

The Political Economy of Border Drawing

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Arranging Legality in
European Labor Migration Policies

Regine Paul

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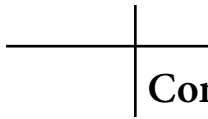
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The protocol of many policy analyses demands that scholars leave their judgments at the door. As this book challenges this protocol conceptually and methodologically, it comes with an early acknowledgement that the author herself is embedded in a specific social context and cannot fully escape judgment. In consequence, for the sake of credibility of research, positivist or interpretivist, readers ought to be told just why authors choose—yes, choose—to engage in specific research. No worries there, my story is brief.

When I was seven years old, the world around me was dramatically altered. Where my parents and grandparents were severely limited in their job and consumption choices, opinions, and travels, my brother and I grew up largely without these limitations. For all the unfulfilled promises that German reunification has certainly entailed for many in terms of socio-economic developments, I remain grateful that by sheer fate of being born in the 1980s in Eastern Germany rather than the 1960s—or rather than elsewhere on the globe today, for that matter—I have been able to work and study wherever and whatever I wanted in various inspiring places throughout Europe. The infamous lottery of birth is largely determined by borders: of nations, of religion, of class, of race, of gender, of time. It is my continuing emotional struggle to justify my entitlement to the mobile European life that my mom and grandma were denied at my age, and that many of my friends and colleagues are still excluded from today, that informs my perspective on migration policy through the lens of border drawing.

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Abbreviations

BA	Bundesagentur für Arbeit (German Federal Employment Agency)
BAMF	Bundesamt für Migration und Flüchtlinge (German Bureau for Migrants and Refugees)
BIS	Department for Business, Innovation and Skills (UK)
BMAS	Bundesministerium für Arbeit und Soziales (German Ministry for Employment and Social Affairs)
BMI	Bundesministerium des Innern (German Home Office)
BMWA	Bundesministerium für Wirtschaft und Arbeit (German Ministry for the Economy and Employment)
CEC	Commission of the European Communities (EU Commission)
<i>Ceseda</i>	Code de l'Entrée et du Séjour des Étrangers et du Droit d'Asile (French Migration, Residence and Asylum Law)
CEU	Council of the European Union (EU Council)
CME	Coordinated market economy
CPE	Cultural political economy (shorthand for Bob Jessop and Ngai-Ling Sum's approach as delineated in chapter 1)
DDETFP	Directions Départementales de l'Emploi, du Travail et de la Formation Professionnelle (French Departmental Employment Agencies)
EC	European Communities
EU	European Union
EU-15	EU member states before accession round in 2004
EU-2	Bulgaria and Romania, accession countries to the EU in 2007
EU-8	Eastern and Central European accession countries to the EU in 2004 (without Malta and Cyprus)

GISTI	Groupe d'information et de soutien des immigrés (French migrant advocacy group)
ICT	Intracorporate transfer (of employees)
INSEE	L'Institut National de la Statistique et des Etudes Economiques (French National Institute of Statistics and Economic Studies)
IPA	Interpretive policy analysis
IT	Information technology
LME	Liberal market economy
LTR	Long-term resident / long-term residence
MAC	Migration Advisory Committee (UK institution)
MIHDS	Ministère de l'Immigration, de l'Intégration, d'Identité Nationale et du Développement Solidaire (French Migration Ministry, abolished in December 2010)
NAO	National Audit Office (UK)
OECD	Organisation for Economic Co-operation and Development
OFII	Office Française d'Immigration et de l'Intégration (French Bureau for Migration and Integration)
ONS	Office for National Statistics (UK)
PBS	Points-based (immigration) system
PSZ	Priority solidarity zones (<i>zones de solidarité prioritaires</i> , French term to define developing countries from which to avoid migrant brain drain)
RLMT	Resident labor market test
TCN	Third-country national (EU jargon for someone without EU citizenship)
UKBA	UK Border Agency
VET	Vocational education and training
VoC	Varieties of capitalism

INTRODUCTION

Labor Migration Management

An Interdisciplinary Interpretive Policy Analysis

“The good into the pot, the bad into the crop”¹

Foreign workers are known to assuage structural bottlenecks in specific economic sectors or regions. Be it food processing, agriculture, hospitality and catering, social care work, medical professions, financial services, engineering, or information technology, migrant workers seem to play an important role in keeping entire economic sectors productive and competitive in European national economies (for the British example, see Ruhs and Anderson 2010b). In 2009, workers from abroad made up more than 13 percent of the Austrian labor force, 10 percent of the Belgian and Spanish, 9 percent of the German, and roughly 8 percent of the Italian and British (OECD 2011). Given foreign workers' central role in remedying not only short-term but also structural labor shortages, labor migration is prone to continue resiliently through economic crises (Castles 2011; Koser 2010; OECD 2013).

Yet we know full well from news stories that the economy drive of labor migration is contested in policy making. “Not always does the interest of the economy reflect that of the entire country,” states Wolfgang Bosbach in the newspaper *Frankfurter Allgemeine Zeitung* in 2002. Then spokesman of the Conservative parties in the German Bundestag, Bosbach rejects economic arguments with a view to justifying the CDU/CSU boycott of the more liberal admissions regime for migrant workers proposed by the Social Democrats and Green Party. More labor migration, Bosbach explains, would mean to overburden society with social and cultural integration costs.

A decade later, Bosbach's fellow party member and Labor Minister Ursula von der Leyen welcomes liberalizations to German labor migration policies—they go way beyond what was intended in 2002—and promotes skilled labor migration as “a huge gain for all sides” in the same newspaper in May 2013. Suddenly, the economy's interest in labor migration, so fiercely contested by her colleague eleven years earlier, implies not so much burden but chief advantages for German society and sending countries.

In 2006, President Nicolas Sarkozy mentions the need to adapt French migration policies to economic needs. However, as with the German Labor Minister, labor migration means more than just economic gains to Sarkozy, albeit from a quite different angle: “*immigration choisie*” explicitly seeks to lower the share of groups who are economically less useful—i.e., family members—from the total of incoming foreigners. Labor migration means reducing family migration. In this, Sarkozy tells *Le Monde*, labor migration is a “fortress against racism.” The sudden discursive link between unwanted family migration, wanted labor migration, and racism nourishes our imagination further: Does labor migration mean less post-colonial migration mean less racism?

When in spring 2012 the company running London’s famous red buses recruited fifty new drivers directly from a small Polish town, the domestic yellow press was infuriated: “There are currently 2.64 million unemployed people in Britain. Critics would suggest that any number of these would have been suitable candidates to drive the iconic buses. The revelation comes as it was revealed that 160,000 Britons have missed out on employment because work was taken by foreigners” (*Daily Mail* 2012). To parts of the British population, it seems, labor migration—even when promoting the mobility of fellow EU citizens—means unwanted job competition. In this, the Brits are not alone, of course. When asked about the most important issues facing their country in spring 2011, 12 percent of Europeans mentioned concern about immigration (*Eurobarometer* 2011). While inflation, the general economic situation, unemployment, healthcare, and pensions worried even more people, the concern over immigration is likely linked to some of these chief causes for concern, especially rising unemployment. The 2009 meltdown of global financial markets, it seems, has brought national labor market protectionism back to the center stage of public debates about migration.

But then another turn in the tale: in October 2013, the British Prime Minister David Cameron tells *The Guardian* that “Eastern European immigrants should not be blamed for seeking jobs in U.K. factories when not enough young people in Britain are fully capable of doing the same jobs.” Beyond the immediate economic-need argument, labor migration thus signifies the failure of the British education system to produce the skills that the economy needs.

President of the European Parliament Martin Schulz inflicts quite a different meaning of *need* in his reaction to a repeated deadly shipwreck of a boat packed with mostly African migrants offshore the Mediterranean island of Lampedusa in autumn 2013. A more liberal system of legal immigration—including the permission to earn a living—Schulz claims in *Der Spiegel*, would mean to alleviate need among poor and persecuted people elsewhere and thus “combat the sources of inhumane practices of human trafficking.”

An economic necessity, a burden for societal integration, a welcome diversification of society, a due relief from unemployment for sending coun-

tries, a means to curb family reunion, a tool to overcome unwanted bonds to former colonies, a weapon against racism, unwanted competition for domestic² employees, a marker of educational failure in the host country, a due end to deadly attempts in unauthorized migration—which one is it? I’ve limited my storytelling here to only a few key tales and already the array of different meanings and objectives that policy makers (and the public) attach to labor migration policies is impressive, to say the least, maybe confusing, and probably contradictory. “Be reasonable!”, Business Department officials might want to tell their Home Office colleagues, “evidence shows that the economic gains of labor migration outweigh your concerns.” Every tale claims its own reason. Alas, to establish “reason” through policy analysis might be missing the point, as Deborah Stone (2012: 380) well notes: “Reason doesn’t start with a clean slate on which our brains record their pure observations. Reason proceeds from choices to notice some things but not others, to include some things and exclude others, and to view the world in a particular way when other visions are possible.”

This book is an invitation to take the choices laid out in labor migration management—blurry, unreasonable, and paradoxical as they might seem—seriously without taking any of them for granted. In an interpretive and interdisciplinary cross-country comparison of labor migration policies in Britain, France, and Germany, I seek to offer several contributions to the analysis of a still-emergent policy field, as I will detail now.

A Novel Policy Approach and its Analytical Implications

Faced with the different tales alluded to above, policy makers in Europe have taken pains to design more selective labor admission regimes that could somehow achieve multiple, if not all, aims at once. This concurs with Steffen Mau and colleagues (2012: 51), who claim that “liberal states have an interest in selective and controlled forms of openness.” Martin Ruhs (2013) demonstrates that trade-offs between openness and rights restrictions are indeed typical of high-income economies’ policies toward migrant workers. It is through selectivity then, policy makers argue, that economic gains of labor migration can be harvested while keeping an eye on socio-cultural integration, national labor market protection and development aid, too. Labor migration management seems to offer a welcome remedy for policy complexity precisely as a strategy to put “the good into the pot—the bad into the crop.”

The EU world is a prime example here. “Labor migration management” was born as a designated policy approach in the EU and OECD world in the early 2000s. The image of the EU as “fortress”—which ferociously keeps non-EU nationals outside its gates and controls the borders of *Schengenland* with ever-

more sophisticated means—has increasingly crumbled in this period (e.g., Carmel and Paul 2010; Favell and R. Hansen 2002; P. Hansen 2010; Roos 2013). In a tight embrace of the Lisbon Agenda's growth, competitiveness, and employment targets, the EU Commission has keenly promoted the reconciliation of foreign labor recruitment with security and protectionist concerns under the umbrella of "managed economic migration" since 2001. In a Green Paper on this issue, the Commission calls for more harmonization across the European Union: "Recognizing the impact of demographic decline and ageing on the economy, the Commission highlighted the need to review immigration policies for the longer term particularly in the light of the implications which an economic migration strategy would have on competitiveness and, therefore, on the fulfillment of the Lisbon objectives" (CEC 2004: 3). Some years later we are told that "immigration is a reality which needs to be managed effectively" (CEC 2008: 2). Similar arguments surface within the OECD with the pursuit of "a road-map for managing labor migration." In a recent policy plan, the organization argues that "labor migration management has become an imperative" for policy makers in rich economies and should be treated as a policy priority (OECD 2009: 78).

Labor migration management comes with a set of distinct presumptions with analytical implications for research. It entails three crucial policy shifts that distinguish it from previous approaches and contribute to the ways in which labor migration tales are now told: (1) liberalization of admissions as part of a competitiveness strategy, (2) a qualitative shift in recruitment approaches toward highly fine-tuned selectivity, and (3) a deepened embedding of national admission regulation in the European common market.

Firstly, the recent liberalizations of labor admissions represent a discontinuity to the official suspension of migration since the early 1970s and make it a promising and still underexplored field for comparative research. Certainly, migration continued during the "recruitment stop": "guest workers" settled against policy makers' expectations; family members followed their working spouses and entered labor markets; so did asylum seekers whose migration to Europe increased during the 1980s and 1990s; pockets for cheap foreign labor remained open, albeit informally in many cases (Castles 1986; Castles and Miller 2009). What changes with the policy reforms of the early 2000s then is not so much the empirical reality of labor migration itself but the welcoming and proactive tone of regulation (Boswell and Geddes 2011; Menz 2009; Menz and Caviedes 2010b). Britain lifted entry conditions for high-skilled and skilled workers in 2002, Germany created a new permit for high-skilled professionals in 2005, France followed suit with similar measures in 2006, Ireland established a Green Card for high-skilled migrants in 2006, and Denmark operates a "positive list" with qualified shortage professions since 2008. The return to active recruitment policies in contemporary Europe mirrors

a more general tendency across the OECD world (Dumont and Doudeijns 2003).

Secondly, the recent return to facilitating labor migration entails substantive changes of directions compared to admission schemes that deserve analytical scrutiny. The list of specific policy tools that operate in twenty-first-century labor migration management is long and can certainly not be exhaustive here (see OECD 2008a). Canada, the United States, and the United Kingdom, for instance, use points-based migration systems to select workers on the basis of their qualifications, earning potential, or language proficiency. Many countries operate resident labor market tests and detailed shortage lists (e.g., France, Germany, Denmark, Spain, the United Kingdom) to recruit migrant workers into specific shortage positions on the domestic labor market. Special permits have been created to recruit workers of particular skill sets (such as the German Green Card for IT workers, or the Irish high-skilled permit). Most European countries further entertain bilateral agreements with individual sending countries that specify professions and occupations for admissions, and frequently link those to overall quotas for nationals of these countries. Regularizations are sometimes used to legalize informal workers who work in shortage professions. While amnesties are often castigated as an unsustainable Mediterranean policy tool, northern European governments have frequently resorted to regularizations as well, both in work-related and other contexts (Maas 2010; Sunderhaus 2007). To complicate things even further, we find that a vast array of different permits, each often coming with quite distinct sets of rights, is operated across the European Union.

Without yet embarking on a detailed analysis of these policy tools, their mere listing exposes a pattern of highly fine-tuned and sophisticated selectivity in labor migration and suggests a lot of scope for national variation. Georg Menz (2009: 31) suggests that managed migration entails very “carefully delineated (labor) migration channels” as well as a much “more restrictive stance towards other venues” compared to past recruitment schemes. Scholars commonly acknowledge that this selective and fine-tuned labor migration approach starkly departs from the practice of recruiting unskilled labor and sheer “manpower” in the guest worker period (Caviedes 2010; Menz 2010a; Menz and Caviedes 2010a; Ruhs and Anderson 2010b). This shift is usually ascribed to the rise of Post-Fordism in Western economies, which is mainly associated with the end of mass production, the simultaneous rise of highly specialized and flexibilized production, and the increasing relevance of the service sector. In order to account for the distinct quality of foreign labor management approaches today, policy analysis eventually “should thus be embedded within the larger discourse on the changing political economy of Europe and in the world” (Menz and Caviedes 2010a: 4). Indeed, the introduction of comprehensive labor migration policies, often including notionally quite similar policy

tools, across the EU-15 at roughly the same time seems to reflect a shared economic governance agenda in post-Fordist capitalist economies.

This is where, thirdly, the European Union kicks in. Certainly, member states remain the most relevant actors in labor migration management (Boswell and Geddes 2011). National governments have so far largely resisted harmonization attempts for legal labor migration from third countries. Even when the 2010 Lisbon Treaty subsumed labor migration under the community method of decision making and thereby coerced member states into closer interaction with the Commission and Parliament, national governments have retained key authorities over specifying volumes, bilateral recruitment agreements, or further entry conditions (Carrera et al. 2011). Moreover, some member states, frequently including the United Kingdom, Ireland, and Denmark, tend to opt out of migration-related EU regulation altogether. The introductory reflections have further pointed out that when the yellow press mobilizes against foreign workers and concern about migration surfaces among part of the electorate, the option of appearing to act “tough” on foreigners is certainly not readily surrendered by national policy makers (Boswell and Geddes 2011; Cento Bull 2009; Marthaler 2008; Schain 2008).

These caveats aside, however, national regulation is deeply embedded in EU market making and its underpinning norms and values, irrespective of the lack of formalistic integration (P. Hansen and Hager 2010). The most obvious instance of common market making with regard to foreign labor movements surfaces in the area of EU free movement. Member states cannot—or only in very limited ways—control labor mobility of fellow EU nationals (note that the British tales described earlier seem to “confuse” mobility and migration in that respect). EU nationals can work, study, live, and settle in any other member state without applying for visa or work permits and they have to be treated equally to nationals of their host country. Indeed, “any invocation of national boundary to restrict these opportunities for European foreigners is considered discrimination” (Favell 2008a: 3).

The diffusion of the norms and institutions of the common market through EU mobility reach far beyond the governance of EU workers. Policy tools such as the resident labor market test—according to which domestic *and* EU workers’ availability on the national labor market must be checked before any non-EU newcomer can be admitted—evidence the way in which free movement can constrain labor migration. Free movement creates a shared legal reference to a common EU labor market and workforce that cannot be ignored in labor migration management (Paul 2013). This might be especially true when disparities in member states’ economic situation in times of crisis is sought to be cured—or at least partly absorbed—with internal labor mobility. The “co-production” of migration policies by the EU and member states (Carmel 2013) requires a Janus-faced policy analysis approach that can capture both

shared features of labor migration management and their embedding in common market making and cross-national variation of policy tools, logics, and the norms that guide foreign labor recruitment in EU member states.

Placing the Book in a Nascent Research Field: An Interdisciplinary Commitment

This book seeks to build its strength on an interdisciplinary approach to analyzing labor migration management. I believe that this can offer substantive conceptual and empirical contributions to a nascent field of scientific inquiry that so far suffers from disciplinary eclectics. To avoid misunderstanding from the outset, I do not seek to criticize specific disciplines or scholars writing from these perspectives as such. I rather promote the epistemological argument that in policy studies—i.e., research that is guided by the desire to understand and account for policies rather than being predetermined by the concepts and methods of a specific discipline—narrow disciplinary boundaries and paradigm battles hinder rather than serve the aim of developing encompassing and critical accounts of policies and their effects on those governed through them.

Legal scholars have taken the shifting normative foundations of labor migration policies most seriously in their analysis of developments in the EU's legal framework (Baldaccini et al. 2007; Crowley 2001; Guild 2005a, 2005b; Peers 2001; Ryan 2007). The disciplinary interest in the legal principles of admission and residence allows legal scholars to identify and specify the normative underpinnings of labor migration management. They show, for instance, that admission rights for migrants frequently depend on their potential success in formal labor market participation. Legal analysts have further contributed substantially to the notion of the European Union as a source of differential rights and inequalities for migrant workers. They devote their research to assessing policy implications for migrant rights much more thoroughly than many economic and political sciences approaches can and do.

Besides this valuable commitment to scrutinizing the normative foundations of policies, however, legal scholarship tends to disregard the structural context in which the selection, design, and codification of legal principles for labor admissions operates. As they are less interested in the specific economic and public policy conditions under which legal norms emerge, they often overlook sources of variation, too. By contrast, economists and political sociologists have started analyzing precisely how the macro-economic and political conditions co-shape the need for foreign workforce in various sectors of capitalist economies and how they determine migrant workers' rights in host countries. Martin Ruhs and Bridget Anderson's (2010b) impressive volume on Britain highlights, for instance, how public funding shortages for social

care reinforce the need for cheap migrant labor in this sector. Unlike in legal research, there is little consideration, however, for the entrenched logics and norms of labor migration management, as public policy is treated as a relatively stable context for foreign labor demand. Policies are not adequately disentangled as attempts to govern and structure labor inflows according to specific normative ideals. Ironically then, even though taking flanking public policies serious as structuring factors for foreign worker recruitment in different sectors, the volume downplays labor migration policies' power to reshape the very structural conditions for migrant worker recruitment.

This is more convincingly achieved in critical sociological research that examines precisely how migration policies structure relations between migrants, citizens, and employers and thereby impose consequential judgments about how the social world ought to be ordered. Illustrative are Bridget Anderson's (2013) account of British immigration control, which imposes the normative vision of "community of value" on aliens and citizens with far-reaching implications for the rights of both; or Peo Hansen and Sandy Brian Hager's (2010) analysis of EU citizenship policies as a deliberate attempt to create an increasingly utilitarian and ethnocized model of belonging in Europe. With the historical empirical depth required for these embedded studies, they can be excused for not providing comparative insights.

Comparative policy insights are offered by scholars of a political science and institutionalist political economy tradition (Berg and Spehar 2013; Cerna 2009, 2013; Devitt 2011; Menz 2009, 2010a). With a focus on the role of political parties, trade unions, employers, and non-state actors, these studies illuminate decision-making processes and actors' power struggles in labor migration management and explain cross-national commonalities and differences with regard to variable political economies and institutional environments. Especially Menz's (2009) comparative study highlights the close interaction of labor migration management with the post-Fordist political economy and its promotion by the European Union. His evidence from six countries indicates some Europeanization of policies, but also highlights that "different models of political economy shape distinct strategies for labor recruitment from abroad" (2009: 261; also 2010a).

Yet these accounts tend to underestimate variations in the normative judgments vested in seemingly "similar" post-Fordist policies, take for granted the conditions under which policy choices have emerged, and pay little attention to the structuring effects of labor migration policies for social relations in the host country and the wider world (this critique—which rests on an ontological cleavage in social science—is elaborated in the first chapter). By excluding meanings and policy effects from our studies, we miss out on the analytical harvest of legal studies and critical sociology/political economy (see discussion of interpretive approaches to follow).

Seeking to offer a more holistic account of labor migration policies—as founded on normative claims, as structurally embedded in specific socio-economic settings, and as consequential for the ordering of social relationships—this book is situated at the intersection of legal studies, political economy, and political sociology. Our comparative analysis of labor migration policies thus captures their legal principles and normative foundations (legal perspective), their emergence and governance in particular socio-economic settings (political economy perspective), comparative variations across national contexts (comparative policy perspective), and policy implications for migrants’ rights (political sociology perspective).

Outlining the Comparative Policy Analysis Approach

This book maps contemporary labor migration policies in three of the largest national economies and labor-importing countries in Europe—Germany, France, and the United Kingdom. More precisely, it extracts from legislation and interviews with its makers the normative foundations of selecting “legal migrant workers” and assesses the socio-economic setting in which these norms of selection emerge in a comparative perspective.

Interpretive Policy Analysis

This book promotes an interpretive approach to policy analysis. My ontological agreement is with those who claim that “the effort to exclude meaning and values from the work of the policy analyst cuts the very heart out of political inquiry” (Fischer 2003: 216). In the first chapter, I will discuss in more detail how, by concentrating on the effectiveness of territorial border enforcement, a considerable share of migration policy studies falls short of explaining how and why specific meanings of borders between “legal” and “illegal” migrant workers emerge in the first place. Assessed from an interpretive paradigm, this misrecognizes not only the constitutive character of policies as world makers that frame, filter, and institutionalize ideas about “good,” “bad,” “legal,” or “illegal”; it also downplays policy effects such as the unequal allocation of rights to migrant workers.

In the spirit of our labor migration tales from earlier, my analytical starting point is that (a) policies entail specific calculations of the social world and how to best organize it, and (b) these calculations depend themselves to a great deal on presupposed meanings of concepts such as “labor market,” “shortage,” “economic competitiveness,” “citizenship,” or “social justice.” Policies constitute categories for thinking about—and managing!—legal workers through vesting specific meanings in admission legislation; and they thereby likewise

reproduce or change the institutional anchors on which they rest. This dual perspective on meaning making through and structural embeddedness of policies follows interpretive policy analysts who claim “that meaning does not merely put a particular affective or evaluative gloss on things, but that it is somehow constitutive of political actions, governing institutions, and public policies” (Wagenaar 2011: 4). To be wholly clear: I am not in the business of judging whether the meanings vested in labor migration management are “right” or “good,” achieve specific aims, or pay enough attention to alleged market needs or host society concerns. Other policy specialists perform these evaluative tasks plentifully (e.g., OECD 2009, 2011, 2012). Rather, I seek comparative comprehension of the contexts and conditions under which specific normative foundations for managing migration have emerged as policy-relevant across our three cases. In other words: who are these “good” workers who end up in the pot and why, exactly, do they or don’t they? Under scrutiny then are the normative intentions and contextual reference points behind policy choices for or against specific notions of migrant worker legality.

A commitment to the historical-reconstructive paradigm in social sciences research enables this book to combine a critical analysis of the normative foundations of labor migration management with a case-oriented comparative policy analysis. We understand cases as complex configurations and follow an explanatory comparative strategy that is historically and contextually bound (Della Porta 2008). It is “by carefully attending to the empirical world,” by situating each case in its political and socio-economic context, that we can seek explanation for the emergence of specific sets of norms and tools in labor migration policies (Wagenaar 2011: 10). Interpretivism then does not let functionalism in through the backdoor: context should not be mistaken for a straightforward or neutral policy informant. Rather, established institutions and consolidated sets of meanings—such as capitalist coordination regimes, welfare states, or models of national belonging—serve as sources of judgments that policy makers can *selectively* draw on in pursuit of specific policy objectives, but they might as well ignore them or even revoke them through migration policies. The first two chapters will elaborate on this conceptual point in much more depth while the analysis in the second part of the book takes pains to elucidate labor migration policies as dynamic and disturbingly incongruous examples of “meaning in action,” to borrow the catchy title of Henk Wagenaar’s recent textbook.

Scope of the Study

In this book I will examine and compare contemporary labor migration management across three cases. By focusing on three big European economies and labor-importing countries—Germany, France, and the United Kingdom—

the book offers more general reflections on policy trajectories in Europe. The three represent the biggest economies and populations within the European Union, irrespective of current economic and demographic troubles (OECD 2008b). Their big labor markets have attracted most migrants in absolute terms for some decades now, and they are also listed among the top ten countries receiving migrants worldwide by the International Organization of Migration (2008, 2009). Our three cases have seemingly started from similar positions—numerically at least—to develop strategies for labor migration management.

Theoretical sampling, further, starts from the premise that the British, French, and German national economies, labor markets, welfare states, citizenship, and integration regimes are varied enough to inform patterns of similarity as well as striking differences in policy making. The second chapter will outline hypothetical variation in depth. It is worth mentioning here that I aim to capture as much policy variety as possible without losing the advantages of a small-*n* comparison, namely to explain policy configurations across cases as multiple constituent parts in specific empirical contexts (Della Porta 2008). Regime theory suggests that France serves as a bridging case between the opposing British and German case. Aligning with the latter, France displays a capitalist economy and welfare state that diverges much from the British case (Amable 2003; Esping-Andersen 1990; Kitschelt et al. 1999b). Moreover, France and Germany usually embrace EU regulation but both have chosen a cautious approach toward free movement for new accession state members since 2004. The United Kingdom opts out of most EU directives but opened free-movement options for Eastern Europeans much more liberally. Aligning with the United Kingdom, however, France displays a similar citizenship and historical migration regime with strong post-colonial underpinnings—all while operating different integration approaches—which has traditionally been in stark contrast to the German model of ethnic belonging (Brubaker 1992; Favell 2001; Howard 2009; Joppke 2005b). This theoretical cross-pairing of cases, with France assuming a hub position in between the most different cases of Germany and the United Kingdom, promises to shed light on the relative weight of economic, social, and civic logics of organizing policies (chapter 2).

Some definitional groundwork is apt. For the purposes of this book, *migration* describes cross-national movements of people of some permanence. An individual who resides in a country of which they are not a national for at least one year is considered a migrant (Jordan and Düvell 2003). Within these limits, this research specifically covers the regulation of formal labor migration from so-called third countries; that is countries that are neither part of the European Union nor of the European Free Trade Association (EFTA, covering Switzerland, Norway, Iceland, and Liechtenstein) and are thus not covered by

EU internal market regulation.³ The concentration on legal movements—as in legal labor migration—does not downplay the role of unauthorized migrants in the European Union.⁴ I rather comprehend them as a direct effect of policies that exclude some migrant workers from legal entry to the labor market; indeed, the concept of border drawing emphasizes the chief role of legislation in legalizing some flows while illegalizing others (chapter 1). Illegality is an inherent effect of border drawing and is co-observed in our critical analysis of labor migration management.

The analysis further excludes non-work movements such as those of students, family members, or asylum seekers. While these categories of migrants dominate distinctions in official statistics and have informed clear-cut policy analyses by type of migrant (Boswell and Geddes 2011), they remain legal ideal types that are usually intertwined in practice. Our contextualized policy analysis acknowledges these empirical complications and understands labor market conditions, including informal residence and employment and the role of other migrant groups, as indispensable analytical backdrop for the interpretation of policy data. The third chapter throws robust anchors by profiling in depth the empirical contexts in which labor migration policies operate in the three countries.

Our border-drawing concept (chapter 1) seeks to examine the distinction of legal and illegal migrant workers and problematizes the neat categorization of migrant types in legislation. The same line of argument applies to my analytical focus on labor migration of third country nationals (TCN),⁵ of course. This follows the regulatory distinction of labor mobility of so-called second country nationals within the European Union and national policies for the admission of workers from outside the European Union (and EFTA). When I speak of labor migration, I thus refer to the latter type. In fact, national labor migration management targets TCN workers precisely because it lacks the capacity to limit the mobility of fellow EU and EFTA Europeans. However, empirical interactions between EU labor mobility and non-EU labor migration both on actual labor markets and in legislation (remember the example of the resident labor market test) mean that policy analysis cannot ignore the EU mobility context in which TCN labor migration management operates (Paul 2011, 2013). The detailed portrayal of policy legacies and migration experiences addresses this need (chapter 3).

Overall, the contextualized comparative analysis in this book seeks to minimize the danger of reifying legal categories. Even if TCN labor migration is the analytical focus, the presence of other legal concepts such as EU mobility and their resonance in labor migration management has to be an integral part of any interpretive and critical analysis of border drawing and its effects for foreign workers.

Organization of the Book and Argument

The book contains two main parts: (I) a theoretical-analytical framework, and (II) the comparative policy analysis and discussion. The first part, titled “Border Drawing as Framework for Migration Policy Analysis,” engages with the question of how to best analyze labor migration policy in comparative perspective. It introduces border drawing as an alternative framework for policy analysis (chapter 1), highlights the need to capture and compare multiple dimensions of border drawing (chapter 2), and throws contextual anchors for an ideographic comparative analysis by detailing the distinct migration experiences and policy legacies of each case (chapter 3). The first chapter introduces the border-drawing concept and its intellectual heritage. Rather than being doomed to witness the ineffectiveness of their territorial borders, states engage in “legitimate classification” as they draw borders between several legal and illegal positions for migrant workers. But how do migrants end up in the good pot, in the ideal case? Wedding the border-drawing concept to interpretive and critical policy studies in the marriage of theory and methodology, the chapter stresses the inherently normative and selective nature of border drawing and brings it to the forefront of our analytical attention. The second chapter elaborates the border-drawing framework further by investigating in potential structural sources of classification norms. Regime theories suggest that labor migration policies draw borders across an economic, social, and civic dimension, and in distinct interactions of those. This view integrates perspectives that have compared migration policies with a more singular focus on the diversity of capitalist economies, different welfare states in Europe, and citizenship regimes, respectively, and enables us to capture labor migration management—often analyzed predominantly as a matter of economic “demand and supply” or “push and pull”—in its complex multidimensionality without compromising analytical parsimony.

The third chapter carves out the context of our case-oriented comparative policy analysis. I establish a Weberian approach to comparative social sciences inquiry in which policy context itself “serves as an important explanatory variable and an enabling tool, rather than constituting a barrier to effective cross-national research” (Hantrais 1999: 94; also see Wagenaar 2011). An in-depth case profiling—with specific focus on each country’s institutional setting according to regime theories, distinct policy legacies, and key features of the foreign and migrant resident population—serves the purpose of forming robust analytical anchors for the ideographic comparison of labor migration management in Germany, France, and the United Kingdom.

The second part, “Border Drawing in German, French, and British Labor Migration Policies,” presents empirical findings from policy document anal-

ysis and interviews with leading policy makers in our three cases. Based on the overarching conceptualization of labor migration policy as norm loaded, multidimensional, and contextualized border drawing, three related questions for empirical analysis emerge:

- How are “legal” migrant workers selected in legislation and which policy meanings are vested in classification mechanisms? Which variations can be observed?
- Which role do economic, social, and civic classification norms play and how do these interact empirically within and across cases? How can variation be explained?
- Which sorting effects do overall border-drawing regimes entail for migrant workers?

The fourth chapter maps policies, selection tools, and legal principles by which migrant workers are chosen as legal entrants in each country. Data stem from a document analysis of thirty-three pieces of legislation (see appendices) and consultation reports up to autumn 2011, with comments on more recent developments up to November 2013 discussed in the book’s concluding section. A key finding is the overwhelming comparative similarity in selecting migrant workers by skill level and by the scarcity of the skills profile they offer. Selection by skill level and labor scarcity, however, coexists with policy tools that classify legal migrant workers by their origin, by social cohesion concerns, or with annual numerical limits in highly diverse ways across our three cases. As it cannot establish any straightforward selection of migrant workers by their economic utility alone in either case, the chapter starts throwing light on so far rather overlooked norms of labor migration management as key sources of policy variation.

The fifth and sixth chapters examine the roots of at the same time similar and diverse labor migration management regimes by considering the meanings policy makers vest in migrant classifications. This is based on semi-structured expert interviews with leading decision makers (see appendices) in Berlin, Paris, and London carried out until May 2011. The fifth chapter identifies three shared economic imaginaries that operate in labor migration policies in all three cases. Shared economic judgments on the usefulness of *certain kinds* of migrant workers constitute overwhelming commonalities in border drawing by skill level and labor scarcity. While high-skilled recruitment is considered to be part of a supply-led “global” knowledge-based economy that needs facilitation, skilled recruitment counts as legitimate strategy only if a concrete domestic shortage exists. Lower skilled migration is almost entirely crowded out by the assumption of vast EU-internal labor supply. The sixth chapter demonstrates that the variable policy contexts depicted in chapter 3

inform highly diverse migration control agendas across our three cases and eventually inform nationally distinct uses of bilateral agreements, regularization practices for informal workers, or annual caps. Data show, for example, that post-colonial legacies are mapped onto economic admission strategies in the French and British case, highlight Germany's geopolitical concern with European workforce management, or point to the relevance of heightened levels of EU mobility as distinct driver of recent restrictions to labor migration in Britain.

Overall, findings portray labor migration management as much more than “a tool for growth”⁶ in response to economic needs. The multidimensional policy analysis reappraises scholarly work that predominantly emphasizes the economic drivers of labor migration management. While confirming that economic utility matters, this book evidences that labor migration policies also operates as devices for the management of post-colonial relations, the control of distinctive resident populations, the activation of the resident workforce, or the strengthening of a country's geopolitical role in Europe. My discussion of more recent policy reforms (from the end of this book's data-gathering cutoff point in late 2011 up to November 2013) in the conclusion depicts a deepening of these dynamics.

We leave off where we began then: with coexisting tales of labor migration policy. To be sure, labor migration management is a reflection of policy complexity and tensions between economic openness and societal closure reactions. Yet both the conceptual and ontological engagement in part I and the comparative empirical analysis in part II of this book showcase high degrees of systematicity and orderliness behind policies as the tales are arranged in specific ways and for specific selection purposes. Far from being completely contingent, policies are structurally embedded in dominant economic production models. Yet far from being functionally determined by competitiveness and labor market conditions, labor migration management always co-governs specific populations and nationally distinct notions of work, welfare, and cultural belonging.

The precise combination of economic and socio-civic norms of border drawing bears considerable implications for migrant workers. Our discussion in the conclusion considers unequal and multi-conditional allocation patterns of labor mobility rights as powerful border-drawing effects. To pay tribute to developments after the core research span of this book, the conclusion appraises briefly any policy reform which the British, French and German governments may have initiated in the context of “crisis” since autumn 2011⁷.

Our findings inform reflections on the usefulness of the border-drawing concept in migration studies and policy analysis more generally. The conclusion hence dares to promote border drawing as a holistic—that is, theory-driven and ontologically underpinned—analytical concept that is fit to cap-

ture landscapes of classification in interpretive policy studies also beyond the realm of migration. The book will hopefully convince the reader that the border-drawing lens enables us to recognize, understand, and explain in a systematic and adequately nuanced manner the emergence, reproduction, and contestation of specific normative configurations that lay at the heart of policy distinctions of legal from illegal, lawful from criminal, entitled from not entitled, deserving from undeserving objects of governance.

Notes

1. In the fairy tale “Aschenputtel,” as recorded by the Brothers Grimm in German, Cinderella relies on the help of some friendly pigeons to sort lentils, asking them to put “the good into the pot, the bad into the crop.”
2. Unless otherwise noted, *domestic* signifies “national” in this book. Scholars of migrants in “domestic work” as service providers in private households will excuse this flawed shorthand.
3. When I refer to third country nationals (TCN) in the remainder of the book, this excludes EU nationals plus Swiss, Norwegian, Icelandic, and Liechtenstein workers. For simplicity, I omit the additional mentioning of EFTA nationals when referring to EU workers and EU mobility rights.
4. A comparative study reports high shares of irregular migrants throughout the European Union (10 percent of total foreign population on average), reaching up to 14 percent in the Netherlands, 17.5 percent in the United Kingdom, 21.5 percent in Greece, 25 percent in Lithuania, or 34.5 percent in Romania in 2010 (Papadopoulos 2011).
5. Typical EU jargon, the term *third country national* (TCN) is used in legislation to define all nationals of non-EU countries and distinguish them from mobile EU nationals.
6. Statement of a French Migration Ministry official in an interview; see chapter 5.
7. I offer a more detailed analysis of policy change in Germany and the United Kingdom in relation to notions of “crisis” and capitalist varieties elsewhere (Paul 2014).