numbers had long been a feature of British immigration policymaking, and this only increased under Thatcher. Importing private sector notions of efficiency to the business of government, cost efficiency was key and the use of

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[76] TNA, PREM 19/1800, f102, 1985.10.30, Hurd (HO) to Howe (FCO), 'A visa requirement for nationals of Bangladesh', [https://www.margaretthatcher.org/document/147951, accessed 20 May 2021].

[77] TNA, PREM 19/1800, f85, 1985.11.20, Hurd (HO) to Howe (FCO), 'Entry Clearance from Bangladesh', [https://www.margaretthatcher.org/document/147949, accessed 20 May 2021].

[78] 73,832 people claimed asylum in West Germany in 1985, up from 35,278 the year before. In 1986, the number would reach nearly 100,000. Bundesamt für Migration und Flüchtlinge, 'Das Bundesamt in Zahlen 2017: Asyl, Migration und Integration', [https://www.bamf.de/SharedDocs/Anlagen/DE/Statistik/BundesamtinZahlen/bundesamt-in-zahlen-2017.pdf?__blob=publicationFile&v=17, accessed 20 May 2021].

[79] TNA, PREM 19/1800, 1985.10.xx, note by Home Office officials, 'The Pressure on the Immigration Control: Especially from Bangladesh'.

[80] Made by TfL, 'Tube trivia', [https://madeby.tfl.gov.uk/2019/07/29/tube-trivia-and-facts/, accessed 20 May 2021].

targets proliferated, including for removals, and including for areas in which ministers themselves privately thought they might be unwise.[81]

Part of the embarrassment lay in what to do with passengers who were refused entry at British ports. The government would have liked to be able to deport them on the spot, but ran into civil liberty constraints such as the right (of certain passengers) to appeal, the recourse to MP representations, judicial review, and the fact that many asylum seekers did in fact have a legitimate claim to make. All this caused delays and cost precious time, begging the question of what to do with passengers while they stood in limbo: Detain? Deport? Grant exceptional or temporary leave to remain, with the risk they might disappear?

Increasing detention capacity was slow and expensive to put into place. Reducing MP representations would take time and finesse, as the House of Commons was unlikely to relinquish its members' prerogatives, despite the embarrassment this system could cause.[82] Increasing port staff was an option too, but an expensive one. The Foreign Secretary proposed to deploy more traditional delaying tactics, urging the Bangladeshi government to 'take what administrative or exhortatory action they can, such as delaying the issues of passports and putting pressure on the State airline to refuse to take their nationals to Britain without entry certificates', without which Britain would have no choice but to impose a much less forgiving visa regime.[83]

Indeed, this was a crucial part of the controversy: by making the voluntary system of entry clearances de facto compulsory for Bangladeshis would mean imposing visa requirements on a Commonwealth country. Commonwealth nationals, despite being increasingly subjected to work vouchers and so on, could nonetheless travel visa-free. This was a key distinction with non-Commonwealth nationals, and implied that Commonwealth countries remained special friends of the UK. Imposing visas on nationals of a Commonwealth country was therefore something of a watershed. It was, according to an interviewee, 'a piece

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[81] A 120 page report proposing output measures for FCO posts abroad noted 'There is scope … for wider application of output measures … to determine effectiveness and how time is spent. In policy work, subjective evaluation of results and performance is valid and necessary: the unquantifiable can be given a grading (just like a sixth form essay).' TNA, PREM 19/1774, f42, 1986.08.31, FCO report 'Scrutiny on Output Measurement in the Foreign and Commonwealth Office (Diplomatic Wing) and at Overseas Posts', [https://www.margaretthatcher.org/document/150118, accessed 20 May 2021].

[82] THCR 3/5/6i, f79, 1986.10.17, Press digest (Times: Kaufman promises a furious dispute over the Government's plans to restrict MPs' right to intervene. Independent: Political storm gathers over MPs' deportation rights), [https://www.margaretthatcher.org/document/150816, accessed 20 May 2021]; TNA, PREM 19/1800, 1986.02.15, Hurd to Biffen.

[83] TNA, PREM 19/1800, f97, 1985.11.05, Howe (FCO) to Hurd (HO), 'Entry Clearance from Bangladesh'.

of realism very difficult for the FCO to stomach'. The Foreign Office had regarded itself as the champion of the post-imperial settlement (while also disliking the idea of taking on more visa grunt work).

For the Home Secretary, however, visas were the fastest, cheapest, and most effective tool. Unlike entry clearance certificates, they would be mandatory. The Foreign Secretary, unsurprisingly, was lukewarm, though by no means as vigorously opposed as his forebears had been. Howe feared that 'we would be setting up bureaucratic mechanisms to provide pieces of paper for large numbers of visitors, 90% of whom at present come to Britain with no problems at all. This would go against the grain of the Government's efforts to reduce bureaucracy and paperwork.'[84] There were also objections in terms of cost, with the Foreign Office pointedly refusing to pay for Home Office policies: Howe wrote to Hurd that while 'the effect on our bilateral relations might be tolerable', the effect on the FCO's budget was not. 'To keep an Entry Clearance Officer in Dhaka costs £68,000 sterling a year', he said, and approximately 90 such officers would be needed in the sub-continent alone, 'costing some £5 million a year. It will not surprise you', he added, 'that I would have to look to you to provide the necessary staff involved and help us with finance.'[85] The more powerful current of government policy was to reduce unwanted immigration, however, not unwanted paperwork.[86] It was also a current that looked towards Europe, Canada, Australia and the US, not the Commonwealth. On 15 October 1986, therefore, compulsory visas were introduced for the whole Asian sub-continent. Despite accusations of racism and some brief chaos at Heathrow, the press was supportive and the Home Office, 'unmoved'.[87]

Much has been written about the UK's insular condition: how its being an archipelago, surrounded by the natural defences of the sea, meant it had never needed the standing armies of Continental Europe to ward off invasions; how the system of population control which developed occurred most effectively at ports of entry, and then hardly at all. Though some

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[84] TNA, PREM 19/1800, f97, 1985.11.05, Howe (FCO) to Hurd (HO), 'Entry Clearance from Bangladesh'.

[85] Which is what the Home Office did, though officials recalled their FCO colleagues feeling 'outmaneuvered' and 'quite tetchy' at this interference. See also: TNA, PREM 19/1800, f97, 1985.11.05, Howe (FCO) to Hurd (HO), 'Entry Clearance from Bangladesh'.

[86] As Graeber argues, the trend is on the contrary towards an increase of paperwork and bureaucracy, see: D. Graeber, *The Utopia of Rules: On Technology, Stupidity, and the Secret Joys of Bureaucracy*, (New York: Melville House, 2015).

[87] THCR 3/5/61i f68, 1986.10.16, Ingham to Thatcher, 'Press digest', [https://www.margaretthatcher.org/document/150815, accessed 20 May 2021]; P. Evans, 'Heathrow 'sordid refugee camp', *Times*, 18 October 1986, p. 2, *The Times Digital Archive* [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/IF0503080826/TTDA?u=cambuni&sid=TTDA&xid=b7623263, accessed 20 May 2021].

interviewees mused at the complacency this attitude might have fostered, for the greater part of British history that is where control did indeed occur. Yet times were changing, and fast. The Empire had long ago been dismantled. The Commonwealth had never really taken off. Domestic demand for foreign labour had dried up, and voters were nervous about immigration. Meanwhile, cheapening air travel - not to mention the belief that Heathrow's primacy over Paris and Amsterdam airports constituted a significant strategic asset - meant that, for the first time in its history perhaps, Britain's island condition was becoming irrelevant.[88] Noting the 'near breakdown of immigration control at Heathrow last summer', expanding the visa regime seemed like the obvious choice. This included 'contingency plans' to rapidly impose visa requirements on 'difficult' countries such as Bangladesh or Nigeria, which were liable, according to Hurd, to a 'sudden increase of inadmissible passengers … as a result of unrest or rumour'.[89] 'We cannot allow the entire control to be undermined', went one brief, 'by failing to take otherwise necessary measures because they are hypothetically to the detriment of a relatively small number of potential refugees'.[90]

A delicate balance had to be struck between operating efficient removals without pushing passengers to claim asylum 'if such claims appeared the only plausible way of gaining a respite from removal'; of operating strict controls without applying policies 'only to passengers of certain countries'; of curtailing the use of temporary admission (whether because of MP representations or compassionate grounds such as a attending a funeral), without the system being misused or overheating. Amidst all these connected and moving pieces, visas were playing an increasingly important role, increasingly normalised despite initial fears they might sour diplomatic and trade relations. Managing the domestic impact of Britain's borders thus led to removing the physical point at which this border materialised as far away from Britain as possible. As one former official put it, this reasoning, while morally questionable, was legally impeccable. An internal memo confirmed:

> We have a visa requirement for all the main asylum seeker generating countries at present … There are considerable presentational difficulties in taking this step solely to stop asylum seekers getting here. Therefore it was advantageous … to be able to point to general immigration problems, a high non-asylum refusal rate and European Community pressure. It does not breach our obligations under the 1951 Convention to take steps to prevent asylum seekers coming here; those obligations bite only where a refugee is within or at the border of a signatory state.

[88] TNA, HO 394/911, 1990.02.22, Morris (HO) to Dent, 'Asylum Applications and the Carrier Liability Act'.

[89] TNA, PREM 19/1800, f67, 1986.01.15, Hurd (HO) to Howe (FCO), 'Visas', [https://www.margaretthatcher.org/document/147947, accessed 20 May 2021].

[90] TNA, HO 394/911, 1990.02.22, Morris (HO) to Dent, 'Asylum Applications and the Carrier Liability Act'.

> But we are open to the criticism of acting against the spirit of the Convention by making it more difficult for refugees to find safety. Our response has been that while we uphold our obligations, there is inevitably a tension between safeguarding refugees and operating an effective immigration control.[91]

The fundamental premise of asylum law is the principle of *non-refoulement*, that is, not returning someone to a place where they might face persecution.[92] This was at the root of much of the difficulty dealing with asylum seekers on British soil. As officials were beginning to realise, however: no arrivals, no *refoulement*. The twin tools enabling this were visas on the one hand, and carrier sanctions on the other.

ii. Immigration (Carriers' Liability) Act 1987

Pushing British borders abroad by requiring visas could only truly work with the cooperation of carriers. For what good were visas if they were not checked and enforced before departure? And how to do this, other than with carriers' full cooperation? As Hurd told a Cabinet meeting in February 1987 - as an 'influx of 64 Tamils', bogus refugees according to the government, were fighting their case in the courts - 'we need to act to deter airlines from encouraging or conniving at this traffic'.[93] The bill Hurd proposed, urgently needed, 'would provide power to impose a fixed penalty on carriers who bring people to the United Kingdom without a valid passport or other identity document and, where one is required, a valid visa'. He had toyed with the idea of making the bill retrospective, to avoid a rush to 'beat the Bill'. On the advice of the Solicitor-general, however, who made it clear that retroactivity would not stand up in the European Court of Human Rights, he dropped it.

'The penalty would be enforceable by civil action in the same sort of way as detention and removal costs are already recovered from carriers'.[94] Indeed, airlines were already liable to

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[91] TNA, HO 394/911, 1990.02.22, Morris (HO) to Dent, 'Asylum Applications and the Carrier Liability Act'.

[92] UN, Convention and Protocol Relating to the Status of Refugees, https://www.unhcr.org/3b66c2aa10.

[93] TNA, CAB 129/222, 1987.02.25, Hurd (HO) to Cabinet, 'Penalties on Carriers', [https://www.margaretthatcher.org/document/218307, accessed 20 May 2021].

[94] TNA, CAB 129/222, 1987.02.25, Hurd (HO) to Cabinet, 'Penalties on Carriers', [https://www.margaretthatcher.org/document/218307, accessed 20 May 2021].

reimburses expenses incurred for accommodating people refused entry into Britain.[95] The Act's novelty lay in the additional penalty, for carriers, of £1,000 per person.[96] The US, Canada and West Germany already had similar systems.[97] The French were interested, but hamstrung by domestic legal constraints.[98] Based on these experiences, Hurd was confident that the mere fact of legislation was deterrent enough: in practice penalties were seldom imposed, he said. The Bill was passed swiftly: the Home Secretary made a statement on Tuesday, 3 March 1987, introduced the Bill the next day, and applied it as of that very midnight.[99]

The angle was forgery; the impetus, administrative; the lubricating oil, casual racism towards people not considered part of Britain's imagined community.[100] In public, it was the deceiving, deviant, queue-jumping, rule-flouting behaviour of would-be asylum seekers that was emphasised. To the House of Commons, Hurd stressed the 'large number of people who seek entry with forged or fabricated passports … or without any documents at all'. This robbed them of any 'legitimate claim to entry'. Though notionally sympathetic to people trying to find a better life in the West (and was individual striving for a better life not a core part of Thatcher's political philosophy?), 'abusing asylum procedures as a means of evading immigration controls' was unacceptable. Britain had a duty to ensure it was 'properly protected against

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[95] An old precedent - steamship companies bringing immigrants to Ellis Island had been fined $100 for every passenger refused entry into the US on health, wealth, or 'good character' grounds since the nineteenth century. R. Hartigan, 'How Ellis Island shepherded millions of immigrants into America', *National Geographic*, 13 November 2019 [https://www.nationalgeographic.com/history/reference/modern-history/ellis-island-millions-immigrants-united-states-america/, accessed 20 May 2021]; V. Cannato, *American Passage: The History of Ellis Island* (New York: Harper Collins, 2009).

[96] About £2,500 in 2020 pounds.

[97] In antebellum USA, ship owners attempted to sue the government, arguing that the bonds they were required to post on passengers who subsequently fell upon the public purse, were a restraint of trade. The Supreme Court in 1837 found in favour of the states. Torpey, *Invention of the Passport*, p. 94.

[98] Zoom interview with Kate Collins, former head of Immigration Service (Ports), November 2020.

[99] *Times,* 'Airlines will face £1,000 fines over fake refugees', 4 March 1987, p. 4, *The Times Digital Archive* [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/IF0500256694/TTDA?u=cambuni&sid=TTDA&xid=2d05a61f, accessed 20 May 2021].

[100] We recall Whitelaw's remark last chapter about Asian spouses, rather than American ones, being the main 'mischief' to address. Meanwhile, British people have consistently expressed preference for richer migrants, and those from Europe and Australia, with negative attitudes towards migrants from the Indian sub-contient. The Migration Observatory, University of Oxford, 'Generational differences in attitudes toward immigration' [https://migrationobservatory.ox.ac.uk/resources/briefings/uk-public-opinion-toward-migration-determinants-of-attitudes/, accessed 27 May 2021].

immigration rackets which take advantage of our generous procedures'.[101] Sympathy was thus declared at the same time as its scope nearly impossibly reduced.[102] This semantic and practical shift delegitimised refugees while ignoring the root causes of their migration - root causes which on rare occasions the archives described in gut-wrenching detail: corpses, routine torture, insurgencies and counter-insurgencies. Though interviewees privately reflected on this, and one memo fully acknowledged the horrors of the Sri Lankan civil war, for the most part officials sought not to document, let alone change the global dynamics driving migration, merely manage the fallout in British ports.

Privately, it was clear that the key objective was to preserve an overheated administrative apparatus at minimal cost by more efficiently preventing the arrival a class of persons historically - and largely uncontroversially - considered undesirable.[103] For this latter objective, as we have had many occasions to explore, had been a feature of British immigration policy for decades. The Bill was therefore a question of updating legislation to deliver on longstanding goals amid changing material circumstances, not a re-ordering of policy priorities. Describing the threat posed by 'Tamils from Sri Lanka finding their way to Britain without proper documentation and claiming political asylum on specious grounds', Home Office memos did not mention Britain's inability to provide for them. Nor did they mention why, precisely, inadequate documentation was such a grave offence, much less how it constituted any presumed threat to the British body politic. Rather, the urgent threat the Tamils posed was in terms of the immigration control system itself.[104] Complex cases led to complex, drawn out court proceedings. Drawn out court proceedings were a reputational hazard, and a drain on ever-scarcer resources. For 'value for money', manpower cuts, budget restrictions and 'scrutiny on output measurement' were all dear to the Thatcher governments, and formed the

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[101] *Times,* 'Airlines will face £1,000 fines over fake refugees', 4 March 1987, p. 4, *The Times Digital Archive* [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/IF0500256694/TTDA?u=cambuni&sid=TTDA&xid=2d05a61f, accessed 20 May 2021].

[102] Ruff notes how 'this procedural measure undermines the substantive right of refugees to claim asylum, and allows the United Kingdom to effectively evade its International obligations.' A. Ruff, 'The Immigration (Carriers' Liability) Act 1987: its Implications for Refugees and Airlines', *International Journal of Refugee Law*, 1:4, (1989), 481-500.

[103] Bill Schwarz argues that the suspicion, if not downright hostility, to non-white migration was due to nostalgia for an ordered, imperial past associated with whiteness. B. Schwarz, *Memories of Empire, Volume I: The White Man's World*, (Oxford: Oxford University Press, 2011).

[104] TNA, CAB 128/85, 1987.02.26, Minutes of Full Cabinet - CC(87) 7th, Annex 'Penalties on carriers of entrants lacking valid documents', [https://www.margaretthatcher.org/document/217995, accessed 20 May 2021].

permanent backdrop to officials' duties.[105] Wasting precious time on court battles the government was likely to lose was not appealing. Nor was seriously examining what a new moral framework for economic refugees might look like. Much simpler was to maintain the self-image of a generous, liberal safe-haven while undermining, practically and theoretically, the ability of people to benefit from it.[106] As David Waddington, Minister of State at the Home Office, replied to MPs scandalized by the 'shabby, nasty little Bill' - the UK was 'in good company, because legislation like this was in place in Australia, Canada, the United States, Germany, New Zealand, and Brazil.'[107] Countries which, incidentally, had all had policies explicitly favouring white or European immigrants.[108]

The Bill was extremely successful on its own terms: numbers dropped. A 1990 memo noted that 'Statistics related to the administration of the Act give an indication of its effect. The number of improperly documented passengers giving rise to liability dropped from around 1,600 in June 1987 to an average of 450 per month in the quarter of 1989 … there is no doubt of the value of the Act in providing support for the visa regime.'[109] Even the number of overall (rather than merely improperly documented) immigrants fell: in 1986 there had been 250,000

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[105] See: TNA, PREM 19/1774, f42, 1986.08.31, FCO report, 'Scrutiny on Output Measurement in the Foreign and Commonwealth Office (Diplomatic Wing) and at Overseas Posts', [https://www.margaretthatcher.org/document/150118, accessed 20 May 2021]; TNA, PREM 19/1774, f309, 1986.06.17, No 10 record of conversation 'Value for Money seminar: Home Office', [https://www.margaretthatcher.org/document/150106, accessed 20 May 2021].

[106] A similar logic was at work in the provision of welfare more generally, where creeping conditionality replaced what had previously been rights. See: P. Dwyer, 'Creeping conditionality in the UK: from welfare rights to conditional Entitlements?', *The Canadian Journal of Sociology (Cahiers canadiens de sociologie)*, 29 (2004b), 265-87; A. Reeves and R. Loopstra, '"Set up to Fail"? How welfare conditionality undermines citizenship for vulnerable groups', *Social Policy and Society*, 16:2 (2017), 327-338.

[107] *Times,* 'Immigration move fails', 27 March 1987, p. 4, *The Times Digital Archive* [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/IF0500265946/TTDA?u=cambuni&sid=TTDA&xid=44ebdc60, accessed 20 May 2021].

[108] The Canadian 1910 Act, for instance, stated that 'immigrants belonging to any race deemed unsuitable to the climate or requirements of Canada' could be prohibited from entering. Non-discriminatory regulations only came in 1962. A. Green and D. Green, 'The goals of Canada's immigration policy: a historical perspective', *Canadian Journal of Urban Research*, 13:1 (2004), 102-139. See also: K. Neumann and G. Tavan (eds), *Does History Matter?: Making and debating citizenship, immigration and refugee policy in Australia and New Zealand,* (Canberra: ANU Press, 2009); M. Jordan, '"Not on Your Life": Cabinet and Liberalisation of the White Australia Policy, 1964-67', *Journal of Imperial and Commonwealth History,* 46:1 (2018), 169-201.

[109] TNA, HO 394/911, 1990.02.22, Morris (HO) to Dent, 'Asylum Applications and the Carrier Liability Act'.

immigrants to the UK, in 1987, only 211,000.[110] The number of asylum seekers, meanwhile, remained stable, at 5,714 and 5,863 respectively.[111] Interviewees recalled noticing the Bill's impact. The Home Office's former Head of Legal, Clive Osborne said he had spent years devising new instruments and tools in a bid to free up the immigration system, to no avail. The decisive step was the one that also reduced the number of people arriving in the UK in the first place: the Immigration (Carriers' Liability) Act 1987. Interviewees had occasionally conflicting recollections of carriers' reactions to the bill, some recalling carriers' frustration at increased liability, others, their relief at a clearer, more organised system. One memo described airlines' somewhat petulant reaction to the bill: 'Until the Act came into force carriers took the view that they were not in the business to assist immigration control authorities. Their early response was to indicate that payment of penalties would be refused.' However, a 'firm and consistent line' by the government, as well as intimations that 'flouting the law would result in action in the Courts to enforce recovery' meant that the 'end product has been a much closer working relationship with carriers'.[112] The Home Office even sent staff to problematic departure airports, mandating 'carrier liaison officers' to make the more difficult calls and train carrier personnel. In this, the UK was not out of step with other Western countries: not only had some already implemented similar measures, but officials from EC member countries, the US, Canada, Australia, and IATA (the international civil aviation authority) began meeting twice a year to coordinate policies.[113]

As Hurd summed it up to Cabinet,

> The fact was that there were very large numbers of people around the world who would prefer to live in the United Kingdom than in their own countries and who might not hesitate to travel here with bogus documents and attempt to establish a toe-hold with more or less specious claims for political asylum, if that opportunity was left open to them. Maintenance of immigration control required constant vigilance to block off devices for evading the controls as they appeared. The

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[110] ONS, 'Long-term Migration into and out of the United Kingdom, 1964-2019', [https://webarchive.nationalarchives.gov.uk/20160519133304/http://www.neighbourhood.statistics.gov.uk/HTMLDocs/dvc123/index.html, accessed 20 May 2021].

[111] P. Walsh, 'Asylum and refugee resettlement in the UK', The Migration Observatory, University of Oxford, 11 May 2021, [https://migrationobservatory.ox.ac.uk/resources/briefings/migration-to-the-uk-asylum/, accessed 20 May 2021].

[112] TNA, HO 394/911, 1990.02.22, Morris (HO) to Dent, 'Asylum Applications and the Carrier Liability Act'.

[113] Zoom interview with Kate Collins, former head of Immigration Service (Ports), June 2020. The IATA group was set up in 1987, and met twice a year 'plus a rolling programme of joint guidance for carriers at airports identified as sources of inadmissible passengers' (see: TNA, HO 394/911,1990.01.25, Sanderson (HO) to Spencer, 'Sri Lankan Asylum Applicants: Annex D "The IATA Working Group"').

> establishment the previous year of a visa regime in respect of the countries of the Indian sub-continent had largely dealt with the problem of the people from those countries entering the United Kingdom under the guise of short-term visitors. The abuse of political asylum status bid fair to furnish a comparable loophole, unless urgent action was taken to deal with the matter. [My] proposal for taking power to impose financial penalties on carriers was in line with action by other countries, notably Germany, Canada and the United States, and it should not expose the United Kingdom to charges of stepping out of line with international opinion.[114]

1.3. Law, order, and immigration

As we have seen, law and order represented a key pillar of Thatcherite policy.[115] Immigrants and refugees were caught in this toughening rhetoric, and increasingly framed as deviants (though they were by no means the only class of persons considered such). The Lord Chancellor at the time, Lord Hailsham, one of the highest office-holders of the British state, responsible for the efficiency and independence of the courts, lamented 'the moral and spiritual desert amongst our young'. 'Bad social conditions', he said, were not a valid excuse for 'the breakdown in our belief in moral values, respect for authority, personal integrity, kindness, tolerance, and chastity'.[116] Indeed, a moral rejuvenation of Britain was as much as part of Thatcher's ambitions as an economic one.[117] In fairness to Hailsham, he did caution against blaming Asians for the Handsworth riots (1981, 1985). 'Some of them [were] models of industriousness, propriety and enterprise', and the main victims of the violence.[118]

The combination of Manichean worldview, emphasis on law and order, longstanding distaste for immigration - but also administrative expediency - contributed to the gradual

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[114] TNA, CAB 128/85, 1987.02.26, Minutes of Full Cabinet - CC(87) 7th, Annex 'Penalties on carriers of entrants lacking valid documents', [https://www.margaretthatcher.org/document/217995, accessed 20 May 2021].

[115] From 1979 to 1986, average police earnings increased by 115%, see: Conservative Campaign Guide 1987, [https://www.margaretthatcher.org/document/110801, accessed 20 May 2021].

[116] THCR 1/1/25, f195, 1985.09.26, Hailsham to Thatcher [https://www.margaretthatcher.org/document/142301, accessed 20 May 2021].

[117] F. Sutcliffe-Braithwaite, 'Neo-liberalism and morality in the making of Thatcherite social policy', *The Historical Journal,* 55:2 (2012), 497-520.

[118] On the construction of Black British people as perpetual immigrants in 1980s Britain, see: N. Jackson, '"A nigger in the new England": "Sus", the Brixton riot, and citizenship', *African and Black Diaspora: An International Journal*, 8:2 (2015), 158-170; Ipsos Mori, 'Immigration and Race on the Ipsos MORI Issues Index', 12 September 2014, [https://www.ipsos.com/ipsos-mori/en-uk/immigration-and-race-ipsos-mori-issues-index, accessed 20 May 2021].

rapprochement of administrative and criminal sanction, with administrative sanctions coming to resemble criminal ones in all but name. One reason for this was practical: law enforcement was resource intensive in a way that administrative sanctions were not. In a hardening political climate, it was therefore logical to deal with deviants by increasing the consequences of administrative missteps. As [the former head of Immigration Services recalled], 'illegal entry was easier to deal with via the administrative route than via law enforcement'. It was administratively simpler for courts to conclude that someone had entered under false pretences, following which they could be removed, than trying them for any actual crime. The 1971 Act envisaged that illegal entrants would be dealt with as one dealt with people refused entry, ie detained and removed. Proper prosecution under the Act, however, involved costs and delay, and would not guarantee removal, which remained the main objective.

Instead, the scope of what constituted illegal entry was gradually and considerably expanded through the inclusion of the use of 'deception'.[119] Previously, an illegal entrant was someone who had entered clandestinely, on a dinghy perhaps, thereby evading immigration control. These individuals were liable to be removed, the very fact of their illegal entry precluding any right of appeal. Administratively, the illegal entry regime was therefore much faster to operate than the deportation regime, which would have been used for people who had first come to the attention of the police or courts, having been convicted of theft or assault for instance. Including deception 'massively increased the scope for illegal entry provisions', and had the practical effect of making it easier to remove undesirable individuals, based not their delinquent behaviour, but on their immigration status.

Indeed, until the late 1980s, the law enforcement dimension of immigration control was 'pretty small scale, amateur'.[120] Put simply, immigration was not a law enforcement issue. Immigration staff might occasionally help the police, customs, or in more serious cases of suspected terrorism, the Home Office (border staff had a photographic index of known terrorists), but the law enforcement dimension of their work was minimal, a function of the

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[119] This was done primarily through court decisions confirming a strict interpretation, such as in the case of Norman, whereby the three appelants did not state their reason for entering the UK as seeking asylum, though they subsequently sought to. See: *R v. Secretary of State for the Home Department, Ex parte Bugdaycay; Regina v. Same, Ex parte Nelidow Santis; Regina v. Same, Ex parte Norman*, [1986] 1 All ER 458, [1986] 1 WLR 155, [1986] Imm AR 8, United Kingdom: Court of Appeal (England and Wales), 5 November 1985 [https://www.refworld.org/cases,GBR_CA_CIV,3ae6b6230.html, accessed 1 June 2021].

[120] Zoom interview with Kate Collins, former head of Immigration Service (Ports), June 2020.

border's role as a chokepoint.[121] Immigration itself was not the object. This began to change from the late 1970s and early 1980s onwards, markedly accelerating when asylum exploded onto the scene. Faced with growing numbers, there was an administrative incentive for increasing the severity of penalties, regardless of whether they were defined administratively or criminally. With the end goals of facilitating removals and reducing numbers clearly defined, the rest was largely opportunistic. The Criminal Justice Bill included proposals to 'close a loophole in the law on the deportation of immigrants who overstayed', bringing a previously administrative offence into criminal law.[122] The Carriers' Liability Act, meanwhile, did not impose *fines*, which were criminal, but *charges*, which were administrative (and easier to… administer).[123] In some cases, whether to define an offence administratively or criminally seemed a bit of a toss up. Discussing the Carrier's Liability Act, Cabinet conceded 'there might be advantage in … legislating to establish a new criminal offence … Such an approach would avoid any difficulties of judicial review. On the other hand, any advantages it offered might be bought at the price of yet further difficulties in Parliamentary handling.'[124] The end result, however, was the same: the gradual rapprochement of administrative and criminal penalties, and the criminalisation of offences previously barely considered offences at all.

Many scholars and political philosophers have picked up on the criminalisation of 'previously unimaginable parts of life' in wealthy Western countries.[125] What Garland calls the 'crime complex', Simon refers to as 'governing through crime'.[126] Both point to the centrality, from the 1980s onwards, of crime as a basis for authority. Garland emphasizes the punitiveness that, to him, increasingly characterizes the policy and rhetoric of British and American governments. 'Punitiveness may pose as a symbol of strength' he says, 'but it

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[121] J. Sheptycki, 'Patrolling the New European (In)Security Field; Organizational Dilemmas and Operational Solutions for Policing the Internal Borders of Europe', *European Journal of Crime, Criminal Law and Criminal Justice*, 9:2 (2001), 144-160.

[122] TNA, PREM 19/1880, f278, 1985.08.13, Brittan to Whitelaw, 'Legislative Programme 1985-86', [https://www.margaretthatcher.org/document/205762, accessed 20 May 2021].

[123] Zoom interview with Kate Collins, former head of Immigration Service (Ports), June 2020.

[124] TNA, CAB 128/85, 1987.02.26, Minutes of Full Cabinet - CC(87) 7th, Annex 'Penalties on carriers of entrants lacking valid documents', [https://www.margaretthatcher.org/document/217995, accessed 20 May 2021].

[125] M. Bosworth, 'Border control and the limits of the sovereign state', *Social and Legal Studies,*17: 2 (2008), p. 209.

[126] J. Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (Cary: Oxford University Press, 2007).

should be interpreted as a symptom of weak authority and inadequate controls.'[127] Increased punitiveness, by this reading, is a reaction of denial to states' inability to control outcomes.

My research largely bears out this analysis: interviewees repeatedly stressed feeling powerless in the face of global patterns of inequality and movement, and the impossibility of hermetically sealing borders. Former Chancellor and Foreign Secretary Philip Hammond, described the Conservative party's obsession with immigration as an inability to accept the realities of a globally integrated economy.[128] Simon, meanwhile, emphasizes the reconceptualization of social problems into criminal ones, of using crime as the model problem, rather than as one problem among an array of qualitatively different ones. 'The category of crime', writes Simon, is used 'to legitimate interventions that have other motivations'.[129] He explicitly makes the link with immigration, showing how, in the US at least, immigration imprisonment is a 'small but potentially critical part of this crisis of governance' brought about by globalisation.[130] Boswell makes the case for the UK, showing how the growing use of prisons for immigration detention, especially from New Labour onwards, is 'singularly useful in the management of non-citizens because they enable society not only to physically exclude this population, but also, symbolically to mark these figures out as threatening or dangerous.'[131]

My research shows the origins of this logic, already at work in the years leading up to New Labour. First, the objective of policy increasingly became the physical exclusion of undesirable migrants, either by attempting to prevent their arrival or, failing that, expediting their removal. Second, this strategy was framed in terms excluding a deviant population, rather than the somewhat more neutral management of the supply and demand of labour, or indeed the admission that a key driver was avoiding administrative collapse. As these and other authors show, the primary purpose of these policies is symbolic.[132] What my research might serve to illuminate is the missing link between a more conscious, possibly even reluctant,

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[127] D. Garland, 'The Limits of the Sovereign State: Strategies of Crime Control in Contemporary Society', *The British Journal of Criminology*, 36:4 (1996), p. 445.

[128] 'Brexit interview: Philip Hammond', *UK in a Changing Europe* (2020), [https://ukandeu.ac.uk/interview-pdf/?personid=42190, accessed 20 May 2021].

[129] Simon, *Governing Through Crime*, p. 4.

[130] J. Simon, 'Refugees in a Carceral Age: The Rebirth of Immigration Prisons in the United States', *Public Culture,* 10:3 (1998), 577–606.

[131] M. Bosworth, 'Border control and the limits of the sovereign state', *Social and Legal Studies,*17: 2 (2008), pp. 207-8.

[132] Slaven and Boswell, 'Symbolic policy-making in the 1960s'.

deployment of symbolic policymaking, such as that described by Slaven and Boswell in the 1960s, to the comparatively uncritical acceptance of a criminal paradigm from the 1990s onwards.

The criminalisation literature is more illuminating than the securitisation literature in explaining the origins of the harsher immigration policies and rhetoric that emerged in the 1980s. It is firmly anchored in domestic processes, which my research shows mattered more than European ones in promoting harsher policies. Indeed, much of the securitisation literature begins in the mid-1980s with Schengen, and assigns the networks of law and order officials we have been studying with the will and the means to promote a security-tinged understanding of immigration. As we have seen, the primary focus of these officials was pretty mundane: managing traffic, ensuring travellers were appropriately documented, keeping incoming numbers down. I have found no references of Home Office officials bemoaning a loss of influence (if anything, that was their colleagues at the Foreign Office) or being systematically frustrated by national courts, or, crucially, seeing in their European interactions a solution to domestic frustrations. As Bertossi et al. point out regarding social science migration research, 'newness can be exaggerated'.[133]

Returning to immigration policymaking in late 1980s Britain. Ironically perhaps, the 'law' aspect of this law and order approach seems to have been deployed selectively. In Cabinet, Thatcher railed against the fact that 'Ministers' proper exercise of their responsibilities was being endangered by the expansion of judicial review' - despite the judiciary constituting a necessary check on the executive in any democratic, rule-based regime.[134] Meanwhile, the Home Secretary had seriously considered making the Carriers' Liability Act retroactive, a move which would have had grave implications for due process had it gone though. Though he gave up retroactivity, he did retain significant discretionary powers. On the issue of admitting second wives, who under certain conditions had the right to join their UK-based husbands, he had also been ready to 'postpone compliance with his obligation' until legislation was changed, which unlawful tack the Attorney General said 'cannot be contemplated'.[135]

On the ground, these changes were not to displease Immigration Services staff. As interviewees were keen to emphasize, there existed something of a cultural difference between

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[133] C. Bertossi, J. Duyvendak and N. Foner, 'Past in the present: migration and the uses of history in the contemporary era', *Journal of Ethnic and Migration Studies* (2020).

[134] TNA, CAB 128/85, 1987.03.05, Minutes of Full Cabinet - CC(87) 8th, [https://www.margaretthatcher.org/document/217996, accessed 20 May 2021].

[135] N. Higham, 'Margaret Thatcher concerned over "second wives"', BBC, 21 July 2016, [https://www.bbc.com/news/uk-36838760, accessed 20 May 2021].

officials at HQ and immigration officers in the field, and between senior HQ officials and more junior and poorly paid immigration caseworkers at Lunar House. Senior officials were educated, liberal, urbane (or saw themselves as such). Their careers were mobile (this in-built mobility, with officials moving between drugs, terrorism, prisons and immigration over the course of a career in the Home Office, might be another reason why immigration eventually came to be regarded as a quasi-criminal matter). Many identified as European, and were more likely to see eye to eye with their French or German counterparts than they were with their FCO, let alone Croydon, ones.[136] Junior caseworking officials meanwhile were poorly paid, and tended to have more stagnating careers, remaining in their jobs for years. Immigration officers, on the other hand, were practically minded and saw their mission as 'guardians of the frontier'. They were out in the field, better paid, and generally more motivated. Staff was overwhelmingly male, occasionally ex-Army. Some viewed themselves as members of a distinct profession. Things came to a head when the asylum caseload exploded. Immigration officers, who had been used to making their own decisions and conducting their own interviews, suddenly had to refer all asylum cases to Home Office caseworkers. Officers could interview and detain, but they could no longer take the substantive decision - a considerable frustration. They resented officials' aloofness; officials disdained their 'cowboy mentality'.[137] This internal cultural divide, if not universal, was certainly mirrored in France, where Spire notes a near identical contrast between the field (the *guichets*), and HQ.[138]

An overtly law enforcement approach was too costly and resource intensive to operate. Meanwhile, the system was unable to cope with numbers, and a law and order approach to social problems was the order of the day. Combined, these led to increasingly blurred lines between criminal and administrative sanctions, as measures that would have been too costly to run in the former regime were folded into the latter. At the same time, British policymakers began to perceive that their ability to affect change was no longer what it once had been: globalisation - from the ease of travel to global inequalities - meant they were dealing with forces much more powerful than before. This changed the tools British officials could turn to in their quest to manage borders. As one former official put it, they went from 'not really caring what the others were up to' to suddenly finding it very important indeed, because the effects would be felt elsewhere. Henceforth, if Germany sneezed, the UK might very well catch a cold.

We now turn to Europe and the Single European Act.

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[136] Some interviewees joked about seeing more of their European counterparts than they did their British colleagues.

[137] As one former official put it, it was a fine line between 'can-do' and 'gung-ho'.

[138] Spire, *Enquête sur les guichets*.

II. A 'Good Thing': The Single European Act

Faced with a changing global environment, the British immigration control apparatus was scrambling to adjust the means by which it achieved its historical ends - limiting unskilled, poor, Third World or New Commonwealth migration.[139] Meanwhile, at the highest level of the British and European polities, a major change was being negotiated, the biggest since the Community's foundation: the Single European Act. The Single European Act (SEA) was the first major treaty overhaul since the 1957 Treaty of Rome that founded the Community. Its primary objective was to make the four freedoms - the freedom of movement for goods, capital, services, and people - a reality. It would harmonize national legislations, thus removing barriers to business, and abolish internal frontiers, thereby 'giving our citizens a concrete and positive perception of European integration'.[140] The project was carried by the energy of Commission president Jacques Delors, British internal markets commissioner and Commission vice-president, Lord Cockfield, and Margaret Thatcher.[141] For Britain the SEA was a major strategic objective which promoted free trade and practical, economic integration - not vaporous political commitments, and certainly not federalist superstructures. 1992 was the target date set for the Act's implementation. The intervening years (the Act was signed in 1986) would serve to iron out practical kinks.

In the words of a number of my interviewees, the SEA was very much seen as 'A Good Thing': the zeitgeist beckoned open economies and a re-dynamised European project. Britain, for once, was spearheading a major Community endeavour and cementing a leadership hitherto reserved (or perceived to be reserved) to the French and Germans.[142] Practical kinks would be compressed by the steamroller of European free market optimism. Article 8a of the Act, which would give British officials cold sweats for a decade, was barely a footnote, very fine print on an otherwise much desired contract.

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[139] See Spencer, *British immigration policy since 1939*; Paul, *Whitewashing Britain.*

[140] *'Par l'Acte unique nous avons adhéré au concept d'espace sans frontières, dont la réalisation effective donnera à nos concitoyens une perception concrète et positive de la construction européenne.'* AN, 19970376/3, Liasse 7, 1989.04.24, Groupe Ad Hoc Immigration, 'WGI 416, Conclusions de la réunion des Ministres chargés de l'Immigration (Athènes, 8-9 décembre 1988)'.

[141] See: Wall, *A Stranger in Europe*; D. Dinnan, *Ever Closer Union: An Introduction to European Integration,* (Basingstoke: MacMillan, 1999).

[142] The French and Germans were, for instance, the main instigators of the Economic and Monetary Union (EMU).

This section examines the effects of the SEA on British immigration and border policy. It then turns to the accelerating effect it had on the convergence of member states' policies.

2.1. A very British headache? Free movement in practice

The Single European Act was signed in 1986 to a mixed reception.[143] Factions in national parliaments across the Community objected to what they perceived as an inordinate handing over of sovereignty to the Community. (Though as *The Economist* noted, the Act was more 'an attempt to oil the parts, not to replace the engine' of the Community. Talk of supranationalism and federalism was therefore grossly exaggerated.)[144] In official circles, the Act was viewed as a major, positive, step forward. The SEA came in 'on the wave of free trade', according the an interviewee. Nobody realized it had freedom of movement implications. In the bowels of the Home Office, meanwhile, officials began poring over the fine print and what they found made them nervous. For Article 8a (which began life as Article 7a) stated that:

> The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty.[145]

The problem hinged on the definition of 'persons'. Was it freedom of movement for EC nationals exercising their Treaty rights, as the UK would have it, or freedom of movement for EC nationals *and lawfully settled third country nationals,* as the other member states - and the ECJ - were likely to interpret it? The Continentals, as we have seen, traditionally had a more expansive interpretation of Community texts than did the UK. For the UK, freedom of movement as defined by the Treaty of Rome applied only to EC nationals. It did not extend to third country nationals, however lawfully settled. There was therefore no reason that the new Act should extend to them. The British feared that the Continentals and the Court would find the distinction nonsensical - after all, the purpose of the Single European Act was to create a borderless area, of which lawfully settled third country nationals were a part.

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[143] D. Brown, 'Signs of Dissent Mute EEC Celebration of Reforms', *The Guardian (1959-2003),* 18 February 1986 [https://ezp.lib.cam.ac.uk/login?url=https://www-proquest-com.ezp.lib.cam.ac.uk/historical-newspapers/signs-dissent-mute-eec-celebration-reforms/docview/186638504/se-2?accountid=9851, accessed 24 May 2021].

[144] *Economist*, 'Don't take Europa to Brussels, they cry', 8 November 1986, pp.190-120. *The Economist Historical Archive, 1843-2015* [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/GP4100185689/ECON?u=cambuni&sid=ECON&xid=a316bec7, accessed 24 May 2021].

[145] Single European Act (official text), 1986 [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:11986U/TXT&from=EN, accessed 24 May 2021].

Underpinning this was a more fundamental problem: the very system of frontier-based border checks. It was a 'huge issue' for British officials, a 'time bomb'.[146] The dossier was 'extremely politically sensitive', all the more so that is was happening under Thatcher, no friend to perceived Community encroachments on sovereignty.[147] For Home Office officials, the article was seen as having the potential to upend the very foundation of British population control: effective border checks. For everyone, including Community nationals, was checked at the border upon arrival. Community nationals were waved through; third country nationals were given a stamp or a form granting them leave to enter. But everyone was checked. The alternative, as we have seen, was more stringent internal checks, which ministers, officials, and the public systematically refused. The problem was perceived by officials to be a uniquely British one, and a factor of how intimately Britain's island geography had forged its tradition of population control. UK control had always been conceived of as occurring nearly exclusively at the borders, there was 'no idea of even the possibility' of giving that up (which was the main reason Schengen was presented to the UK as a *fait accompli*, Britain having been wholly unaware of proceedings). Outsourcing border controls - to countries with porous land borders at that! - could only lead to a deterioration in the quality of UK controls.

To mitigate the article's potentially nefarious effects, the British delegation had been successful in attaching a General Declaration to the Single European Act.[148] This stipulated that:

> Nothing in these provisions shall affect the right of Member States to take such measures as they consider necessary for the purpose of controlling immigration from third countries, and to combat terrorism, crime, the traffic of drugs and illicit trading in works of art and antiques.[149]

The Declaration was a political, rather than legal, document, which the UK nonetheless interpreted as safeguarding its right to control incoming third country nationals. According to Collins, former head of ports, over-optimistic government lawyers had perhaps given British officials a false sense of security on the matter. For it soon became clear to British officials that

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[146] Interviewees did point out that there was in fact very little written about Article 8a, either at the time or since. Officials might have been worried, but discretion is the better part of valour.

[147] There is some discrepancy between Thatcher's own, later, recollections of the SEA as an underhand move by Delors to increase his influence, versus those of Howe (her Foreign Secretary at the time) and Hannary (former British ambassador in Brussels), who 'said the UK negotiating team had no doubts about the significance of what they were doing'. G. Parker, 'Single European Act', *Financial Times,* 17 February 2006, p. 6 [https://ezp.lib.cam.ac.uk/login?url=https://www-proquest-com.ezp.lib.cam.ac.uk/newspapers/single-european-act/docview/249825178/se-2?accountid=9851, accessed 24 May 2021].

[148] Wall, *A Stranger in Europe*, p. 70.

[149] Single European Act (1986), General Declaration on Articles 13 to 19.

should matters ever get to court, the UK would likely be alone in giving the Declaration any weight.

For the ensuing decade, British officials lived on a 'knife edge', worried that a complaint would bring the UK to the ECJ's attention; that the UK would be dragged out of its uncomfortable twilight zone into the even more uncomfortable situation of having to waive its border controls entirely. As one interviewee put it, 'we came within an ace of losing our entire immigration control structure'. To the relief - and surprise - of officials, the issue was put to rest with the 1997 Treaty of Amsterdam, when Tony Blair breezily secured opt-outs that allowed the UK to continue to operate its borders as it saw fit.

Meanwhile, the strategy between 1986 and 1997 was one of avoiding cases regarding border checks coming to the Court's attention in the first place. Instead, border staff operated light touch controls on EC nationals, merely to check they were indeed nationals of a Community member state. This light touch approach worked by handing over more discretion to immigration officers at (air)ports, and was considered by officials a success. Interviewees recalled how this European imperative actually prompted them to innovate, to 'find new ways of doing things better'. For instance, separate queues for EC nationals were introduced at Dover, a novelty and a showpiece for the UK's relationship with France.[150] Targets for reducing waiting times were introduced at all ports, following detailed research into the volumes and types of flows each port managed. The idea was that EC nationals should be able to come in as a continuous flow, barely stopping for checks at all. The whole thing would take less than 3 minutes. This target was eventually achieved, to the pride of the former head of ports. Another improvement was the partial removal of embarkation controls. Embarkation was the process of checking people leaving the UK, mostly for statistical purposes, occasionally crossing them with entry data. It was very resource intensive for only moderate gains, and was low grade work. Doing away with embarkation allowed resources to be diverted to making sure that there was 'no appreciable delay' for Community travellers. For the volume of business was increasing fast, another source of pressure on already squeezed resources. The result of these changes were visible in ports, some of which no longer had physical controls - a huge image difference, and a significant achievement. Of course, as interviewees and the occasional written memo were wont to recall, a significant part of border control is directed not towards

[150] At the same time, construction for the Channel Tunnel was underway (digging began in 1988), a major prestige project, from which the Community and immigration concerns were nonetheless largely absent.

preventing undesirable travellers, but towards facilitating the journeys of everyone else. Such progress, however, is rarely commended by ministers or the public.[151]

2.2. Not so alone

Far from being splendidly isolated, the British were not the only ones concerned about the practical way in which the SEA would impact border and population control. A 1987 French memo stressed the same Declaration excerpt as above, and was at pains to note that matters concerning the '"entry, movement, and stay of third country nationals" remain an intergovernmental competence, notwithstanding the Community competence to promote the free movement of people between member states'.[152] In fact, the French and the Germans came around to the British view that the freedom of movement of people 'should be limited to those defined by the treaty, that is workers.'[153] During the meetings of the Ad Hoc Working Group on Immigration, which spun out of the TREVI working groups in 1986, but quickly became independent from it, ministers agreed that third country nationals could circulate freely only after compensatory measures had been put in place, a logic which states had already been deploying domestically.[154]

The Dutch too, were concerned about the SEA, and what it implied for the precise location of external borders. 'The crux of this debate is the scope of application of the suppression of internal frontier controls, and by extension, the scope of the freedom of movement', a French official minuted. 'The latter would apply, in the Dutch view, only to land

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[151] Newspapers at the time instead stressed the speed with which goods now travelled, and the logistics apparatus enabling it, as well as modernization efforts at airports. See for instance: 'Putting on airs', *Times*, 21 May 1987, p. 12. *The Times Digital Archive* [https://link-gale-com.ezp.lib.cam.ac.uk/apps/doc/IF0500488216/TTDA?u=cambuni&sid=TTDA&xid=a803ba9f, accessed 24 May 2021].

[152] '*il est rappelé que les matières concernant "l'entrée, la circulation et le séjour des ressortissants des pays tiers" restent dans la compétence de la coopération intergouvernementale, nonobstant la compétence communautaire pour promouvoir la libre circulation des personnes entre les Etats membres.'* AN, 19979159/23, Liasse 1, 1987.07.22, Chef du Bureau du Droit comparé et du droit international to Directeur des libertés publiques et affaires juridiques, Ministère de l'Intérieur, 'Arrêt de la CJCE concernant la compétence communautaire en matière de politique migratoire (9 juillet 1987)'.

[153] Wall, *A Stranger in Europe*, p. 66.

[154] AN, 19970376/3, Liasse 7, 1989.04.24, Groupe Ad Hoc Immigration, 'WG 416, Conclusions de la réunion des Ministres chargés de l'Immigration (Athènes, 8-9 décembre 1988)'.

borders'.[155] Ports and airports would remain external. Concerns about the practical impact of removing intra-European borders where therefore widely shared. Each state might have its own specific, marginally different, set of concerns, but all were united against any sort of Commission-promoted free-for-all.

Indeed, the Treaty of Rome itself has in-built flexibility which allowed states some leeway implementing provisions. These included public safety, public order, and public health; the only acceptable grounds under which member states could deviate from their Community free movement obligations - and a convenient provision for them to retain discretion managing their borders. In practice, this language bled outwards: drugs, terrorism, and immigration were frequently rolled under the same discussion headings, with borders as the common denominator, and immigration occasionally mentioned in headings and nowhere else. With time, however, it seems that the fact of the *border* being the common link between immigration and security was lost: in official discussions, immigration was linked to security not through the importance of borders in regulating both, but in and of itself (a result, also, of changing domestic attitudes). The twelve ministers responsible for immigration (interior ministers, more often than not) were careful to note that 'it is crucial that each member state think about the measures it will need to take to compensate the loss of security of the eleven other member states, the weakness of a single one having the ability to threaten to whole mechanism'.[156] This covered the broad category of 'undesirables' from car thieves to gangsters, pot smugglers to terrorists. More benign but no less unwanted, it also extended to immigrants.[157]

Another aspect on which most of the member states were thoroughly aligned was their reluctance to see the Commission expand its competencies. Under the right of initiative granted to the Commission in the EC's founding treaty, the Commission had the right to propose new laws on matters contained in the treaty. Interviewees stressed what was apparent

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[155] *'L'enjeu de ce débat est le champ d'application de la suppression des contrôles aux frontières internes, et, par voie de conséquence, l'étendue de la libre circulation: celle-ci ne trouverait en pratique à appliquer, dans la thèse néerlandaise, qu'aux seules frontières terrestres.'* AN 19970376/3, Liasse 3, 1989.04.12, Directeur des Libertés Publiques to Conseiller diplomatique au Cabinet du Ministre, 'Préparation de la rencontre informelle des Ministres de l'intérieur de l'Accord de Schengen le 21 avril et de la réunion des Ministres français du lundi 17 avril'.

[156] '*il est primordial que chaque État membre réfléchisse aux mesures qu'il sera appelé à prendre pour compenser la perte de sécurité des onze autres États membres, la défaillance d'un seul pouvant mettre en cause l'ensemble du mécanisme mis en place.'* AN, 19970376/3, Liasse 7, 1989.04.24, Groupe Ad Hoc Immigration, 'WG 416, Conclusions de la réunion des Ministres chargés de l'Immigration (Athènes, 8-9 décembre 1988)'.

[157] *'L'ensemble du débat a fait ressortir l'interdépendance des différents volets d'une politique de l'immigration.'* AN, 19970376/3, Liasse 7, 1989.04.24, Groupe Ad Hoc Immigration, 'WG 416, Conclusions de la réunion des Ministres chargés de l'Immigration (Athènes, 8-9 décembre 1988)'.

in the archives: a combination of wariness, frustration, and long-suffering patience dealing with the Commission. Last chapter we saw at length the frustration felt by British officials at the Commission's seemingly willful obtuseness in failing to understand the historical imperatives driving British immigration control.

These frustrations were not unique to Britain. French officials reacted with speed and alacrity to perceived attempts by the Commission to surreptitiously extend its remit. In 1985, for instance, the Commission adopted a decision which would have imposed on member states the obligation to notify each other, and the Commission, of planned immigration legislation for third country nationals, on the basis that such immigrants affected the overall employment balance of the Community. The Commission had an expansive view of the matter, including everything from cultural integration programmes to voluntary returns. This, however, was out of the question for member states, as it would mean notifying foreign states of legislation before their own national parliaments.[158] As soon as the Commission had sent its proposals to member states, 'French representatives, along with nearly every other member state representative, highlighted the impossibility for a state - at least on a mandatory basis - to transmit a project before the end of its examination by Parliament'.[159] French officials had even argued that there was a public security dimension to the issue, which meant it must necessarily be under the sole responsibility of sovereign member states, and that the notification procedure could compromise secret negotiations. The matter went to the European Court of Justice, which ruled in favour of the member states. Though it rejected France's security arguments, it did find that the Commission had overreached and the decision was annulled. The Commission suggested the creation of an ad hoc committee instead, which was well received.

What these episodes perhaps suggest is that British exceptionalism is overstated: other states were equally worried about the implications of the removal of internal frontiers, despite not being island states themselves. The Dutch were against an expansive definition of interior

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[158] AN, 19979159/23, Liasse 1, 1987.09.23, Commission DG Employment, Social Affairs and Education, 'Document de travail: Échange de vues avec les Etats membres sur une "procédure de notification préalable et de concertation sur les politiques migratoires visa-à-vis des Etats tiers" (Décision de la Commission du 8 juillet 1985, annulée par l'arrêt de la Cour de 9.7.1987)'.

[159] *'Sur l'envoi aux Etats-membres et à la Commission des projets de mesures nationales 'aussitôt que (ceux-ci) sont publics', les représentants français, comme la quasi totalité des participants au nom des Etats-membres, ont souligné l'impossibilité pour un Etat - du moins sur une base obligatoire - de transmettre un projet avant la fin de son examen par le Parlement.'* AN, 19979169/23, Liasse 1, 1987.12.10, Secrétariat Général, Comité Interministériel pour les questions de Coopération Economique Européenne to Premier Ministre, 'Compte-rendu (représentation permanente) au sujet de la politique migratoire à l'égard des pays tiers'.

frontiers. The French were wary of Commission creep. Franco-German leadership was not as seamless as it seemed, and as the Community enlarged, so too did the opportunity for Britain to inflect Community policy as a whole (described in compelling detail by Stephen Wall, a former senior diplomat).[160] As an FCO paper noted: 'The French and the Germans are finding their relationship by no means easy. Both, for their own reasons, want our participation'.[161] Neither, importantly, 'had in mind a federal or even a confederal system', though they did wish to give the Community new impetus. Enlargement was giving rise to a Community of variable geometry. In a diversifying Community of 'concentric circles', where different levels of integration, economic power, and influence were increasingly taken for granted as the norm, Britain could no longer be considered an outlier.[162]

In interviews too, retired officials hinted (albeit indirectly), that a view of British exceptionalism might be exaggerated: how relevant really was the UK's status as an archipelago with daily flights to all four corners of the world? How unique were British concerns when Home Office officials felt a deeper kinship with their European counterparts than with their Foreign Office ones? (Some joked they also saw more of their European colleagues than they did their own). This kinship was warmly reciprocated. On a visit to his British colleague, the Italian interior minister warmly congratulated him for such gratifying cooperation, while bemoaning tensions with his own foreign ministry.[163]

2.3. Converging towards a common regime

In 1985, France, Germany, and the Benelux countries signed the Schengen Agreement, which proposed to gradually reduce border checks at the signatories' common borders. The agreement was intergovernmental, and concluded independently of the European Community. Britain was emphatically *not* party to Schengen. It remained unaware of proceedings till the very end, and never sought to join. But the agreement added yet another layer to an already dense network of overlapping border, immigration, and security fora. As with these other fora, this contributed to yet further convergence.

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[160] Wall, *A Stranger in Europe*, pp. 63-66.

[161] In Wall, *A Stranger in Europe*, p. 63.

[162] To the extent Britain had ever been more or less of an outlier than the others, see: Buller, 'Britain as an Awkward Partner'.

[163] TNA, PREM 19/3410, f85, 1988.10.25, Mawer (HO) to Wall (FCO), 'Anglo-Italian Summit, 21 October 1988, Note of the Home Secretary's Discussions, with Italian Ministry of Interior'.

The Dutch, for instance, had aired their earlier views in the context of the Schengen Agreement, rather than the Single European Act. The two, however, were inextricably linked.

> We cannot ignore the fact that the solution we retain as part of the Schengen Convention will have a decisive influence on negotiations with the Twelve on the scope of the freedom of movement, given the driving role this accord wants to play in Europe. Extending the Dutch solution to the Twelve would mean completely excluding from the freedom of movement Great-Britain, Ireland and Greece, which have no common land borders with other member states … The Dutch, who naturally defend the same position on ports and airports in negotiations with the Twelve, would therefore find allies that they do not currently have among the Five.[164]

The French concluded with some satisfaction that the Franco-German view had nonetheless been well received by their partners, who agreed that in the case of exclusively intra-Community traffic, ports and airports should constitute an internal border - that is, once the transition period had allowed for the reorganisation of terminals and a differentiated control of passengers.

Decisions taken within the intergovernmental context of Schengen were thus expected to have effects on the Community at large. But the converging effect of Schengen also operated from the outside in. Italy, for instance, took steps to pre-emptively harmonise its immigration policies with the Schengen norm in order to gain admittance. Despite some certain difficulties in extra-Community diplomatic relations, as well as tensions between its foreign and interior ministries, the Italian government was 'busy drafting a Bill which would rationalise and consolidate its immigration laws … with a view to admission to the Schengen group'.[165] Italy was historically a country of emigration, with over 26 million Italians leaving the country

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[164] '*On ne peut faire abstraction de l'influence décisive qu'aura la solution retenue dans la Convention de Schengen sur les négociations à Douze sur la libre circulation, compte tenu du rôle moteur que cet accord veut jouer en Europe. L'extension à Douze de la solution pour les Pays-Bas équivaudrait à exclure entièrement du champ de la libre circulation la Grande-Bretagne, l'Irlande et la Grèce, qui n'ont pas de frontières terrestres communes avec d'autres Etats membres (réserve faite de la liaison trans-Manche, dont la nature reste à définir). Les Pays-Bas, qui soutiennent naturellement la même position sur les ports et aéroports dans la négociation à Douze, trouveraient ainsi des alliés qu'ils n'ont pas actuellement à Cinq.'* AN 19970376/3, Liasse 3, 1989.04.12, Directeur des Libertés Publiques to Conseiller diplomatique au Cabinet du Ministre, 'Préparation de la rencontre informelle des Ministres de l'intérieur de l'Accord de Schengen le 21 avril et de la réunion des Ministres français du lundi 17 avril'.

[165] TNA, PREM 19/3410, f85, 1988.10.25, Mawer (HO) to Wall (FCO), 'Anglo-Italian Summit, 21 October 1988, Note of the Home Secretary's Discussions, with Italian Ministry of Interior'.

between 1876 and the early 1980s.[166] Only from the mid-1970s onwards did the country gradually become one of positive net migration. It therefore lagged behind its partners in the use of visas, but would introduce them for Turkey and the Maghreb in order to join the Schengen group. Britain, while not a member of Schengen and with no plans to be, was also reviewing its visa policy, a review both the Home and Foreign secretaries thought was overdue. It was in the context of this review that the Home Secretary noted, 'We should also have an eye to the European Community dimension, and the pressures there for harmonisation of visa policy, and the question of countries where extension of the visa regime may be desirable on security, rather than strictly immigration grounds.'[167] The bulk of the note was devoted to Bangladeshi travellers and the handling of the issue in the House of Commons. The European dimension, while not crucial, was nonetheless something to bear in mind. It was another star on which to align policy, policy which of its own initiative the UK had decided needed updating.

Another area in which Schengen accelerated convergence was extradition. In the 1970s, we saw how interior ministers and officials began cooperating more explicitly and deliberately on terrorism. One impetus for this was the ability of homegrown terrorists - right wing, left wing, nationalist or anarchist - to claim political asylum in neighbouring states, thus escaping prosecution at home. Over a decade later, France was busy negotiating extradition with the interior ministers of the Schengen group. France's partners wished to lower the conviction threshold for extradition to six months, possibly even two if Germany got its way. (Most extradition treaties were applicable only to serious crimes, triggered once a certain sentencing threshold had been met.) For France, this threshold was two years. Germany and the Benelux countries argued it needed lowering, to prevent the creation of 'safe havens' in Europe.[168] France found itself quite isolated.

As Britain had done when faced with Article 8a, however, France used ever closer relations with its neighbours as a prompt to innovate and update domestic practices. Far from being strong-armed into reforms it was unwilling to pursue, French officials on the contrary noted that 'it is impossible to defend, in a borderless area where transport allows for considerable mobility of persons, the application of rules whose conception dates back to the

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[166] C. Bonifazi, F. Heins, S. Strozza, and M. Vitiello, 'Italy: The Italian transition from an emigration to immigration country', *IDEA Working Papers* (2009) [https://www.researchgate.net/publication/267773953_Italy_The_Italian_transition_from_an_emigration_to_immigration_country, accessed 24 May 2021].

[167] TNA, PREM 19/1800 f85, 1985.11.20, Hurd (HO) to Howe (FCO), 'Entry Clearance from Bangladesh', [https://www.margaretthatcher.org/document/147949, accessed 20 May 2021].

[168] AN, 19970376/3, Liasse 3, 1989.04.12, Directeur des Libertés Publiques et des Affaires Juridiques to Conseiller diplomatique au Cabinet du Ministre, 'Préparation de la rencontre informelle des Ministres de l'intérieur de l'Accord de Schengen le 21 avril et de la réunion des Ministres français du lundi 17 avril'.

end of the nineteenth century'.[169] Instead, 'lowering the extradition threshold seems indispensable … Concessions on our part should also be accompanied by a general reform of our extradition procedures'.[170]

Outside of Schengen, the Twelve were accelerating the visa harmonisation begun years before. In a meeting of the Ad Hoc Working Group on Immigration in 1989, interior ministers discussed the list of 50 countries whose nationals, they all agreed, needed visas to travel to Europe.[171] To that list, they decided to add Myanmar (formerly Burma), Cameroon, the Congo, Gabon, the Philippines, the Central African Republic and Senegal. The French reminded the others that it viewed as particularly important the 'rapid instauration' of visas for the Maghreb, Yugoslavia, Turkey, Bolivia, Colombia and certain Middle-Eastern countries, though it had lifted obligations for Finland and all the member countries of the Council of Europe.[172] The Danes, meanwhile, were studying the possibility of visas for Bulgarians, Cubans, Rumanians and Thais. Though ministers agreed that generally speaking, visas should be issued for three months, the UK declared it had fixed its own at six. None of these national quirks caused any concern. On the contrary - the Twelve were very much travelling in the same direction, gradually increasing controls on travellers from the global South. While they exchanged more information with each other, and actively sought to coordinate policies on matters such as visa waivers for certain countries, or a common visa application form, member state countries remained free to manage their immigration policies as they saw fit. Unlike in discussions with the Commission, where meeting minutes regularly note the reservations of this or that state, the summaries of the semi-formal meetings between interior ministers and their officials are filled with notes of self-congratulation on the speed and agreeableness of progress, and the likemindedness, in terms of overarching priorities, of fellow delegates.

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[169] '*Elle ne peut défendre, dans un espace sans frontières où les moyens de transports permettent une mobilité considérable des personnes, l'application de règles dont la conception remonte à la fin du XIXe siècle'* AN, 19970376/3, Liasse 3, 1989.04.12, Directeur des Libertés Publiques et des Affaires Juridiques to Conseiller diplomatique au Cabinet du Ministre, 'Préparation de la rencontre informelle des Ministres de l'intérieur de l'Accord de Schengen le 21 avril et de la réunion des Ministres français du lundi 17 avril'.

[170] *'Une évolution vers un abaissement du seuil paraît donc indispensable compte tenu que l'extradition est le facteur essentiel de tout accord judiciaire international. Des concessions de notre part devraient s'accompagner d'une réforme globale de notre procédure d'extradition.'* AN, 19970376/3, Liasse 3, 1989.04.12, Directeur des Libertés Publiques et des Affaires Juridiques to Conseiller diplomatique au Cabinet du Ministre, 'Préparation de la rencontre informelle des Ministres de l'intérieur de l'Accord de Schengen le 21 avril et de la réunion des Ministres français du lundi 17 avril'.

[171] AN, 19970376/3, Liasse 7, 1989.04.24, Groupe Ad Hoc Immigration, 'WGI 416, Conclusions de la réunion des Ministres chargés de l'Immigration (Athènes, 8-9 décembre 1988)'.

[172] The Council of Europe is a human rights organisation founded after World War II to uphold democracy and the rule of law in Europe. It is a separate entity from the EC.

From the evidence I present, it seems that Schengen accelerated - but crucially, did not create - dynamics for the convergence of member state border and immigration policies. In this sense it was a symptom rather than an immediate cause of convergence; a finding that heavily qualifies the securitisation literature. In chapter one, we saw how interior ministry officials and ministers were used to operating across many layers of groups and membership, each belonging to its own particular constellation, and information flowing reasonably fluidly between them. In chapter two we saw how structural factors such as contracting economies, global inequalities, and the ease of travel were crucial in cementing the common cause Western European countries found together regarding Third World migration.[173] Harmonisation was desirable and relatively painless. Cooperation, within Schengen or without, was strictly intergovernmental. It took place among sovereign governments in multilateral settings, not within any Community organ.

III. A 'seismic shift': the new age of asylum and European cooperation

We have examined in detail the effects on the British immigration apparatus of the sudden increase in asylum seekers in the mid and late 1980s. We have also explored the dynamics arising from the Single European Act, and the ways in which member states immigration policies continued to converge. We now turn to the effects this increase had on the European Community, and the relationship between its member states.

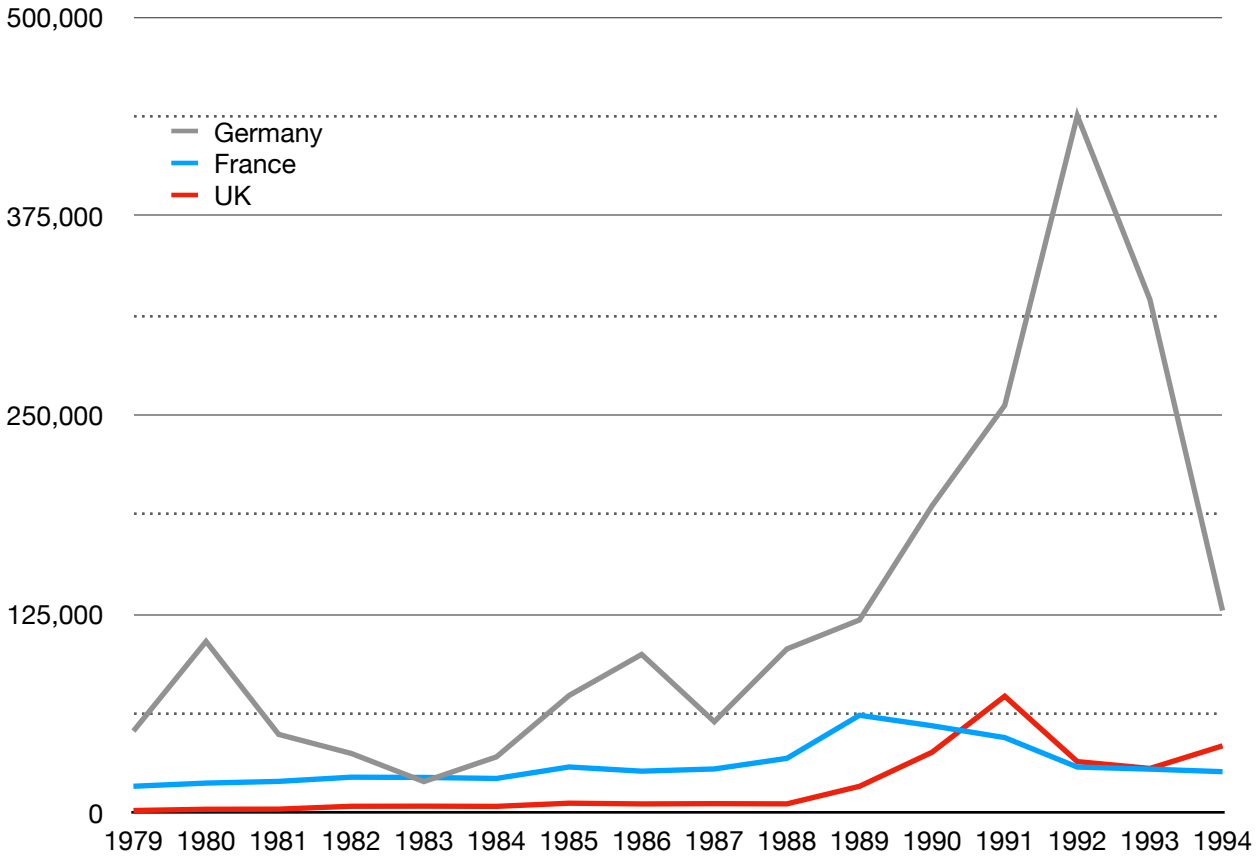
3.1. New migration dynamics, old cooperation mechanics

'The question of asylum and the influx of refugees, especially from Third World countries' wrote Kohl to Thatcher in 1986, 'is a problem of growing mutual concern in Europe'.[174] Indeed, numbers had been increasing across the major Community countries - Germany, France and Britain (Figures 7 and 8). Though the scale of asylum requests in Germany far exceeded those in France or Britain, the trend was the same. As we can see in Figure 7, the trend in France and

[173] Martin Conway has explored in depth the ways in which a sense of Western European commonness emerged after World War II: M. Conway, 'The legacies of 1945: The evolutions of European civic morality', *Journal of Moral Education*, 50:1 (2021), 21-31; M. Conway, 'The Rise and Fall of Europe's Democratic Age, 1945-1973', *Contemporary European History*, 13:1 (2004), 67-88; M. Conway, 'Democracy in Postwar Western Europe: The Triumph of a Political Model', *European History Quarterly,* 32:1 (2002), 59-84.

[174] TNA, PREM 19/1751 f87, 1986.11.20, Kohl to Thatcher, [https://www.margaretthatcher.org/document/149243, accessed 25 May 2021].

Fig. 7 - First-time asylum requests in the UK, France, and Germany, 1979-94.



Source: Bundesamt für Migration und Flüchtlinge, 'Das Bundesamt in Zahlen 2017: Asyl, Migration und Integration'; University of Oxford, The Migration Observatory, 'Asylum and Refugee Resettlement in the UK', Fig 2; Ofpra '1ères demandes de protection internationale en France depuis 1973'.

Britain especially were virtually identical, with an uptick in the mid-1980s due largely to the Sri Lankan civil war, which presaged much more substantial increases in the late 1980s and early 1990s. French notes on European meetings frequently mentioned the extent to which concerns were shared: 'New measures taken in France showed a triple preoccupation - stabilisation, integration, managing new flows - which are shared, albeit to a somewhat lesser degree, by all our partners'.[175] 'The other delegations made it clear that these preoccupations were largely

[175] '*les mesures nouvelles arrêtées en France traduisaient bien une triple préoccupation - stabilisation, réinsertion, maîtrise des nouveaux flux - que l'on retrouvait, quoiqu'à un degré moindre, chez tous nos partenaires'* FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1985.02.07, Directeur de la Population et des migrations au Ministre des Affaires Sociales 'Compte-rendu de la réunion du Comité technique sur la libre circulation (Bruxelles, 22 janvier 1985)'.

shared'.[176] 'A number of member states have had to face problems of a similar nature: deficits in social and educational infrastructure and housing shortages as family reunification progressed, difficulties with cultural integration, uneasy contacts between foreign and national groups and possible competition on the labour market. Attention has therefore slid from new arrivals to immigrants and their already legally settled families.'[177] 'Out of good-neighbourly considerations for one another', concluded Kohl, 'the Europeans should therefore augment and harmonize their national remedies for refugee matters.'[178]

And 'augmentation and harmonization' is exactly what happened, along the pattern of overlapping, semi-formal fora seen in chapter one. First and foremost among these was the Ad Hoc Working Group on Immigration (AHWGI), a group gathering the immigration specialists of each of the Community member states' interior ministries. It grew out of the TREVI network in 1986 to deal exclusively with immigration and asylum issues, and by the early 1990s had become completely independent from it. Like TREVI, it operated with ministerial blessing and regular working meetings in the capital of the country that held the Council presidency. (Only after Maastricht in 1992 were meetings held in Brussels instead, to the chagrin of interviewed officials.) Meetings were held up to 3 or 4 times per six month presidency. As Bob Morris, Head Immigration Policy, Nationality and Passports from 1986 to 1991 recalled, 'one got to know and like one's colleagues'.

The mandate given by interior ministers to the group in 1986 was to 'urgently examine "the measures to take in order to arrive at a common policy, thus ending spurious claims to asylum"'.[179] Indeed, the overarching worry was that asylum seekers would submit multiple

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[176] *'ont montré que nos préoccupations étaient sur bien des points largement partagées.'* FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1985.02.07, Directeur de la Population et des migrations au Ministre des Affaires Sociales 'Compte-rendu de la réunion du Comité technique sur la libre circulation (Bruxelles, 22 janvier 1985)'.

[177] '*Plusieurs États membres ont dû faire face à des problèmes de même nature: déficits en infrastructures sociales et scolaires et pénurie de logements à mesure qu'augmentait le regroupement familial, difficultés d'insertion culturelle, contacts malaisés entre collectivités étrangères et collectivités nationales et concurrence possible sur le marché de l'emploi. L'attention glissait donc des nouveaux arrivants vers les immigrés et leurs familles déjà régulièrement établis.'* FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1985.03.14, Secrétariat Géneral, Comité interministériel pour les Questions de Coopération Economique Européenne à Direction des Populations et Migrations, 'Réunion: Orientations pour une politique communautaire des migrations'.

[178] TNA, PREM 19/1751 f87, 1986.11.20, Kohl to Thatcher, [https://www.margaretthatcher.org/document/149243, accessed 25 May 2021].

[179] '*de se pencher d'urgence sur "les mesures à prendre pour aboutir à une politique commune en vue de mettre fin à l'usage abusif du droit d'asile*'. AN, 19970159/23, Liasse 2, 1986.11.24, Secrétariat Général du Conseil, Procès verbal de la première réunion du groupe "Immigration" tenue au Centre de Conférences "Queen Elizabeth II" à Londres le lundi 24 novembre 1986'.

requests for asylum across the Community. Given that the Community was in the process of removing internal frontier controls, this meant that though one's own immigration system might have successfully prevented someone from settling, the undesirable individual could nonetheless find a way into the country, simply by passing through another. 'It is crucial that each Member State should think about the measures it will have to take to compensate the loss of security of the remaining eleven member states, the weakness of one threatening the entire mechanism.'[180] Given the 'interdependence of different aspects of immigration policy' and similarity and urgency of the problems faced in each member state, it was deemed necessary to create a 'common basis' to address these issues.[181]

The AHWGI was divided into four sub-working groups, (i) external borders, border controls and visas; (ii) internal borders, surprise checks, and the facilitation of travel for Community nationals; (iii) passport fraud; and (iv) 'spurious use of the right of asylum'.[182] It was to begin with low hanging fruit, by 'engaging ourselves in the most promising avenues by selecting specific problems for which practical results seem achievable'.[183] They would also immediately launch a fact-finding mission, with each state compiling a systematic list of all the documents it required of non-Community travellers, 'with the aim of gradually requiring the same documents as each other'.[184] The emphasis remained *gradual* convergence. For instance, where possible, the embassies of member states should try to liaise with one another

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[180] '*qu'il est primordial que chaque État membre réfléchisse aux mesures qu'il sera appelé à prendre pour compenser la perte de sécurité des onze autres États membres, la défaillance d'un seul pouvant mettre en cause l'ensemble du mécanisme mis en place.*' AN, 19970376/3, Liasse 7, 1989.04.24, Groupe Ad Hoc Immigration, 'WGI 416, Conclusions de la réunion des Ministres chargés de l'Immigration (Athènes, 8-9 décembre 1988)'.

[181] *'Lors de l'examen de ces mesures, le groupe est parti de l'idée qu'il convient d'établir une base commune compte tenu de l'urgence des problèmes posés dans les différents Etats membres*.' AN, 19970159/23, Liasse 2, 1986.11.24, Projet de conclusions du groupe ad hoc "Immigration" (réunion de Londres, 1986.11.24).

[182] *'Recours abusif au droit d'asile'*. AN, 19970159/23, Liasse 2, 1986.11.24, Secrétariat Général du Conseil, Procès verbal de la première réunion du groupe "Immigration" tenue au Centre de Conférences "Queen Elizabeth II" à Londres le lundi 24 novembre 1986'.

[183] '*Nous pourrions être tentés de nous engager dans la voie la plus prometteuse en sélectionnant des problèmes spécifiques pour lesquels des résultats pratiques paraissent possibles. Mais nous devons garder à l'esprit le contexte général, en particulier la nécessité de coordonner nos travaux avec l'engagement de réaliser le marché intérieur.*' AN, 19970159/23, Liasse 2, 1986.11.24, Groupe CEE "Immigration", Programme des travaux.

[184] *'Dans le cadre de la coordination et de l'éventuelle harmonisation des règlementations des Etats membres en matière de visa, la Présidence suggère que les Etats membres procèdent dans l'immédiat à un examen systématique des documents qu'ils requièrent, y compris les visa de transit, en vue d'aboutir progressivement à demander les mêmes documents*'. AN, 19970159/23, Liasse 2, Réunion de Bruxelles des 12 et 13 mars 1987, 1987.03.13, 'Visa'.

in order to take similar visa decisions regarding the nationals of a given third country.[185] Interestingly, the minutes of that meeting had originally stressed that decisions should ideally be 'identical'. This was crossed out and replaced by 'similar' - another small indication that while Community member states were undoubtedly travelling in the same direction, an ingrained respect for each others' sovereignty meant that the speed of travel was allowed to differ. For carrier sanctions, for instance, Italy was laxer, Denmark and Germany more rigorous, while Belgium was only just beginning to adopt sanctions at all.[186]

These meetings functioned along what to the reader will by now be a familiar dynamic: the key objective remained information exchange, and harmonization occurred only slowly, through consensus, at the pace of each state's own prerogatives. 'Recognized but informal', 'not secret, but not open', 'one only did things if one wanted to' were some of the ways in which interviewees described the meetings. France and Germany were 'for once very much aligned in their views' too. National governments should coordinate among themselves, with no role for the Commission (which Germany tended to advocate for). This was slowly changing as information exchange and cooperation became more sophisticated, and more coordination became necessary. Again, the driving factors were practical: now that a common market, free of internal checks, was coming into being, how to harmonize visas accordingly? What common duration should visas have? Which common countries should be subject to visa requirements? What would the application forms and the visa itself look like? The extensive socializing of European interior ministry officials 'had its uses' according to Tony Rawsthorne, former Deputy Director General of Immigration and Nationality, and made coming to a consensus easier. Indeed, these issues were resolved to such an extent that they finally came together as the Dublin Convention in 1990. There was a unity of views on asylum, even for countries, such as Ireland, not directly concerned by the issue. As David Cooke, former Head of Asylum put it, there was 'lots of comparing notes, of getting together for a cheap bottle of Italian to hash things over'.

Another driving factor was the social group dynamics inherent to the Presidency system itself. Each member state was, for a six month period and on a rotating basis, the President of the European Council. In practice, this meant that the country holding the Presidency chaired all intergovernmental meetings, whether finance ministers or immigration officials. This in turn

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[185] '*si possible de prendre des décisions identiques [crossed out for 'similaires'] s'agissant des personnes originaires d'un même pays.*' AN, 19970159/23, Liasse 2, 1986.11.24, Projet de conclusions du groupe ad hoc "Immigration" (réunion de Londres, 1986.11.24).

[186] AN, 19970159/23, Liasse 2, 1987.03.12, 'Groupe "Immigration" Réunion à Bruxelles 12 et 13 mars 1987'.

meant that a considerable amount of initiative depended on the Presidency, both in terms of the agenda, and the efficiency running it. Some attempts were eventually made to develop more consistency, through the Troika system whereby the n-1 and n+1 Presidencies worked together. That said, pressure was felt by every incoming Presidency to 'do' something, to have something to show for their six months. The question was therefore one of finding a 'something' that could be done - a dynamic which might partly explain the group's relative dynamism.[187]

Another forum which emerged in the late 1980s to coordinate the immigration policies of wealthy Western nations was the IATA Working Group. IATA is the International Air Transport Association, the trade association of the world's airlines. It also formulates policy and standards. As we have seen, an increasing number of the world's wealthiest countries had been imposing carrier sanctions as part of a two-pronged approach, along with more stringent visa requirements, to prevent the very arrival of undesired passengers on their territory. The IATA Working Group was the outfit that emerged to coordinate it. It grew out of a previous grouping of the 'four like-minded countries' - the UK, the USA, Canada, and Australia - who were in the habit of meeting on a yearly basis to discuss immigration policies and carrier sanctions, and already had fairly established working relationships with airlines. The IATA Working Group extended to Austria, Belgium, Denmark, France, the Federal Republic of Germany, Italy, the Netherlands, Norway, Sweden, and Switzerland, as well as the world's major airlines, including American Airlines, Air France, British Airways and Lufthansa. Once again, this group gathered countries facing similar structural issues: wealthy nations no longer wanting to be destinations for poorer migrants.[188] Once again, the modus operandi was information exchange based on a shared desired outcome, which would lead to a gradual harmonization of policies. No constraints. A British memo illustrated the dynamics:

> The United Kingdom has played a leading role throughout particularly in the provision by the Immigration Service of training material … which have been distributed to airlines and Control Authorities on a wide international basis. This has led to increased cooperation and has also improved liaison in a number of locations between consular representatives of Member States.[189]

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[187] Zoom interview with Tony Rawsthorne, former Deputy Director General, Immigration and Nationality, June 2020.

[188] One minute noted that 'Other countries are believed to be contemplating following suit as the movement of 'inadmissible passengers' continues to grow.' TNA, HO 394/911, 1990.02.22, Morris (HO) to Dent, 'Asylum Applications and the Carrier Liability Act'.

[189] TNA, HO 394/911,1990.01.25, Sanderson (HO) to Spencer, 'Sri Lankan Asylum Applicants: Annex D "The IATA Working Group"'.

As had tended to be the case before, the Commission - and any other formal, rigid, structure - remained absent. The key players were member states, who, of their own initiative, had realised that cooperation would further their individual goal of reduced migration. Once again, at no point was the Commission the main mover or shaker. On the contrary, its efforts to participate were frequently rebuffed. In 1983, the Commission failed to obtain a mandate to participate, on the Community's behalf, at a UN attempt to devise a convention on migrant worker rights, largely due to British opposition, which drily noted a lack of coordinated positions among Community members themselves.[190] A few years later, in 1985, the UK was about to reject the second reading, a position the French wholeheartedly backed: 'the totality of ministerial departments does not deem it desirable to authorize the Commission to participate on behalf of member states … due to the absence of real concertation and the nature of the proposals themselves, which we can only doubt are of a truly Community sort'.[191] The French note continued, 'the Commission approach on the subject … does not lead one to wish that the Community, via the Commission, should substitute itself to member states'.[192] 'Though we certainly do not mean to provoke discrimination … neither do we intend to communitarise a principle of non-discrimination or equality when the underlying conditions for such principles do not exist, on the issue of readmission, for instance.'[193] It was also out of the question to increase Commission competencies in an area where the financial burden still befell member states. The French concluded with the excoriation that

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[190] FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1985.03.26, Secrétariat Général du Comité Interministériel pour les Questions de Coopération Economique Européenne, 'Transmission: 'Orientations pour une politique communautaire des migrations'.

[191] '*S'agissant de la position française à ce stade, l'ensemble des départements ministériels n'estime pas souhaitable d'autoriser la Commission à participer au nom de la Communauté à l'élaboration de cette convention compte tenu de l'absence de concertation réelle et la nature même des propositions - dont il n'est pas sûr qu'elles soient toutes communautaires.*' FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1985.03.26, Secrétariat Général du Comité Interministériel pour les Questions de Coopération Economique Européenne, 'Transmission: 'Orientations pour une politique communautaire des migrations'.

[192] *'l'approche de la Commission sur ces sujets … ne conduit pas à souhaiter que la Communauté, par le biais de la Commission, se substitue aux États-membres.'* FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1985.03.26, Secrétariat Général du Comité Interministériel pour les Questions de Coopération Economique Européenne, 'Transmission: 'Orientations pour une politique communautaire des migrations'.

[193] '*Même si nous n'entendons pas susciter des discriminations … nous n'entendons pas pour autant communautariser un principe de non discrimination ou d'égalité de traitement entre ces différentes catégories, alors que les conditions préalables de tels principes n'existent pas, accords de réadmission notamment.'* FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1985.03.26, Secrétariat Général du Comité Interministériel pour les Questions de Coopération Economique Européenne, 'Transmission: 'Orientations pour une politique communautaire des migrations'.

> [the] Commission's approach in fact tends to increase its competencies while denaturing the current legal content of the principles of free movement and equality of treatment. It does this by creating the basis of a so-called community principle of equality of treatment *erga omnes* and denying that different specific problems are dealt with in the appropriate legal framework, on the basis of decisions by the European Council.[194]

The only role member states seemed willing to concede the Commission was one of coordination, secretarial work. Even then, states sought to narrowly circumscribe the Commission's mandate. In 1990, for instance, the European Council (the collegiate body gathering the heads of state and Commission President that sets the Community's political direction) decided it wished to establish an inventory of national immigration policies. The Commission could help by organising a tour of European capitals for senior officials. Despite this straightforward mission, member states still wanted to ensure that there was a 'minimal concertation by the Twelve' beforehand, and that the coordinators (the senior-most officials liaising between ministers and working groups) and the Ad Hoc Working Group on Immigration should meet first.[195] Not only that, but despite their being at the origin of this request for Commission help, member states remained cagey with the information they were prepared to share with it. The French would show the experts only published and publicly available documents, with clear instructions that 'documents pertaining to areas that do not enter into the mission's remit should not be surrendered to the experts'.[196] As usual, the Commission failed to endear itself to national officials, who considered it a confused and uneven outfit. Even the Commissioner herself seemed to labour under some confusion as to the contours of the assignment, and in her letter to ministers 'conferred to the experts a mission that does not

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[194] '*L'approche de la Commission tend en fait à accroître les compétences de cette dernière en dénaturant les contenus juridiques actuelles des principes de libre circulation et d'égalité de traitement, en créant les bases d'un soi-disant principe communautaire d'égalité de traitement erga omnes, et en niant que différents problèmes spécifiques sont traités dans un cadre juridique approprié sur la base d'une décision du Conseil Européen.*' FNSP, CHSP, AHC, fonds Patrick Weil (WE 1), 1985.03.26, Secrétariat Général du Comité Interministériel pour les Questions de Coopération Economique Européenne, 'Transmission: 'Orientations pour une politique communautaire des migrations'.

[195] AN, 19970159/23, Liasse 1, 1990.01.05, Comité Interministériel pour les Questions de Coopération Economique Européenne, 'Relevé de Conclusions: Concertation des politiques migratoires et mise en oeuvre des conclusions du Conseil européen concernant l'immigration et l'asile'.

[196] *'Les matières ne rentrant pas dans le champ de compétences de la mission ne devraient pas faire l'objet de remises de documents aux experts'.* AN, 19970159/23, Liasse 1, 1990.04.23, Comité Interministériel pour les Questions de Coopération Economique Européenne, 'Relevé de Conclusions: Préparation de la visite des experts de la Communauté chargés d'un rapport sur l'insertion des immigrés à Paris du 25 au 27 avril 1990.'

entirely correspond to the orientation desired by the European Council, and detailed by the coordinators in accord with the Commission'.[197]

3.2. Rolling back asylum

By the close of the decade, Western European countries felt themselves to be facing an asylum crisis of unprecedented scale. In 1989, there was an 'enormous increase' of asylum applications to the UK - 13,000 - up from 5,000 for each of the previous three years.[198] The trend was the same across Northern Europe. No appetite for foreign labour, no moral framework for economic refugees, overwhelmed domestic administrative systems. In response, member states, but also the US, Canada and Australia, turned to more stringent visa requirements and carriers sanctions in a bid to prevent undesirable travellers arriving in the first place.

At the same time, asylum began to be framed more restrictively. Asylum seekers were simultaneously depicted as 'bogus', circumventing the rules, exploiting the loopholes to gain

Fig. 8 - Number of Asylum Applications in Developed Countries (thousands), 1975-94.

	1975-79	1980-84	1985-89	1990-94
Total	233.6	793.8	1,495.6	3,373.3
Western Europe, of which	215.2	570.6	1,105.7	2,586
France	40.4	106.3	178.6	184.5
Germany	121.7	249.6	455.2	1,337.1
UK	3.3	17.4	28.5	150.8
North America	18.1	201.1	368.9	673.6

Source: UNHCR (2001), in Neumayer, 'Unequal Access to Foreign Spaces: How States Use Visa Restrictions to Regulate Mobility in a Globalized World', Transactions of the Institute of British Geographers, 31:1 (2006), 72-84.

[197] *'Le Commissaire Papandreou ne reprend pas clairement cette dichotomie et confère aux experts une mission qui ne semble pas correspondre tout à fait à l'orientation souhaitée par le Conseil Européen et précisée par le Groupe des coordonnateurs en accord avec la Commission ("mission de procéder à une évaluation de la politique d'immigration dans chaque État membre").*' AN, 19970159/23, Liasse 1, 1990.03.09, Comité Interministériel pour les Questions de Coopération Economique Européenne, 'Compte Rendu: Politiques Migratoires'.

[198] TNA, HO 394/911, 1990.02.22, Morris (HO) to Dent, 'Asylum Applications and the Carrier Liability Act'.

access to the West, as well as legitimate, people fleeing the violence, hardship, and deprivation of their homelands. As we have seen, asylum's political dimension had been progressively hollowed out since the 1970s. Asylum seekers were no longer foreign freedom fighters fleeing persecution (and prosecution), but refugees fleeing violence and poverty. As the number of asylum seekers increased, so too did rates of admission decrease. In France, for instance, the admission rate for asylum seekers was 80%.[199] From 1981, it began to fall, reaching 15.4% in 1990. Since 1987, the rate of acceptance for asylum seekers in France has oscillated between 15% and 30%. In Britain, in 1979, 740 out of 1,563 asylum-seekers received an initial positive decision, or 47%. In 1991, out of 73,400 asylum-seekers, only 3,810, or 5%, received a positive outcome.[200]

Western European governments also began framing asylum less in terms of its being a human right (to the extent it ever had been), and more in terms of its being a sovereign prerogative to grant or withhold. In a 1990 meeting of the AHWGI, as the final wording of the Dublin Convention was being agreed, the Netherlands insisted on divorcing the definition of 'refugee' from any claims it could give rise to, namely in terms of residence.[201] Doing so, the Dutch argued, 'brings out the fact that asylum represents a sovereign decision by a State to allow an alien to enter its territory. It avoids any blurring of the distinction between recognition of refugee status and the right of residency.' It also insisted on the discrete categorisation of 'applicant for asylum' ('a person in respect of whose application a decision has not yet been taken') versus 'refugee' (someone who had been recognised by the state as such according to the 1951 Geneva Convention and 1967 New York Protocol). As the French highlighted, 'the provision makes the point that asylum is a sovereign right of States and the mere fact of claiming refugee status does not confer entitlement to be admitted.' The officials drafting the Convention were mindful to avoid lending 'credence to the idea that an alien claiming refugee status is entitled to asylum.' Asylum was becoming a circumscribed administrative category, rather than a human right, let alone a moral obligation.

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[199] Ofpra, 'L'Ofpra en chiffres', [https://www.ofpra.gouv.fr/fr/l-ofpra/l-ofpra-en-chiffres/la-mission-etudes-et-statistiques#:~:text=Jusqu'au%20d%C3%A9but%20des%20ann%C3%A9es,est%20de%2038%2C1%20%25, accessed 25 May 2021].

[200] University of Oxford, The Migration Observatory, 'Asylum and Refugee Resettlement in the UK', Fig. 2 'Number of people who claimed asylum, positive initial decisions, and refugees resettled, per year, UK, 1979 to 2020', [https://migrationobservatory.ox.ac.uk/resources/briefings/migration-to-the-uk-asylum/, accessed 25 May 2021].

[201] TNA, HO 394/911, 1990.02.27-28, Proposal by the French Delegation, 'Ad Hoc Group on Immigration, 27 and 28 February 1990 - Asylum Convention'.

This simultaneous legalisation and contracting of asylum has deep historical antecedents. In *Britannia's Embrace*, Shaw shows how dependent asylum was on Britain's imperial context in terms of both its moral framework and material resources.[202] When, in the first half of the nineteenth century, the empire was in expansion, asylum and the granting of refuge came to be seen as a universal humanitarian act (at one remove from the metropole's self-proclaimed civilizing mission), a key component of what it meant to be liberal on the global stage. When, in the second half of the century, activists sought to turn asylum from a moral obligation into a legal one, they inadvertently diminished its moral power: 'Shifted out of the public arena into the world of bureaucrats, refuge was no longer the proud act of a morally demanding public. The moral force of refuge, which fed on public mobilisation, thus faded into the background'.[203] At the same time, as it became more difficult to dispatch refugees across the empire to where they would cause the least nuisance, so too did public sympathy for refugee aid diminish. Such cyclical expansions and contractions of asylum can also be observed in France.[204] Under constant pressure from temporal and religious authorities, the scope of asylum was periodically reduced (to exclude Jews and heretics, for instance).[205]

Conclusion

In this chapter, we first saw how shaken the British immigration apparatus was by the rapid increase in asylum-seekers in the late 1980s. What had been a small team dealing with mostly Soviet political asylum-seekers was suddenly catapulted into managing daily arrivals of asylum-seekers, coming from across the world (but mostly the New Commonwealth). These asylum-seekers posed two conundrums to officials: first, a logistical one, that is how to administer numbers far beyond what the system was designed or able to process. Second, a moral one, that is how to deal with people whose claims to asylum, while often justified in the classic Geneva Convention sense, also contained an economic dimension. Indeed, many refugees were fleeing economic deprivation as much as political violence, a consequence of globalisation neither officials, politicians, nor the public were wont to reckon with.

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[202] C. Shaw, *Britannia's Embrace: Modern Humanitarianism and the Imperial Origins of Refugee Relief*, (Oxford: Oxford University Press, 2015).

[203] Shaw, *Britannia's Embrace,* p.235.

[204] G. Noiriel, *Réfugiés et Sans-papiers. La République face au droit d'asile xix^e^-xx^e^ siècle* (Paris: Hachette, 1998).

[205] Ofpra, 'Histoire de l'asile', [https://ofpra.gouv.fr/fr/histoire-archives/histoire-de-l-asile, accessed 25 May 2021].

The result was an administrative system on the brink of collapse, a system so overheated periodical (and discreet) amnesties were granted to asylum-seekers in order to cool it down. Another result was the gradual criminalisation of previously administrative offences. While outright criminalisation was resource-intensive, hardening administrative sanctions made it easier to dispatch cases rapidly. This was occurring against the backdrop of a broader shift towards framing social problems as law and order ones, one distinctive aspect of Thatcherite Britain.

The near-impossibility (or so it felt to officials) of adequately dealing with asylum-seekers upon arrival prompted an acceleration in the trend towards requiring visas of travellers from 'at-risk' countries: countries that were poor, unstable, and had a history of 'producing asylum-seekers'. This was bolstered by the introduction of carrier sanctions for carriers who transported those undesirable passengers whose travel documents did not meet British requirements. This trend was occurring across the Western world, with Germany and France, but also Canada, Australia, and the USA independently moving forward with similar projects.

In the second part of the chapter, we saw how the Single European Act of 1986 actually did not interfere much with Britain's ability to manage its borders. Certainly, the practical implications of the freedom of movement came as something of a shock to officials, who feared having to relinquish their ability to carry out effective border controls. However, this fear was shared by other Western European states, who were equally wary of surrendering complete control. Instead, in what to the reader is by now a familiar modus operandi, member states converged around a common framework through frequent, semi-formal meetings across a dense network of overlapping fora. Interior ministry officials were professionally disposed to sharing a similar worldview, and felt a deeper affinity (which for some even bordered on affection) across departmental, rather than national, lines.[206] There, they hashed out the practicalities of free movement in Europe, such as a common list of countries for which visas would henceforth be required.

Indeed, France and Germany were also under pressure from considerable increases in the number of asylum-seekers seeking entry there. What the third part of this chapter showed, was how convergence continued to occur along familiar lines: states independently seeking to limit migration from poorer countries, under whatever guise it took. In the late 1980s, this was

[206] Interior ministry officials were accused by more outward-facing departments, such as foreign affairs or trade, of 'dragging their feet in the great European project', of raising 'petty concerns' which slowed down the march of history. Zoom interview with Tony Rawsthorne, former Deputy Director General, Immigration and Nationality, June 2020.

asylum, which meant that asylum was increasingly redefined so as to limit the number of people able to claim it.

Conclusion

The task this research set itself was to understand how the European Union came to be associated, in early twenty-first century Britain, with unconstrained, undesirable, possibly even dangerous, immigration. To do so, I explored three principle avenues: the impact of European integration on British immigration policymaking during the first two decades of membership of the European Community (EC); whether and how immigration came to be viewed as a security issue by policymakers; and whether these phenomena are linked. I used a double-pronged approach, examining the British archives at the Home, Foreign and Cabinet offices for traces of an emerging European dimension, and examining French archives to follow the discussions of European interior ministry officials as they discussed cross-border crime, terrorism, and eventually, immigration. These written sources were complemented by the lively recollections of seven former Home Office officials.

By the time Britain joined the European Community in 1973, its immigration policy was already set on a course that was bringing it closer to Europe, and taking it further from the New Commonwealth countries, South Asian countries in particular. Indeed, each immigration act after the 1948 Nationality Act had progressively hollowed out the meaning and free movement privileges associated with Commonwealth citizenship. The 1971 Act, which came into force the

day Britain joined the EC, introduced the 'patriality' requirement, which made settlement conditional on a blood tie to Britain (in the form of a father or grandfather born there). It introduced no requirement on European nationals, who under the Treaty of Rome were entitled to move freely to the UK for employment.

In the 1970s, under the Labour governments of Wilson and Callaghan, immigration was managed under the aegis of race relations. While the government was keen to limit fresh arrivals - a condition, so the logic went, of harmony between communities already settled - it was also mindful not to frame immigration as a public policy problem. On the contrary, Home Office officials resisted pressure for harsher policies such as quotas or registers on the grounds they were inefficient, costly, and were likely to inflame, rather than soothe, race relations. Like its Continental counterparts, the British Home Office also feared that introducing strict new measures targeting immigrants would necessarily lead to a reduction in freedoms for natives as well. For how else could governments ascertain who was a national and who wasn't, other than by imposing more paperwork and controls on all?

The election of Margaret Thatcher in 1979 did not mark a break in the direction of travel of British immigration policy so much as a hardening of the rhetoric surrounding it. In the absence of other groups of immigrants the government could lawfully target (primary immigration having ended, and secondary immigration, with some delay, also), attention under Labour had already turned to illegal workers and 'bogus marriages'. While insignificant statistically - the bulk of new arrivals were families lawfully joining the working spouse - they provided a good rhetorical target, and an opportunity for the government to show that 'something was being done'. This increased under Thatcher. This was less because of her antipathy to immigration - Hansen has said that 'like many people, Margaret Thatcher had only good to say about actual immigrants, and nothing good to say about immigration'- than because of her highly moralistic, binary view of society.[1] Indeed, many social problems under Thatcher were being reframed as law and order problems, and the deservingness of the poor was under constant scrutiny. Immigrants were therefore caught in a much broader net that tended to flatten their experiences, cast them as outsiders, and delegitimize claims they may have once made on the British state. At the same time, a government that emphatically promoted globalisation, was becoming increasingly reluctant to recognise the tradeoffs inherent to it: that if capital moves, people will follow, boarding the airplanes that deregulation was rendering increasingly affordable.

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[1] Hansen, *Citizenship and Immigration in Postwar Britain,* p. 210.

In the late 1980s, the immigration caseload exploded. Humanitarian crises around the world, combined with the growing ease of air travel, meant that suddenly Home Office officials were confronted to an 'explosion' of asylum-seekers. This brought the administrative system that had dealt with them - a small, 'nineteenth century liberal' affair - nearly to the brink of collapse. Mechanisms that had worked when cases were few and far between, such as MP representations and judicial review, threatened to grind to a halt under the strain of an enormous caseload. Administrative expediency prompted officials discreetly to grant many people exceptional leave to remain - a wiser use of scarce resources when asylum cases were plausible, manpower limited, and the man-hours involved in securing removal, considerable.

One of this dissertation's findings is that historical truth is not very exciting: officials were not trying to circumvent domestic institutions, nor push a specific agenda. Nor were they consciously racist. Instead, much of their energies seem to have been spent trying to achieve Britain's traditional policy goals as best they could given the practical constraints in time, money, and energy that they operated under. For the overarching, longstanding goal remained preventing settlement, especially the settlement of poorer South Asians. To achieve this, it was therefore necessary to prevent the very *arrival* of asylum-seekers: something that was done through the rapid expansion of visa requirements and carriers sanctions. It was also done through the gradual convergence of administrative and criminal sanctions, as whichever regime was most likely to secure removal at minimum cost was deployed. Europe, as my research and this brief summary have shown, was all but absent as a significant factor in British immigration policymaking.

Which is not to say there were no close relations between British Home Office officials and their European counterparts. On the contrary, a long tradition of semi-formal cooperation had emerged years before Britain joined the EC. Growing out of practical collaboration in a given border area, British and European interior ministries, police forces, and intelligence services gradually evolved more sophisticated information-sharing fora. Membership of these fora - and there were many - was overlapping, differentiated, and fluid. The priority remained information exchange between peers, not coordinated (let alone Commission-sanctioned) action. Through these exchanges, officials came to realise they were facing similar structural problems: stagnating economies, stubborn unemployment, distended colonial ties. But also, crucially, that on a global scale they nonetheless remained a significant draw for immigrants (who in a recent but bygone era, would not have been considered immigrants at all). Compared to the rest of the world, Western Europe was prosperous, and it was peaceful. When requests for asylum sharply increased in the late 1980s, as they did in the UK, France, and especially Germany, Community member states decided that the solution to their immigration woes laid

in a common approach. The Dublin Agreement of 1990 grew out of the history of cooperation that existed between European interior ministry officials to organise asylum requests. This included developing a common list of countries whose nationals would henceforth be required to travel with a visa. It did not, however, extend to a truly common immigration policy, as states were protective of the way in which they decided immigrants should be integrated, the paths to citizenship, the rights and duties foreigners could expect in terms of work or access to welfare.

For while member states were making travel more difficult for the global poor - a process which for a long time they were unable to properly coordinate due to the weight of their historical ties with former colonies or extra-Community neighbours - they were developing plans for an (internally) borderless Europe. During the early meetings between European interior ministry officials on the practicalities of intra-European free travel, immigration was seldom discussed. Instead, police chiefs worried about the loss of data that the removal of border checkpoints would create - and in consequence, their reduced ability to catch criminals as they fled abroad. When immigration was discussed, it was not because it presented a security threat, or even a significant risk (though officials were occasionally fearful of imported foreign conflicts, and immigrant workers mobilising in defence of their rights). Rather, it was because immigrants, along with cannabis smugglers and homegrown terrorists, formed a category of 'undesirables' who sooner or later were bound to cross state borders.

I have found no evidence that supports the claim that these officials were trying to circumvent domestic institutions in their meetings for the period under study. On the contrary, it seems that domestic institutions mattered most. Passage before the European Court of Justice was habitual for some countries, who got off with fines they seldom paid; the European Parliament was barely mentioned. The Commission, when it did try to get involved, was usually firmly rebuffed by member states who suspected it of surreptitiously trying to expand its remit. They also feared that more institutionalised information-sharing or cooperation would compromise the quality of their work and relationships. While EC structures were not democratic - they were neither transparent, nor properly accountable - nor did they interfere with state sovereignty. National institutions, whether ministers or domestic legislatures and judiciaries, remained the ultimate arbiters of their work, neither more nor less involved than they had been in previous immigration initiatives.

Across the national societies of the Community's member states, independently but in parallel, appetite for foreign labour had dwindled, and an acceptance for harsher policies to limit the arrival of newcomers had increased. Asylum was being hollowed out both in its nineteenth century sense, as a haven for the politically persecuted, and in its humanitarian one, as a respite from war and violence. Indeed, the 1970s witnessed an upsurge of terrorist activity

in Europe, and preventing homegrown terrorists from claiming asylum in a neighbouring state was one reason prompting European security forces to coordinate their approaches. When asylum exploded in the late 1980s, as people fled violence, Western European administrations saw it as an immigration 'loophole' and were thus determined to limit and manage the numbers arriving in Europe. For some officials, this sat uncomfortably with the knowledge that most asylum-seekers presented cases that were legitimate, or at the very least plausible, and with the knowledge that the population movements they were trying to limit were inextricably linked to the globalisation their governments were at the same time promoting.

Meanwhile, in Britain at least, much of the rhetoric against immigrants (often conflated with their settled second or third generation offspring) remained virulent. The caution that politicians and officials had once exerted - a caution partly derived from the knowledge that immigration is an inevitable tradeoff of globalisation - receded. It receded to such an extent that former Chancellor Philip Hammond blamed this amnesia for Brexit: a 'sizeable chunk' of the Tory Party was 'obsessed by migration', and simply did not realize that 'we need these people' and that the UK had 'benefited enormously' from cheap European labour.[2]

A striking feature of this research has been the relative absence, in the paper trail I have explored, of any serious discussion of the causes of this (poor, non-white) immigration both government and public alike seemed to agree was undesirable. In 1970s France, André Postel-Vinay, then head of immigration, a former Resistance fighter and senior civil servant, advocated cancelling Third World debt on precisely these grounds. He argued that no amount of integration measures within France or sealed borders without would stem the tide of people coming unless the root causes of migration, such as global inequalities, were seriously addressed. He was ignored and resigned shortly thereafter. In Britain too, officials seemed privately aware of the root causes of immigration and the contradiction in advocating for open borders for capital, but not for people. Yet to say so publicly, let alone devise policy accordingly, was unthinkable.

In this I find echoes with El-Enany's argument about the amnesia that seems to surround Britain's colonial past, from which she argues current immigration laws directly flow.[3] Indeed, the lack of reckoning with the full effects of globalisation that I described for a brief 20-year period starkly echoes a deeper, possibly willful, ignorance regarding the origins of Britain's relative wealth. It also highlights a highly ambivalent relationship towards the cheap, foreign,

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[2] 'Brexit interview: Philip Hammond', *UK in a Changing Europe* (2020), [https://ukandeu.ac.uk/interview-pdf/?personid=42190, accessed 20 May 2021].

[3] El-Enany, *(B)ordering Britain*.

often non-white, labour Britain has relied on at different moments of its history, especially when the pace of change is felt to be too sudden.[4] The reaction towards Eastern European immigrants after the 2004/7 EU enlargement can therefore be placed in a longer history, one of a host society's need for cheap labour, but uneasy to the point where the original need for it was obscured.

From this perspective, one could argue Brexit was not about Europe at all. UKIP's success, perhaps, in bringing the issue to the table, was that it drew from a very old, very deep well of suspicion towards poor, foreign labour, and managed to hitch those feelings to the European wagon. As I hope to have shown, Europe itself was rarely a material issue for the ability of British policymakers to conduct a sovereign immigration and border policy. So it is that among the many internal contradictions the referendum brought to the surface, perhaps a key, unspoken one, is Britain's inability to recognise - let alone accept - its debt to those whose labour helped build the country.

[4] An ambivalence that does not extend to more wealthy Western European workers, as Favell shows in *Eurostars and Eurocities.*

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4. Interviews

Interviewee	**Date**	**Duration**	**Mode**
Kate Collins Head of Immigration Services (Ports)	15 June 2020 23 November 2020	2x 1h	Zoom
David Cooke Director of Asylum	4 June 2020 24 November 2020	2x 1h	Zoom
Tim Flesher Private Secretary to No 10; Director of Operations, Immigration	19 June 2020 24 November 2020	2x 1h	Zoom
Robert Morris Head Immigration Policy, Nationality and Passports, 1986-91	3 June 2020 16 November 2020	2x 1h	Zoom
Clive Osborne Head of Home Office Legal Department	16 June 2020 17 November 2020	2x 1h	Zoom
Sir Hayden Phillips Head of the Immigration and Nationality Department, 1983-86	17 June 2020 18 November 2020	2x 1h	Zoom
Tony Rawsthorne Deputy Director General, Immigration and Nationality	22 June 2020 19 November 2020	2x 1h	Zoom