

**SELECTING BY SKILLS: AN ANALYSIS OF GERMAN PARLIAMENTARY  
DEBATES**

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# Abstract

Secondary literature on migration management does not consider the role of ethnicity in the policy-making process and the categorisation of labour migrants. This thesis aims to fill this gap by answering the following question: How were the categories of the high-skilled, skilled and low-skilled labour migrants discursively constructed, justified and legitimised in the German parliament and what role did ethnicity play in the construction of these categories? A discourse analysis on German parliamentary debates between 2003 and 2012 was applied, in order to uncover the framing of migrant categories. This analysis provided evidence that economic considerations replaced ethnic concerns in the admission of highly-skilled immigrants.

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# Introduction

*“You are not Turkish, you are a professor”<sup>1</sup>*

After years of official dogma that 'Germany is not a country of immigration', it now seems quite obvious that Germany has changed its mind – it is actively participating in what is often referred to by scholars and politicians as the “battle for the brains.”<sup>2</sup> The declining birth rates and the growing shortage of skilled labour have led to increasing competition for skilled migrants between countries from the global North. Therefore, despite the claims of weakening state sovereignty in the era of globalisation, states have actually maintained the control of their borders: “Migration management” has become the new mantra of governments in the attempt to control immigration for their own economic benefits by choosing the “categories of immigrants” they admit or restrict in coming to their country.

Highly-skilled immigrants, along with researchers and students, are generally quite welcome in times of growing labour demands, especially in knowledge industries—for example in the IT or medical services industries. These types of immigrants, who are desperately needed to stay competitive, are therefore granted relatively advantageous conditions such as fast-track acquisition of a permanent settlement permit and the most favourable family reunification rights. On the other hand, those migrants who are considered only “skilled” receive only a very restricted patchwork of rights, while even lower skilled migrants have barely any options to enter Germany. According to the literature, these selective immigration policies are based on

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<sup>1</sup> I took this sentence from an anecdote of my professor Ayse Caglar. When she was about to sign the rental contract for her flat in Vienna the landlord told her how happy he was that she rented the flat and not a foreigner. When she answered him that she was, in fact, Turkish, he responded: “You are not Turkish, you are a professor”.

<sup>2</sup> “The Battle for the Brains: Why Immigration Policy Is Not Enough to Attract the Highly Skilled « German Marshall Fund of the United States,” accessed January 13, 2015, <http://www.gmfus.org/archives/the-battle-for-the-brains-why-immigration-policy-is-not-enough-to-attract-the-highly-skilled/>.

rational choices about labour market needs, and thus construct the concepts of the “needed” and “deserving” or rather the “unwanted” and “underserving” labour migrant.<sup>3</sup>

However, these economically driven labour migration policies are contested: “Not always does the interest of the economy reflect that of the entire country,” declared Wolfgang Bosbach, spokesman of the Conservative party in Germany, in the *Frankfurter Allgemeine Zeitung* in 2002. In this way Bosbach attempted to justify the boycott of the implementation of a more liberal Migration Act that would have opened several labour migration channels to Germany. For Bosbach and his party, these labour migration provisions would have meant the overburdening of German society with cultural and social integration costs.

Indeed, immigration policy is never only about satisfying economic and labour market needs. In fact, any kind of admission policies embody conceptions about who belongs and who does not belong to the nation state. As Smith states:

When government regulate the movement of people across political boundaries—determining who can enter their jurisdiction and on what terms, and deciding who must leave and when—they work with a concept of what their nation is and/or should be. Immigration policy and nation-building therefore must be two sides of a single coin.<sup>4</sup>

Facing a whole new global reality of labour migration management policies, the question becomes what role is ethnicity playing in the construction of labour migration categories like highly-skilled, skilled and low-skilled. Do economic considerations trump national conceptions of cultural and social cohesion? Are the old ideas of ethnicity still framing the migration debate in this globalized context? There has been some attempt in scholarly literature to address these questions. However, it has almost exclusively focused on the restriction of

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<sup>3</sup> Elspeth Guild, “Equivocal Claims? Ambivalent Controls? Labour Migration Regimes in the European Union,” in *Constructing and Imagining Labour Migration: Perspectives of Control from Five Continents*, n.d., 207–28.

<sup>4</sup> Peter Jackson, Jan Penrose, and S.J. Smith, eds., “Immigration and Nation-Building in Canada and the United Kingdom,” in *Constructions of Race, Place, and Nation*, 1 edition (Minneapolis, Minn: Univ Of Minnesota Press, 1993), 50.

rights for those migrants in the low-skilled category. What little literature there is on the highly-skilled category has only focused on the ‘global competition’ for talent and the comparative aspects of choosing mechanisms and the attractiveness of the special rights granted to the wanted migrants. However, very little attention has been paid to the manner in which such policies have normatively constructed these labor migrant categories and what role, if any, ethnicity plays in the framing these same categories.

In order to start exploring these questions, in filling this gap, the thesis focuses on the following research question: *How were the categories of the high-skilled, skilled and low-skilled labour migrants discursively constructed, justified and legitimised in the German parliament and what role did ethnicity play in the construction of these categories?*

The first step in answering this question the literature on migration management generally must be outlined, in order to provide a background on migration management and the scholarship on labour migration categories. After the literature review, the thesis then provides the background on the German case in terms of its past immigration policy and the current legislation on labour migration. Next, the thesis establishes the methodology of the analysis on the parliamentary debates in Germany, which will involve a discourse analysis of particular debates from 2003 until 2012. The results of this analysis, suggest that while highly-skilled migration is exclusively linked to economic consideration such as innovation and competitiveness, skilled- migration and the pertaining family reunification rights are still framed in terms of integration, which often have an ethnic tinge.

# Literature Review

## *Migration Management and the Categorization of Migrants*

Facing an ever more globalised world with increasing cross-border flows and expanding principles of universal rights, some scholars predicted the demise of state control over borders and membership boundaries.<sup>5</sup> Yet, states have proven to be more creative than anticipated. As Martin Geiger and Antoine Pécoud have illustrated, governments and international organizations in the global North – in response to the perceived migration crisis of the 1990s – have developed sophisticated and multidimensional efforts to *manage* migration.<sup>6</sup> This “migration management”, which is now a popular buzzword among policymakers, is based on the pragmatic realization that in liberal states immigration cannot be stopped or reversed. The focus of migration management lies, therefore, on the careful regulation and restriction of access channels.<sup>7</sup>

While actual migration management policies vary across countries, certain common features are hard to miss. On the one hand, states have been reinventing ways to control membership boundaries by (1) introducing cultural and linguistic requirements for naturalisation, (2) establishing ever higher legal walls to prevent the entry of low-skilled migrants or family members, and (3) implementing increasingly prohibitive obstacles for asylum and refugee seekers to even reach the borders of destination countries hoped for. On the other hand, industrialised countries actively engage in attracting and retaining “the best and the brightest”, who have the human capital to satisfy particular economic needs, by offering them fast track

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<sup>5</sup> For example: Saskia Sassen, *Losing Control? Sovereignty in an Age of Globalization*, 1st edition (New York: Columbia University Press, 1996); Yasemin Nuhoglu Soysal, *Limits of Citizenship : Migrants and Postnational Membership in Europe* (Chicago : University of Chicago Press, 1994).

<sup>6</sup> Martin Geiger and Antoine Pécoud, “The Politics of International Migration Management,” in *The Politics of International Migration Management*, Migration, Minorities, and Citizenship (Houndmills, Basingstoke, Hampshire ; New York : Palgrave Macmillan, 2012, c2010, 2010), 1.

<sup>7</sup> Georg Menz, *The Political Economy of Managed Migration: Nonstate Actors, Europeanization, and the Politics of Design Migration Policies* (Oxford [etc.]: Oxford University Press, 2011), 2.



access to permanent settlement permits with advantageous family reunification rights and prospects for simplified naturalisation.<sup>8</sup>

Examining immigrants' rights in Europe, Eleonore Kofman and Lydia Morris illustrate that the categorisation of migrant populations into labour migrants, family reunification and asylum seekers with their certain sets of entry, residence and employment statuses lead to "increasingly complex forms of differentiation and stratified rights, or what some have called "civic stratification."<sup>9</sup> According to Georg Menz, the creation of different migrant statuses, each with their own patchwork of rights, reflects the very core of migration management, which is "managerial, economic, and restrictive, focusing on the potential economic and social contributions by immigrants to host societies" and, thus, it classifies migrants inevitably as "unwanted" and "wanted."<sup>10</sup>

It is clear that the discourse of globalisation theorists on the weakening of the state along with postnationalist arguments of new forms of citizenship "based on universal personhood rather than on national belonging", has overlooked the fact that states continue to control their borders and membership boundaries.<sup>11</sup> Furthermore, theories about immigration and its implications on citizenship cannot sustain a dichotomy of open versus closed borders, since states are simultaneously engaged in both – opening their borders to highly-skilled migrants with talent *and* closing them to those perceived as too risky, costly or "different" – indicating quite sharply who is welcome in the political community and who is not.<sup>12</sup>

<sup>8</sup> The term is used by policymakers worldwide

<sup>9</sup> Eleonore Kofman, "Contemporary European Migrations, Civic Stratification and Citizenship," *POLITICAL GEOGRAPHY* 21, no. 8 (November 2002): 1036; Lydia Morris, *Managing Migration: Civic Stratification and Migrants' Rights* (Psychology Press, 2002).

<sup>10</sup> Menz, *The Political Economy of Managed Migration*, 2.

<sup>11</sup> Soysal, *Limits of Citizenship*, 1; Sassen, *Losing Control?*.

<sup>12</sup> A Shachar and R Hirschl, "On Citizenship, States, and Markets," *JOURNAL OF POLITICAL PHILOSOPHY* 22, no. 2 (June 2014): 236.

Accordingly, my argument is that despite the growing challenges states encounter in an ever more globalised world, governments and the policies they create still play a crucial role in determining patterns of immigration, as well as our understanding of these patterns and their impact on society. Consequently, in order to understand both policy change and the construction of categories along with the legitimisation of stratified rights, we need to turn our attention to immigration policies and the arguments and ideas that drive and shape them.

Understandably, a significant amount of attention in academic circles has been paid to the “restrictive turn” witnessed in the last decades in immigration and citizenship policies.<sup>13</sup> This “turn” has placed the already vulnerable, undocumented and temporary migrants in increasingly precarious positions by making them subject of growing scrutiny and control by the states. However, the proactive policies adopted by states seeking to attract talent from all over the world – being literally the opposite phenomenon of the restrictive turn – has been rarely addressed from a critical angle – despite the fact that such prominent policies are contributing to “larger processes of redrawing the boundaries of (selective) inclusion into the political community.”<sup>14</sup> Highly-skilled immigrants differ from migrants seeking admission on the basis of humanitarian causes or family ties in one important aspect: they are “wanted”. That is to say, instead of being accepted out of obligations to international law and humanitarian

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<sup>13</sup> For example, Catherine Dauvergne, *Making People Illegal: What Globalization Means for Migration and Law* (Cambridge University Press, 2008); Christian Joppke, “Comparative Citizenship: A Restrictive Turn in Europe?,” *Law and Ethics of Human Rights* 2, no. 1 (2008): 1–41; Ricky van Oers, *Deserving Citizenship: Citizenship Tests in Germany, the Netherlands and the United Kingdom*, Immigration and Asylum Law and Policy in Europe, volume 31 (Leiden: Martinus Nijhoff Publishers, 2014); Bridget Anderson, “Exclusion, Failure, and the Politics of Citizenship” (RCIS Working Paper, 2014), [http://www.ryerson.ca/content/dam/rcis/documents/RCIS\\_WP\\_Anderson\\_No\\_2014\\_1.pdf](http://www.ryerson.ca/content/dam/rcis/documents/RCIS_WP_Anderson_No_2014_1.pdf); Bridget Anderson, *Us and Them? The Dangerous Politics of Immigration Control*, 2013; Joseph H. Carens, “Live-in Domestic, Seasonal Workers, and Others Hard to Locate on the Map of Democracy,” *Journal of Political Philosophy* 16, no. 4 (December 2008): 419–45, doi:10.1111/j.1467-9760.2008.00314.x; Don Flynn, “New Borders, New Management: The Dilemmas of Modern Immigration Policies,” *Ethnic and Racial Studies* 28, no. 3 (May 1, 2005): 463–90, doi:10.1080/0141987042000337849.

<sup>14</sup> Shachar and Hirschl, “On Citizenship, States, and Markets,” 232; For a detailed examination of literature see: Ayelet Shachar, “Race for Talent: Highly Skilled Migrants and Competitive Immigration Regimes, The [article],” *New York University Law Review*, no. 1 (2006): 148; Ayelet Shachar and Ran Hirschl, “Recruiting ‘Super Talent’: The New World of Selective Migration Regimes,” *Indiana Journal of Global Legal Studies*, no. 1 (2013): 71.

ideals, these migrants are lured out of state self-interest.<sup>15</sup> This feature makes the case of “the best and the brightest” an especially relevant and interesting research subject, since, as Ayelet Shachar and Ran Hirschl point out: “Who is fast-tracked in the visa and the citizenship line is no less revealing of the qualities we value in others and seek to incorporate into our political communities, than who is pushed to the back in line or denied access altogether.”<sup>16</sup>

### *The Best and the Brightest*

As previously discussed, since the new millennium many governments in Europe have introduced exceptions to their zero-immigration policies. These governments have opened their doors to highly-skilled immigrants, offering them fast-track access to permanent settlement permits and certain advantageous family reunification rights. This development is often referred to by scholars and politicians as the “battle for the brains”, since declining birth rates and a growing shortage of skilled labour has led to increasing competition for skilled migrants between countries from the so-called global North.<sup>17</sup> The first countries to adopt these proactive migration policies were the United States, Canada and Australia in the mid-1960s and early 1970s. Countries in the European Union introduced such measures much later, starting with the German Green Card and the UK Highly Skilled Programme in the early 2000s. This in turn gave further rise to such policies across the European Continent.

Ayelet Shachar’s essay “The Race for Talent: Highly Skilled Migrants and Competitive Immigration Regimes” offers an illustrious overview of the gradual expansion of mechanisms to attract high-skilled migrants in Western states.<sup>18</sup> She argues that states in the global competition for the “best and the brightest” operate under the assumption that their

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<sup>15</sup> Christian Joppke, *Selecting by Origin: Ethnic Migration in the Liberal State* (Cambridge, Mass.: Harvard University Press, 2005), 2.

<sup>16</sup> Shachar and Hirschl, “On Citizenship, States, and Markets,” 231.

<sup>17</sup> Jeroen Doomernik, Rey Koslowski, and Dietrich Thränhardt, “The Battle for the Brains: Why Immigration Policy Is Not Enough to Attract the Highly Skilled,” 2009, <http://dare.uva.nl/document/186515>.

<sup>18</sup> Shachar, “Race for Talent.”

governments have to proactively attract skilled migrants with increasingly appealing “hosting conditions” in order to be able to compete in this race. Similarly, Sandra Lavenex maintains that immigration policies are increasingly operating under the logics of the “competition state”, involved primarily with promoting the competitiveness of its domestic companies.<sup>19</sup> In a similar way, Georg Menz has found through his research that non-state actors increasingly promote the selective liberalization of immigration policies by rhetorically linking those policies to global economic competitiveness.<sup>20</sup> According to this discourse on competition, skilled immigrants become just another commodity or resource which states compete over in seeking competitive advantage over each other.

Considering that this global competition logic seems to dominate the international labour migration policy-making, it is not surprising that the overwhelming share of academic literature on high-skilled immigration adopt, more or less explicitly, this “global race” frame underlying these policies. For instance, Demetrios Papademetriou et al. illustrate how talent – and the way to attract and keep it – has become a preoccupation for economies, as it would lie in the “heart of economic competitiveness and growth.”<sup>21</sup> As a result, the vast part of research conducted in this field is of comparative nature and assesses the relative “attractiveness” of the states’ natural advantages<sup>22</sup> and the benefits and rights granted in order to attract talented migrant workers.<sup>23</sup>

<sup>19</sup> Sandra Lavenex, “The Competition State and the Multilateral Liberalization of Highly Skilled Migration,” in *The Human Face of Global Mobility: International Highly Skilled Migration In Europe, North America And The Asia-Pacific*, ed. Michael Peter Smith and Adrian Favell (Transaction Publishers, n.d.).

<sup>20</sup> Georg Menz, “The Neoliberalized State and Migration Control: The Rise of Private Actors in the Enforcement and Design of Migration Policy,” *Debatte: Journal of Contemporary Central and Eastern Europe* 17, no. 3 (December 1, 2009): 315–32, doi:10.1080/09651560903457923; Menz, *The Political Economy of Managed Migration*.

<sup>21</sup> Demetrios G. Papademetriou, Will Somerville, and Hiroyuki Tanaka, “Talent in the 21st Century Economy,” in *Talent, Competitiveness and Migration: The Transatlantic Council on Migration*, ed. Bertelsmann Stiftung and Migration Policy Institute (last) (Gütersloh: Bertelsmann Stiftung, 2009), 215–65.

<sup>22</sup> Such as language, geographical position, economic and social **environment**, infrastructure etc.

<sup>23</sup> Moreover, the advantageous and disadvantageous of different selection mechanisms, namely, the points-based vs. the employer-led systems are an often addressed subject in academic circles. While points-based systems seek to admit economic migrants on the basis of a combination of skill-sets such as language skills, education, experience and so on (Canada, US, UK); the employer-driven system looks for migrants with certain professions and experience needed in the local market economy (Germany, France, Denmark, Spain etc.). Demetrios G. Papademetriou, Will Somerville, and Hiroyuki Tanaka, “Hybrid Immigrant-Selection System: The Next

One example of the extensive literature on the comparative research on how “welcoming” the specific high-skilled policies are is the work of Metka Hercog’s and Anja Wiesbrock’s. Their analysis examines the competitiveness of German and Dutch policies in attracting Indian high-skilled migrants and compares the two national provisions on the basis of different criteria such as family reunification rights, access to permanent residence and citizenship as well as special fast-track provisions for young academics. Hence, the assessment of the relative attraction-value of each of these rights reflect – once more – the competition logic of the international “race for talent”.

Looking at this competition-focused literature on immigration provisions it becomes clear that the advantageous citizenship rights granted to highly-skilled increasingly represent a valuable “good” that states can offer to the “wanted” migrant workers in exchange for their knowledge and skills.<sup>24</sup> As Shachar and Hirschl assert, it seems that the concept of citizenship has been “re-tooled” and now serves an additional purpose next to its traditional role of setting membership boundaries by restricting and excluding non-citizens.<sup>25</sup> Accordingly, membership in a wealthy and stable state, with its bounded goods like rights, security and political voice, embodies a valuable resource that has a big impact on peoples' well-being. And since citizenship rights can only be granted by states, more and more governments from OECD countries in need of “brains” are willing to use their exclusive prerogative as a tool of their recruitment strategy.<sup>26</sup> Yet, as the authors point out, theories about immigration and citizenship have failed to anticipate or to explain this dramatic shift of demand-driven selective migration

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Generation of Economic Migration Schemes,” in *Talent, Competitiveness and Migration: The Transatlantic Council on Migration*, ed. Bertelsmann Stiftung and Migration Policy Institute (Gütersloh: Bertelsmann Stiftung, 2009), 267–309.

<sup>24</sup> Metka Hercog and Anja Wiesbrock, “Making Europe More Attractive to Indian Highly-Skilled Migrants?,” 2012, 8, <http://cadmus.eui.eu/handle/1814/23482>.

<sup>25</sup> Shachar and Hirschl, “Recruiting ‘Super Talent,’” 78; Shachar and Hirschl, “On Citizenship, States, and Markets,” 237.

<sup>26</sup> Shachar, “Race for Talent,” 163; Doomernik, Koslowski, and Thränhardt, “The Battle for the Brains.”

regimes to re-tool citizenship as an incentive for those migrants that are considered potential gains for the economy.<sup>27</sup>

This competition logic is even found in the European Union, where several directives on the admission and residence of high-skilled third-country nationals (TCNs) have been implemented in order “to make the EU more competitive for highly-skilled immigration”. By examining the changing concept of EU citizenship, Sergio Carrera and Anja Wiesbrock illustrate that citizenship rights are no longer limited to the citizens of EU member states, but have gradually expanded to certain categories of TCNs such as the EU Blue Card holders,<sup>28</sup> scientists and students.<sup>29</sup> However, the fact that many scholars took over the “international competition” narrative, which frames highly-skilled policies worldwide, prevents a critical perspective and further reflection on the implications of granting such advantageous rights by itself.<sup>30</sup> It also obscures the aspect that the mere category construction/framing of the “wanted” immigrant according to skills and prospective economic gains generates inevitably as well its very counter category – the one of the “unwanted”, “poor” and “unskilled” immigrant. The work of the few scholars that do address the normative implications of advantageous rights granted to highly-skilled is noteworthy and is therefore, described in more detail below.

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<sup>27</sup> Shachar, “Race for Talent” 163; Shachar and Hirschl, “On Citizenship, States, and Markets.”

<sup>28</sup> The Blue Card is an EU-wide approved residence and work permit that allows highly-skilled TCNs to work and live in any EU country except Denmark, Ireland and the UK. (Council Directive 2009/50/EC).

<sup>29</sup> Sergio Carrera and Anja Wiesbrock, “Whose European Citizenship in the Stockholm Programme - The Enactment of Citizenship by Third Country Nationals in the EU,” *European Journal of Migration and Law* 12 (2010): 337.

<sup>30</sup> Marie de Somer, *Trends and Gaps in the Academic Literature on EU Labour Migration Policies*, ed. Belgium) Centre for European Policy Studies (Brussels (Brussels, Belgium: Centre for European Policy Studies, 2012), 6, <http://www.ceps.eu/book/trends-and-gaps-academic-literature-eu-labour-migration-policies>.

## *The Normative Implications of Classifying Immigrants According to Perceived Market Value*

In an examination of EU labour migration policies, Guild identifies several trends towards the ‘fragmentation’ of migrant workers.<sup>31</sup> She argues that splitting economic migration into different categories, namely – highly-skilled workers, scientists and students, inter-company transferees and low-skilled seasonal worker – has justified the allocation of different rights according to the worker’s perceived economic value to the EU labour market.<sup>32</sup> The “cataloguing” of foreign workers has, therefore, a crucial influence on the way economic migration is seen in the member states. The paradoxical effect of these policies is that the highly-skilled migrants, already economically stronger, are granted even more advantageous rights, while the economically weaker low-skilled migrants enjoy only very restricted residence, employment and family reunification rights. Guild critically contends that this differentiation – between the “good” and the “poor” – is of questionable value, since lower-skilled labour force can be just as needed and might be even more valuable to the economy than high-skilled. Furthermore, labour market demands vary significantly across regions, hence, it would be an oversimplification to assume that there is only one “type” of migrant that is valuable to the economy.<sup>33</sup>

Indeed, at second glance, the assumptions underlying the categories of the highly-skilled and the low-skilled immigrant seem not to capture the complexity of labour market needs. On the one hand, as the migration management discourse shows, the “wanted” migrant is highly-skilled. Since the highly-skilled migrant is labelled as “desirable”, it is assumed that states have to compete in order to attract them. According to Guild, this is what justifies the differential

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<sup>31</sup> Elspeth Guild, “Equivocal Claims? Ambivalent Controls? Labour Migration Regimes in the European Union,” in *Constructing and Imagining Labour Migration: Perspectives of Control from Five Continents*, ed. Elspeth Guild and Sandra Mantu (Burlington, VT: Ashgate, 2011), 207–28.

<sup>32</sup> *Ibid.*, 218.

<sup>33</sup> *Ibid.*, 216.

treatment of the “best and the brightest”.<sup>34</sup> On the other hand, the lower-skilled labelled as “poor” are thought to be readily available in high numbers and easily replaceable. According to the market approach to labour immigrants, this justifies the restrictive access to permits and social benefits for “poor” migrants. However, professionals such as care workers do not fit neatly into this categorisation. Care workers, who hold a vocational education, are very much needed in several countries such as Germany, Italy and the UK; yet, they are granted comparatively restricted sets of rights.<sup>35</sup>

Examining the new English labour migration policies at the beginning of the millennium similarly to Guild, Don Flynn, asserts that: “[i]n the new world of globalised reality, the concept of ‘rights’, if it is applicable at all, should be reserved for those who have made themselves useful to the needs of a growing and dynamic world economy, and who are actively contributing to its further development.”<sup>36</sup> The legal distinction of migrants according to their perceived economic value and the differential granting of economic and social rights has led scholars to the conclusion that a “fragmented citizenship” has emerged.<sup>37</sup>

The normative debate about the limited rights granted to low-skilled workers has developed a rich body of literature on the question of whether it is justifiable to provide migrant workers with very limited sets of rights, for the sake of “circularity” and “temporariness”. This very lively scholarly debate can be traced back to the 1980s, when scholars like Michael Walzer and Stephen Castles criticised the guest-worker programmes that took place in Europe between 1940s and the 1970s.<sup>38</sup> While some scholars develop a rather pragmatic view on the issue,

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<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> Don Flynn, “Tough as Old Boots”? Asylum, Immigration and the Paradox of New Labour Policy,” *IRP Discussion Paper*, 2003, 2; see also: Flynn, “New Borders, New Management.”

<sup>37</sup> Jonathan Clifton, “Fragmented Citizenship: Canadian Immigration Policy and Low-Skilled Portuguese Workers in Toronto,” *Journal of Immigrant & Refugee Studies* 8, no. 4 (November 29, 2010): 409–30, doi:10.1080/15562948.2010.522466.

<sup>38</sup> Stephen Castles, “The Guest-Worker in Western Europe - An Obituary,” *International Migration Review*, 1986; Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (Oxford, UK: Blackwell, 1993).



defending “the alternative is worse” logic;<sup>39</sup> others answer the question whether “it[s] acceptable to trade off worker rights for economic gains?” vehemently in the negative.<sup>40</sup> It is discernable that this normative literature on the rights of the lower-skilled often refers to the advantageous sets of rights for the highly-skilled in order to strengthen their criticism concerning this legislation.<sup>41</sup>

Yet, barely no scholarship has explicitly addressed the normative implications of granting advantageous rights to highly-skilled. One excellent exception represents the work of Ayelet Shachar and Ran Hirschl, who explore the moral implications that the rights granted to high-skilled migrants have the concept of citizenship.<sup>42</sup> They argue that while policies which reward talent because of its underlying values of hard work and adaptability do not necessarily contradict the concept of citizenship, however, such policies might constitute a serious infringement with liberal-democratic and egalitarian values.<sup>43</sup>

Overall, the literature on the normative implications of the advantageous highly-skilled provisions is very limited in comparison to the normative debate about the restricted rights of low-skilled migrants. Yet, it became clear that the state-constructed categorisation of migrants into highly-skilled and low-skilled, while each of them receive their certain patchwork of rights according to their market value, has as well influenced the construction of the normatively charged classification of the “wanted” and the “unwanted” migrant. This categorisation is

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<sup>39</sup> Martin Ruhs and Philip Martin, “Numbers vs. Rights: Trade-Offs and Guest Worker Programs,” *International Migration Review*, 2008; Melissa Bellanta and Alana Piper, “Looking Flash: Disreputable Women’s Dress and ‘Modernity’, 1870–1910,” *History Workshop Journal* 78, no. 1 (October 1, 2014): 58–81, doi:10.1093/hwj/dbt017.

<sup>40</sup> Stephen Castles, “Guestworkers in Europe: A Resurrection?,” *International Migration Review*, 2006, 749; Carens, “Live-in Domestic, Seasonal Workers, and Others Hard to Locate on the Map of Democracy.”

<sup>41</sup> Castles, “Guestworkers in Europe”; Carens, “Live-in Domestic, Seasonal Workers, and Others Hard to Locate on the Map of Democracy”; Somer, *Trends and Gaps in the Academic Literature on EU Labour Migration Policies*.

<sup>42</sup> Ayelet Shachar, “Picking Winners: Olympic Citizenship and the Global Race for Talent [article],” *Immigration and Nationality Law Review*, 2011, 523; Shachar and Hirschl, “On Citizenship, States, and Markets.”

<sup>43</sup> Shachar and Hirschl, “On Citizenship, States, and Markets, 244.”

always linked and justified – in policy-making and in literature – to economic and labour market concerns. However, facing as well a more complex picture of labour market needs, which does not fit neatly into the categorisation of high- and low-skilled, research on how political actors have framed and justified the advantageous framework for “desirable” highly-skilled and separated it from the one of “unwanted” low-skilled migrants would contribute to the understanding of political motives and dynamics driving these prominent selective policies.

### *Framing Migration Policy and Migrant Categories*

While some scholars have shown how the restriction of immigrant rights and the control of immigration flows were justified through framing migration as a security threat, others have illustrated the way in which the liberalisation of immigration policies has been justified by connecting migration to economic utility or competitiveness.<sup>44</sup> Yet these analyses did not capture the selective nature of migration management policies, which engage in opening *and* closing the borders. Furthermore, these assessments focused on the discourse on migration in general rather than looking at specific migrant categories. However, by looking at labour migration – the only area where states can decide according to their interests – and focusing on the specific normatively charged categories of the “wanted” and the “unwanted” migrant, we are able to detect the specific arguments, ideas and assumptions that frame and justify border drawing between categories and their differential treatment.

Elsbeth Guild has developed a helpful approach to analyse the framing mechanisms that determine immigration policies, as it is able to capture the selective turn of policies.<sup>45</sup> This so-

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<sup>44</sup> Didier Bigo, “Security and Immigration: Toward a Critique of the Governmentality of Unease,” *Alternatives: Global, Local, Political* 27, no. 1 (February 2002): 63; Jef Huysmans, “The European Union and the Securitization of Migration,” *JCMS: Journal of Common Market Studies* 38, no. 5 (December 1, 2000): 751–77, doi:10.1111/1468-5965.00263; Harald Bauder, “Neoliberalism and the Economic Utility of Immigration: Media Perspectives of Germany’s Immigration Law,” *Antipode* 40, no. 1 (January 2008): 55–78, doi:10.1111/j.1467-8330.2008.00571.x; Menz, “The Neoliberalized State and Migration Control.”

<sup>45</sup> Elsbeth Guild, *Security and Migration in the 21st Century* (John Wiley & Sons, 2009).

called critical migration studies concept challenges the idea that our perception of migration and other related terms are neutral. As modern states claim sovereignty over the legitimization of cross-border movements, any definition of “migration” depends on the way states designate who are citizens and who are not.<sup>46</sup> Therefore, our understanding of who is a citizen, a “wanted” or an “unwanted” immigrant depends on how a particular state frames these classifications and their statuses. Furthermore, “depending on how a person is categorized, he or she may acquire quite different and normatively charged titles.”<sup>47</sup> For instance, as soon as an individual is not a “citizen,” he belongs to the general category of “foreigner”. This opens the door for further state-determined categorisation, ranging from “tourist” to “illegal immigrant”, which automatically carry – being linked to border control and insecurity – normatively charged assumptions about that individual.<sup>48</sup>

As labour migration is concerned with filling labour market needs, it is not surprising that the subject of selecting migrants is linked to competition and economic gains. Yet immigration policy is never simply about economy as Triadafilos Triadafilopoulos and Craig Smith remind us: “While economic priorities are often the central drivers of policy, immigration – indeed, international migration of any kind – is always also about claims to membership in a political community.”<sup>49</sup> Based on the work of Aristide Zolberg, the authors point out that the admission of migrants always implies considerations about how suitable migrants are for full membership in the national community. While this is true for any kind of migration – highly skilled, temporary workers and refugees – the very categorisation of migrant reflects their perceived suitability for citizenship.<sup>50</sup>

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<sup>46</sup> Ibid., 11.

<sup>47</sup> Ibid., 13.

<sup>48</sup> Ibid.

<sup>49</sup> Triadafilos Triadafilopoulos and Craig D. Smith, “Introduction,” in *Wanted and Welcome?*, ed. Triadafilos Triadafilopoulos, Immigrants and Minorities, Politics and Policy (Springer New York, 2013), 1, [http://link.springer.com/chapter/10.1007/978-1-4614-0082-0\\_1](http://link.springer.com/chapter/10.1007/978-1-4614-0082-0_1).

<sup>50</sup> Ibid.

While scholars have addressed this linkage between nation-building and proactive labour migration policies in “immigration countries” like Canada and the US, this approach has not been applied to historical “ethno-cultural” countries like Germany. However, especially because Germany used to base its admission criteria on ethnicity and origin it represents a relevant and interesting case of research on policies to attract highly-skilled migrants. Germany, which was for a long time one of the most restrictive countries concerning labour migrant admission and naturalisation, is now one of the most liberal immigration policies concerning highly-skilled migrants among OECD countries. This leads us to the question if economic concerns have completely replaced ethnic concerns in the admission of new prospective citizens.

# Chapter 1: Background

## Germany as a Country of Immigration

In order to better understand current developments in German labour immigration policies and the considerations behind them, it is important to take the historical context into account. Therefore, this chapter first aims to provide a brief overview of the evolution of the immigration policy in the post-war Federal Republic of Germany (FRG). Secondly, this section pays special attention to the German parliamentary setting and developments between 2000 and 2015 to contextualise the parliamentary debates, which constitute the basis of the analysis in chapter four.

### *The Evolution of the German Ausländerpolitik (foreigner policy)*

After World War II, West Germany's economic recovery, also known as the *Wirtschaftswunder*, triggered extensive demand for un-skilled and low-skilled labour, mainly in the industrial sector. To satisfy these needs, the FRG established the so-called guestworker programmes. Between 1955 and 1968 the FRG signed recruitment agreements with Greece, Italy, Morocco, Spain, Portugal, Tunisia, Turkey and Yugoslavia.<sup>51</sup> According to these policies, workers from those countries were never supposed to permanently settle in Germany. These guestworker programmes were based on the assumption that the number of foreign workers can be flexibly controlled in order to respond to changing labour market demands. Therefore, it stood in stark contrast to an immigration model that connects the admission of foreigners to the possibility of permanent settlement and citizenship acquisition.<sup>52</sup> Immigrant

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<sup>51</sup> OECD, *Recruiting Immigrant Workers: Germany 2013*, Recruiting Immigrant Workers (OECD Publishing, 2013), 62, [http://www.oecd-ilibrary.org/social-issues-migration-health/recruiting-immigrant-workers-germany\\_9789264189034-en](http://www.oecd-ilibrary.org/social-issues-migration-health/recruiting-immigrant-workers-germany_9789264189034-en).

<sup>52</sup> Douglas B. Klusmeyer and Demetrios G. Papademetriou, *Immigration Policy in the Federal Republic of Germany: Negotiating Membership and Remaking the Nation* (New York: Berghahn Books, 2009), 85.

workers were only granted temporary residence, without any political rights or access to secure social services: “They were seen as temporary labour – to be sent away when no longer needed – not as future citizens.”<sup>53</sup> While this rotational principle of the programme was favoured by the government, many immigrant workers and industrial firms, which did not want to have to continuously train new personal, preferred permanent settlement.<sup>54</sup>

In 1973, as a consequence of the Arab oil crisis and following economic recession, a recruitment ban was almost immediately put into place. While many guestworkers returned to their home countries, many Turkish immigrants decided to stay. Despite the recruitment stop, migration to Germany continued through family reunion of the now permanently settled 'guest' workers. Given the objectives and assumptions of the recruitment programmes, German policy makers viewed immigrants' permanent settlement as a disagreeable problem that needed to be solved.<sup>55</sup> In the vein of the government's mantra that “Germany is not a country of immigration” voluntary return policies and restrictions to family reunifications were introduced over policies to facilitate integration.<sup>56</sup>

From the mid-1970s to the early 1980s, the social costs caused by the immigrant population seemed to outweigh all economic benefits brought by the recruitment programmes.<sup>57</sup> In the public debate, immigrants were increasingly described as financial burdens linked to unemployment and the education for their children. Although the Turks never represented more than a third of Germany's immigrant population, they became not only the most well-known symbol of the guestworker but also the “problem foreigner” – not least because they were the

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<sup>53</sup> Professor Carl-Ulrik Schierup, Professor Peo Hansen, and Professor Stephen Castles, *Migration, Citizenship, and the European Welfare State: A European Dilemma* (European Societies, 2006), 150.

<sup>54</sup> Philip L. Martin, “Germany: Managing Migration in the Twenty-First Century,” in *Controlling Immigration: A Global Perspective*, by Wayne A. Cornelius (Stanford University Press, 2004), 229.

<sup>55</sup> Klusmeyer and Papademetriou, *Immigration Policy in the Federal Republic of Germany*, 97.

<sup>56</sup> Schierup, Hansen, and Castles, *Migration, Citizenship, and the European Welfare State*, 151.

<sup>57</sup> Klusmeyer and Papademetriou, *Immigration Policy in the Federal Republic of Germany*, 97.

most visible immigrant group distinguished by their religion.<sup>58</sup> Especially the political rhetoric of the Christian Democratic Party (CDU) and its sister Christian Social Party (CSU), which – caught between failed premises about the guestworker programme and the rejection of a new incorporative migration system – helped to shape negative attitudes toward foreign residents: “The primary practical effect of the CDU/CSU’s approach to *Ausländerpolitik* was to postpone any serious reform efforts for years, to further politicize the issue of immigration, and to shatter any prospect for forging a policy consensus among parties to tackle the problem of integration.”<sup>59</sup>

Kay Hailbronner, a prominent scholar of migration law and a close adviser of the CDU/CSU in the 1980s, explained the drive behind German migration law on the basis of the German national self-understanding. For him the idea of German nationhood is:

[...] basically not a political one but a cultural, linguistic, and ethnic one. For most of its history, it has been politically fragmented [...] In the eighteen and nineteenth century, political fragmentation led Germans to think of their nation not as a political unit but as a cultural, linguistic, and ethnic unit. This traditional ethnocultural element remains alive today, reinforced by the postwar division of Germany.<sup>60</sup>

In the early 1990s, the Conservatives<sup>61</sup> started to change their nationalist profile, which proclaimed the defence of the German identity by preserving homogeneity and began to legislate and liberalise the obsolete 1965 Aliens Act.<sup>62</sup> There are several circumstances that contributed to this development.<sup>63</sup> First, encouraged by extreme-right groups and alarming media reports about the uncontrollability of waves of new asylum seekers and ethnic Germans

<sup>58</sup> Ibid., 95; Martin, “Germany: Managing Migration in the Twenty-First Century,” 231.

<sup>59</sup> Klusmeyer and Papademetriou, *Immigration Policy in the Federal Republic of Germany*, 107.

<sup>60</sup> Rogers Brubaker and Kay Hailbronner, eds., “Citizenship and Nationhood in Germany,” in *Immigration and the Politics of Citizenship in Europe and North America* (University Press of America, 1989), 74.

<sup>61</sup> CSU and CDU

<sup>62</sup> This Act was initially implemented in 1965 to regulate the conditions of entry “and temporary” residence for guestworkers

<sup>63</sup> Karen Schönwälder, “Germany: Reluctant Steps Towards a System of Selective Immigration,” in *Wanted and Welcome?*, ed. Triadafilos Triadafilopoulos, *Immigrants and Minorities, Politics and Policy* (Springer New York, 2013), 283.

from abroad, the situation culminated in an upsurge of anti-immigrant hostility and xenophobic crimes. Therefore, the German government wanted to send a clear signal by reforming of the foreigner policy to proclaim Germany as a tolerant country. Furthermore, the introduction of a more restricted asylum law was taken as a counterbalance for the new more inclusive naturalisation and immigration policies.<sup>64</sup>

When the Social Democrats-Green Coalition came to power in 1998 after 16 years of Conservative rule, German migration policy-making changed essentially. The 1999 Citizenship Act finally granted German citizenship to all immigrants' children born on German soil. This was a deep rift the ethnonational understanding guiding German foreigner policy, assuming “that one can be German but not become German”.<sup>65</sup> Yet, although the reform introduced the civic territorial citizenship category with a *jus soli* provision, the Act in general ended up being far less generous than anticipated.<sup>66</sup>

Overall, the shift from a very restrictive membership and official zero-immigration policy in the 1970s/80s,<sup>67</sup> towards a cautious introduction of more inclusive and open foreigner policies in the 1990s, was based on an increasing acceptance of Germany's past waves of immigration. However, the fact that it took the policy-makers almost five years from then to design the Migration Act of 2005, a regulation for foreigners' conditions of entry and residence, shows that immigration issues were still contentious and politically loaded.

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<sup>64</sup> Ibid.

<sup>65</sup> “Von Der ‘Gastarbeiter’-Anwerbung Zum Zuwanderungsgesetz | Bpb,” accessed May 29, 2015, <http://www.bpb.de/gesellschaft/migration/dossier-migration/56377/migrationspolitik-in-der-brd?p=all>.

<sup>66</sup> Schönwälder, “Germany,” 276.

<sup>67</sup> In reality, several exceptions were introduced for seasonal work in the agricultural and hospitality sector in the 1980s and 1990s.



### *The Cautious Opening to Skilled Migration*

With the growing recognition that migration would have a sustainable impact on German society, the discourse about an active immigration and integration policy emerged in the beginning of the millennium. The announcement of the 'Green Card' by Chancellor Schröder in 2000 is considered a crucial turning point in German migration policy. The initiative, which allowed firms to recruit up to twenty thousand IT specialists, contrasted significantly with the zero-immigration attitude that had dominated political and public discourse since 1973. Then, for the first time in nearly 30 years, a leading politician was emphasising the indispensability of immigration to Germany.<sup>68</sup>

The Green Card produced an enormous echo of public discussion about the future of immigration in Germany. Therefore, an independent commission, the so-called Süßmuth Commission, was assigned the task to explore possible future policies concerning immigration. The results presented by the commission were surprisingly liberal. The commission's report emphasized that Germany, due to economic and demographic reasons, needed immigration. For this purpose the commission recommended a complete revision of the immigration law to enable control in the selection of migrants. To this end, the commission suggested, among other things, a point system to select the candidates according to various criteria such as age, language skills and education.<sup>69</sup>

The Federal Government at that time, the coalition of the Social Democratic Party (SPD) and the Alliance '90/The Greens, adopted many proposals of the commissions in their draft of a new migration law in 2001. This bill was discussed, amended and finally adopted by German parliaments in 2002. However, due to a lack of clarity in the voting behaviour of a member of

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<sup>68</sup> Schönwälder, "Germany," 276.

<sup>69</sup> Klusmeyer and Papademetriou, *Immigration Policy in the Federal Republic of Germany*, 234; "Von Der 'Gastarbeiter'-Anwerbung Zum Zuwanderungsgesetz | Bpb."

the CDU in the German upper parliament, the Federal Constitutional Court declared the law invalid. Therefore, the exact draft was then negotiated upon again in 2003.

The 2005 Migration Act [*Zuwanderungsgesetz*] did not yet bring the initially intended liberations that the members of the SPD and the Greens had in mind, as the point system was not implemented. Furthermore, the recruitment ban of 1973 was not lifted – only exemptions have been added according to the current economic needs. The fact that labour migrants have to have a job offer in order to be able to apply for a residence title shows that German labour migration policy continues to be strictly demand-driven.<sup>70</sup> Since then, Germany has gradually opened up more and more to skilled and highly-skilled migration, with important liberations for researchers in 2007, a lowering of the salary threshold in 2008 towards advantageous provisions for foreign students and the implementation of the EU Blue Card for highly-skilled workers from third countries in 2012.<sup>71</sup>

## Germany's Current Labour Immigration Policies

The Residence Act [*Aufenthaltsgesetz*]<sup>72</sup> formed the main pillar of the 2005 Migration Act and united, for the first time non-EU migrants' residence, employment and integration regulations under one framework. While all citizens of the EU and the European Economic Area (EEA) states as well as of Switzerland can live and work freely in Germany<sup>73</sup>, third-country nationals (TCNs) have to apply for a residence title, which specifically allows them to be employed. Requirements and conditions of such a permit differ according to varying groups of asylum

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<sup>70</sup> OECD, *Recruiting Immigrant Workers*, 67.

<sup>71</sup> Ibid., 65–66.

<sup>72</sup> “Aufenthaltsgesetz [Residence Act],” *Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory*, September 3, 2013, [http://www.gesetze-im-internet.de/englisch\\_aufenthg/englisch\\_aufenthg.html](http://www.gesetze-im-internet.de/englisch_aufenthg/englisch_aufenthg.html).

<sup>73</sup> With the exception of Croatia, which falls under the EU Free Movement Act [*Freizügigkeitsgesetz/EU*]

seekers, labour migrants, *Aussiedler* and certain privileged nationalities as well as their family members.

In this chapter, I exclusively focus on the requirements and conditions of labour migrants and their families, as these will provide the framework for the parliamentary debate on skilled and low-skilled migrants. Moreover, for the sake of brevity, I concentrate only on those labour migrant categories that constitute a major part of Germany's migration management strategy in terms of numbers and importance.<sup>74</sup>

### *Categories*

Generally, the migration management of the German Federal government is labour market and employer oriented. That is to say, that it seeks to attract qualified professionals [*Fachkräfte*] with postsecondary education and a matching job offer, in order to counteract skill shortages in certain sectors.<sup>75</sup> As a general rule all residence title applications for the purpose of employment are subject to approval by the Federal Employment Office [*Bundesagentur für Arbeit*], which checks whether the job offer meets minimum standards of wages and conditions. Moreover, a labour market test [*Vorrangprüfung*] is applied in order to examine if there are job-seeking German or EU citizens who could be employed for this job. Furthermore, labour migrants have to prove that their livelihood is secure and will not depend on public benefits.<sup>76</sup>

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<sup>74</sup> Federal Office for Migration and Refugees (BAMF), "Migrationmonitoring: Immigration to Germany [Wanderungsmonitoring: Migration Nach Deutschland]" (BAMF, November 2, 2015). I exclude, therefore, Section 21 of the Residence Act (migration for the purpose of self-employment); Section 3,4 and 10 of the Employment Act (inter-company transferees); Section 18,20,13,25 of the Employment Act (journalists, international transport, sport and cultural events) and Section 26 of the Employment Act (special conditions for certain nationalities like US, Japan, Israel, Canada etc.).

<sup>75</sup> Matthias M. Mayer, "Nationale Strategie Und Massnahmen Zur Gewinnung Hochqualifizierter Und Qualifizierter Drittstaatsangehöriger [National Strategies and Measure to Win High-Qualified and Qualified Third Country Nationals]" (BAMF, May 2013), 13.

<sup>76</sup> "A foreigner's livelihood is secure when he or she is able to earn their living, including adequate health insurance coverage, without recourse to public funds. For the purposes of this definition, such funds do not include child benefits, children's allowances, child-raising benefits, parental allowances, and public funds based on own contributions or granted in order to enable residence in Germany" §2(3) Residence Act.

Therefore, the labour migration policies mainly categorize migrants and their granted conditions of entry and residence according to occupation, skill and income level. Three general categories of labour migrants can be distinguished in the Residence Act and the Employment Act of 2013: highly-skilled migrants [*Hochqualifizierte*] with a recognised university degree; skilled migrants [*Qualifizierte*] with recognised professional training; and low- or unskilled migrant workers [*Gering oder nicht Qualifizierte*]. The following sections will examine how these migrant categories are distinguished and what rights and conditions are granted to each of these classifications.

### *Provisions for Highly-skilled Immigrants*

The category of “highly-qualified”<sup>77</sup> or “highly-skilled” is not defined in general terms in the Residence Act. The provisions rather divide the concept into four different sub-categories: the “genuine” highly-skilled (§19), Blue Card holders (§19a), researchers (§20), and students (§18b).<sup>78</sup> Whereas immigration for the purpose of employment was only possible when holding a matching job offer until 2012, more liberal policies have been implemented for highly-qualified TCNs. These liberations indicated a paradigm-shift from a demand-driven and employer-orientated selection of labour immigrants towards one based on human capital criteria.<sup>79</sup> Now job-seeking foreigners with a university degree can enter and reside in Germany for up to six months in order to find employment that matches their qualifications.<sup>80</sup>

The most privileged category of the “genuinely” highly-skilled workers according to Section 19 of the Residence Act is entitled to scientists with special technical knowledge or teaching

<sup>77</sup> The term highly-qualified is the literal translation of the German term “hochqualifiziert”. However, this paper will use the translation highly-skilled because it matches more closely to the majority of the English language literature.

<sup>78</sup> Sections in the Residence Act.

<sup>79</sup> Mayer, “Nationale Strategie Und Massnahmen Zur Gewinnung Hochqualifizierter Und Qualifizierter Drittstaatsangehoeriger [National Strategies and Measure to Win High-Qualified and Qualified Third Country Nationals],” 13.

<sup>80</sup> “Aufenthaltsgesetz [Residence Act]. Section 18c.”

or scientific personnel in prominent positions. A person is only categorized as “genuinely” highly-skilled if “it can be assumed that a lasting integration into German society and a non-dependence on public benefits is assured.”<sup>81</sup> However, this formulation is obviously very general and it is not clear how the concept of integration is measured in the regional offices of the *Länder*.<sup>82</sup> To be classified as highly-skilled under this category provides the immigrant with several relatively advantageous conditions and rights compared to other labour migrant categories. The most important advantage is the immediate granting of the permanent settlement permit [*Niederlassungserlaubnis*], which is unlimited and not bound to a certain employment. Thus, the highly-skilled provision offers a safe residence title and a maximum allowance of job mobility: “[...] it is also the only one which grants unlimited settlement permit and unrestricted labour market access. In this sense, it was the only permit in OECD Europe granting labour migrants permanent and unlimited residence upon arrival.”<sup>83</sup> Furthermore, settlement permit holders receive the exact same social security benefits as German citizens. Although the settlement permit can be theoretically withdrawn within the first five years, this happens only in case of a serious threat to public security and order.<sup>84</sup>

The second highly-skilled labour migrant category according to the Residence Act is the Blue Card holder. To be able to acquire the Blue Card a TCN needs to have a recognised tertiary degree or five years of relevant professional experience in specifically defined areas, as well as an employment offer with a gross minimum income of at least €48,400 annually.<sup>85</sup> This

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<sup>81</sup> Ibid. Section 19.

<sup>82</sup> Mayer, “Nationale Strategie Und Massnahmen Zur Gewinnung Hochqualifizierter Und Qualifizierter Drittstaatsangehöriger [National Strategies and Measure to Win High-Qualified and Qualified Third Country Nationals].”

<sup>83</sup> OECD, *Recruiting Immigrant Workers*, 69.

<sup>84</sup> Andreas Müller, Matthias M. Mayer, and Nadine Bauer, “Soziale Absicherung von Drittstaatsangehörigen in Deutschland [Social Security of TCNs in Germany]” (BAMF, 2014), <http://www.iaf-bremen.de/files/emn-wp57-soziale-absicherung-drittstaatsangehoeriger.pdf>.

<sup>85</sup> The amount of 48,400€ represents two-thirds of the annual contribution assessment ceiling for general pension insurance (§2 (2) Employment Act).

amount is even lowered to an annual salary threshold of €37,752<sup>86</sup> in the case of particularly demanded professions like scientists, mathematicians and engineers as well as IT specialists and doctors.<sup>87</sup> The Blue Card holder receives a residence permit [*Aufenthaltserlaubnis*], which is valid for a limited period of time for up to four years, depending on the employment contract. Moreover, the Blue Card offers several flexibilities, especially the freedom to move within EU member states without barriers and the possibility to stay in a third country for up to 12 months. On top of that the Blue Card entitles its holder, who can prove A1 level<sup>88</sup> German skills, to acquire a fast-track settlement permit after 33 months working in Germany. If B1 level German language skills are proven, it can even be obtained after 21 months.<sup>89</sup>

In addition, researchers and students from third countries form part of the highly-skilled category and thus they enjoy advantageous rights. Especially students, representing future highly-skilled workers, constitute an important target audience of German labour immigration policies. Since 2012, students who finished their German university degree are granted a time-span of up to 18 months after graduation in order to find employment corresponding to their qualifications.<sup>90</sup> Furthermore, they are entitled to a fast-track settlement permit after two years of working in Germany.<sup>91</sup>

The fast-track acquisition of the permanent settlement permit represents a crucial advantage towards the naturalisation process, as every immigrant who would like to obtain German citizenship has to possess this settlement permit in the first place. However, every immigrant that does not qualify as highly-skilled has to strictly fulfil several requirements in order to

<sup>86</sup> The amount of 37,752€ is 52% of the contribution assessment ceiling (§2 (2) Employment Act)

<sup>87</sup> “BAMF - Bundesamt Für Migration Und Flüchtlinge - The EU Blue Card,” accessed May 1, 2015, <http://www.bamf.de/EN/Migration/Arbeiten/BuergerDrittstaat/BlaueKarte/blaue-karte-node.html>.

<sup>88</sup> A1,A2,B1,B2,C1,C2 represent language skills measurements according to the Common European Framework of Reference for Languages

<sup>89</sup> “Aufenthaltsgesetz [Residence Act]. Section 19a (6)”

<sup>90</sup> Ibid. Section 16 (4).

<sup>91</sup> Ibid. Section 18b. (B1 level of German required)

acquire it. These requirements include but are not limited to: a residence of five years in Germany with a temporary residence permit; 60 months of paid contributions to the statutory pension scheme; successful participation in a German language test (B1 level); and an integration course.<sup>92</sup>

Highly-skilled immigrants belonging to one of the above categories, as well as executive personnel, teaching and scientific employees,<sup>93</sup> do not need an approval by the Federal Employment Office nor a labour market test. This shortens the application process by several weeks. However, those TCNs with a foreign university degree (not being researchers), who do not reach the salary threshold to obtain the Blue Card, do not profit from the advantageous highly-skilled provisions. These immigrants rather slip into the skilled workers category under Section 18 of the Residence Act.<sup>94</sup>

### *Provisions for Skilled Immigrants*

In 2013, new regulations opened the German labour market for the first time to TCNs with foreign professional education. A person qualifies as “skilled” if he completed a vocational education of at least two years, which is recognised as being equivalent to German professional trainings.<sup>95</sup> Generally, to be admitted as a skilled immigrant worker with foreign professional training, one needs to have a concrete and matching job offer, an approval from the Federal Employment Office and pass the labour market test. There are two main paths for skilled TCNs in order to enter the German labour market: first, through a list of shortage occupations [*Mangelberufe*] and second, through bilateral placement agreements between the Federal Employment Office and countries of origin for specific professions.

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<sup>92</sup> Ibid. Section 9.

<sup>93</sup> “Beschäftigungsverordnung [Employment Regulation],” accessed April 26, 2015, [http://www.gesetze-im-internet.de/beschv\\_2013/](http://www.gesetze-im-internet.de/beschv_2013/). Section 3 and 5.

<sup>94</sup> “Aufenthaltsgesetz [Residence Act]. Section 18 (4).”

<sup>95</sup> “Skilled” according §18(4) Residence Act and §6 Employment Act

The Federal Ministry for Labour and Social Affairs together with the Federal Employment Office develops and updates regularly the so-called positive list of shortage occupations. As the list also considers specific regional labour market needs of the *Länder*, these occupations are not subject to a labour market test.<sup>96</sup> Most of the shortage occupations on the list are in the healthcare sector as well as technical industries, including, but not limited to the HVAC<sup>97</sup> and electrical trades. Bilateral placement agreements, on the other hand, focus only on care workers. Such agreements have existed since 2013 with Serbia, Bosnia-Herzegovina and the Philippines.<sup>98</sup> TCNs with completed German vocational training enjoy special advantages such as being granted up to 12 months job-seeking period after completion, while their occupation does not have to be on the shortage list.<sup>99</sup>

Immigrant workers that fall under the category of “skilled” workers receive a residence permit that is limited to the employment period specified in the work contract. However, this cannot be issued for a period longer than three years.<sup>100</sup> Furthermore, the permit is bound to that specific job. The unrestricted labour market access, meaning the right to change employer and occupation, is gained after working in Germany for at least two years. To be able to extend the residence permit, the immigrant worker has to prove that he has successfully attended the required language and integration courses during his stay in Germany; otherwise the extension will be refused

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<sup>96</sup> “Fachkräftemangel Je Nach Region Und Beruf - Wwww.arbeitsagentur.de,” accessed May 2, 2015, <http://www.arbeitsagentur.de/web/content/DE/Presse/Presseinformationen/ArbeitsundAusbildungsmarkt/Detail/index.htm?dfContentId=L6019022DSTBAI671437>.

<sup>97</sup> heating, ventilation, and air conditioning

<sup>98</sup> “Can I Work as a Carer in Germany? - Make It in Germany,” accessed May 3, 2015, <http://www.make-it-in-germany.com/en/for-qualified-professionals/discover-germany/i-made-it-success-stories/anca-carer-romania/work-in-germany-as-a-carer>.

<sup>99</sup> “Aufenthaltsgesetz [Residence Act].” Section 17(3).

<sup>100</sup> OECD, *Recruiting Immigrant Workers*, 75.



### *Provisions for Low- and Unskilled Immigrants*

The possibilities to enter Germany as a low-skilled labour migrant are extremely limited. Only certain specific occupations fall under the category of “low- or unskilled” workers. Most of these occupations are listed in the Employment Act under “temporary employment” and are therefore limited to a specific time period and cannot be prolonged under any circumstances. They include employment as an au pair, intern and volunteer, as well as speciality cook and mother-tongue language teacher.<sup>101</sup> Although immigrant workers under these categories might possess certain qualifications, they are of no importance for the granting of a temporary permit.

As part of bilateral placement agreements between the Federal Employment Office and a country of origin seasonal, workers (for instance in the agricultural and catering sector), artists and care workers in private households can be recruited.<sup>102</sup> However, there is no such agreement at the moment with any country outside the EU. Finally, there are two more categories of labour migrants that can enter Germany within the scope of bilateral agreements with Turkey, Serbia, and Bosnia-Herzegovina as well as Macedonia. First, contract workers [*Werkvertragsarbeiter*], who are sent by employers in the origin countries to work in Germany on a contractual basis for up to four years. Second, guest employees [*Gastarbeitnehmer*] can enter Germany for up to 18 months for an on-the-job professional training and language courses. Both groups are exempted from the labour market test.<sup>103</sup>

### *Family Reunification Provisions for Migrant Workers*

The right to family reunification and the conditions for spouses and children of immigrant workers in Germany vary significantly among the various labour migrants categories. Generally, the family of work-permit holders can live and work in Germany if the immigrant

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<sup>101</sup> “Beschäftigungsverordnung [Employment Regulation]. Section 11 and 12.”

<sup>102</sup> Ibid. Section 15.

<sup>103</sup> Ibid. Section 29.

worker can prove a secure livelihood and enough living space. However, family reunification rights are not granted to immigrant workers in low-skilled professions. Furthermore, the conditions of entry and access to the labour market depend strongly on the conditions of the primary work permit.<sup>104</sup>

The highly-skilled have not only special advantages in the process of application and attainment of the permanent settlement permit, but also the family reunification rights granted to them are more favourable compared to the situation of less qualified and 'less needed' migrants. Spouses of highly-skilled workers are granted immediate residence permit and unrestricted labour market access for the same time-period as the primary residence title. Moreover, they do not have to prove any knowledge of the German language.<sup>105</sup> The children of “genuinely” highly-skilled and Blue Card holders according to Section 19 of the Residence Act are entitled to full access without restrictions and conditions.<sup>106</sup>

However, for other migrant worker groups the family reunification rights are bound to some conditions: spouses have to be at least 18 years old and need to prove A1 level German. Furthermore, the couple must be wed before the primary permit was issued.<sup>107</sup> Additionally, spouses need an approval of the Federal Employment Office in order to access the labour market. Interestingly, the language requirements are lifted for those spouses for whom “the need for integration is discernibly minimal”.<sup>108</sup> In other words, this means that all spouses with a university degree are exempted from a language test. Furthermore, certain nationalities are completely excluded from these provisions such as citizens of the US, Japan, Canada and so

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<sup>104</sup> OECD, *Recruiting Immigrant Workers*, 75.

<sup>105</sup> “Aufenthaltsgesetz [Residence Act]. Section 30.”

<sup>106</sup> Ibid. Section 32(1).

<sup>107</sup> Ibid. Section 30(1)

<sup>108</sup> Ibid.

on.<sup>109</sup> The children of skilled workers who are already 16 years old, however, face certain requirements linked to integration in order to come to Germany:

“[the child]... shall be granted a residence permit if he or she has a command of the German language or if it appears on the basis of the child's education and way of life to date that he or she will be able to integrate into the way of life which prevails in the Federal Republic of Germany.”<sup>110</sup>

Overall, we have seen how Germany's labour migration legislation constructs different labour migrant categories according to skill-levels, occupations, and salary thresholds. Each of these migrant groups have a certain patchwork of rights granted to them. Migrants grouped into the highly-skilled category have special fast-track options to receive the permanent residence permit, which offers the same social security benefits as those granted to German citizens. Furthermore, the family members of highly-skilled migrants automatically receive residence permits valid for the time span of the primary residence permit and unlimited labour market access without any language requirements. On the other hand, skilled workers with professional training can enter the job market only on the basis of a list of shortage occupation and bilateral agreements. These migrant categories receive a temporary residence permit whereby their family members receive only a residence permit, for up to one year if they prove a certain proficiency or level of German language skills. These residence permits can be prolonged only if the individual can prove attendance of integration courses. Under both of these categories preferential treatment is granted to those migrants who either studied or did a professional education inside Germany. Finally, low-skilled migrants (also if they have in fact professional education) have the most limited options to enter Germany. These options are automatically limited to a temporary period. Furthermore, migrants grouped into the low-skilled category do not receive any family reunification rights.

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<sup>109</sup> The full list includes Andorra, Australia, Israel, Japan, Canada, the Republic of Korea, Monaco, New Zealand, San Marino and the United States of America. Employment Act Section 26

<sup>110</sup> Ibid. Section 32(2)

This migration management of labour migrant groups is officially labour-market and employer oriented. The differential treatment of the migrant categories is, thus, justified through a rational choice approach establishing that some migrants are “needed” more than others. Accordingly, this categorisation has the effect of normatively labelling migrant groups as “desirable”, “deserving” versus “unwanted” and “undeserving”. And demand for migration in Germany is changing, particularly because of demographic changes that not only produce a shortage of highly-skilled workers but cause tremendous labor demand in other sectors such as elderly care. According to statistics of the Federal Employment Office acute lack of care workers and HVAC specialists is already alarming and is expected to grow more serious in the near future. <sup>111</sup> Taking into account these labour market complexities, which are not strictly organized according to skill-levels, question regarding how these labour migrant categories of high-skilled, skilled, and low-skilled were produced are raised and need to be examined.

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<sup>111</sup> Federal Employment Office [Bundesagentur fuer Arbeit (BA)], “Analysis of Shortage Occupations [Engpassanalyse 2013],” 2013, <http://statistik.arbeitsagentur.de/Statischer-Content/Arbeitsmarktberichte/Fachkraeftebedarf-Stellen/Fachkraefte/BA-FK-Engpassanalyse-2013-12.pdf>.

## Chapter 2: Research Design and Methodology

### Design and Scope of the Research

The basic assumption underlying my research is that the migrant categories of high-skilled, skilled and low-skilled are state constructed classifications, rather than naturally existing or occurring. As established in the previous chapters, policies and policy-makers – in the process of constructing these categories and justifying the differential treatment - charge these classifications with normative labels like “desirable”, “welcome” and “deserving” vs. “poor”, “not welcome” and “underserving”. This categorisation of labour migrants is based (1) on certain world views on how to best organize the world and (2) these views, in turn, depend to a significant extent on the assumed meanings of certain terms like “economic competitiveness”, “citizenship” or “labour market.”<sup>112</sup> Policies embody categories of thought that form and give meaning to legislation on the management of legal labour migration; thereby they produce, reproduce and transform the institutional cornerstones on which they are based.<sup>113</sup>

Thus, the aim of my research is to investigate how these normatively charged categories were produced, reproduced and justified, as well as contested, in German parliamentary debate. It has to be clearly stated that my research is not about judging whether the state-constructed meanings regarding labour migration management are “right” or “good” or if the policies achieve their intended goals. Rather, I aim to contribute to the academic literature on how normatively charged categories in migration management have been discursively constructed, by assessing the linked ideas, assumptions and arguments as well as the values presented by

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<sup>112</sup> Paul, *The Political Economy of Border Drawing*, 9.

<sup>113</sup> Ibid., 10.

policy-makers in the German parliament. Thereby, I will pay special attention to arguments linked to ethnic concerns. My overall research question is therefore:

*How were the categories of the high-skilled, skilled and low-skilled labour migrants discursively constructed, justified and legitimised in the German parliament and what role does ethnicity play in the construction of these categories?*

This research question is then divided into several more specific sub-questions: *Which ideas, values and assumptions underlie and enforce the differentiation between highly-skilled, skilled, and low-skilled migrants? Which arguments are presented to justify the differential treatment of these labour migrant groups? How do these ideas, assumptions and values as well as arguments relate to ethnicity? How did these ideas developed over time? Were all ethnic and social cohesion concerns replaced by economic concerns?*

Before answering these questions, the thesis must first define some terms and set some boundaries and qualifications. For the purpose of this thesis, *migration* refers to cross-border movements of people for a period of more than one year. Accordingly, a *migrant* is a person that resides for some permanence in a country of which he or she is not a citizen of. The definition of most of the key concepts follow from the focus of this research and the selection of the analysed materials. Since I analyse only those parliamentary debates that involve the policy-making concerning the Migration Act, or rather the Residence Act, the definition of labour migration bases, therefore, on this specific labour migration framework in Germany and includes all provisions outlined in the second chapter of this thesis. For the purpose of this thesis, I use a generic definition of *ethnicity*, taken from the Oxford Dictionary, as the fact or state of belonging to a social group that has a common national or cultural background.

It has to be explicitly stated that by basing my research on the Residence Act, I focus exclusively on the labour migration framework for non-EU citizens. The mobility of EU-

citizens between member states is therefore taken for granted and is not the subject of this thesis. Furthermore, the analysis excludes non-worker movements such as migration for asylum purposes. Family reunification, on the other hand, is intrinsically linked with the provisions granted to skilled migrants and is therefore a subject of the parliamentary analysis. As the naturalisation test is the same for all migrants who would like to acquire citizenship, I concentrate exclusively on provisions regarding rights of entry, residence, and family reunification for labour migrants. Therefore, my research is not concerned with the analysis of actual citizenship provisions but rather with certain citizenship rights granted to the different groups of labour migrants and how those rights are unequally provided to these groups.

The understanding of who is highly-skilled, skilled or low-skilled are entirely based on the administrative categories set up in the Residence Act. These categories, as outlined before, are based on formal education criteria, occupations and salary thresholds, rather than on soft-skills and personal qualities.<sup>114</sup> By examining the policy proposals which the parliamentary debates address and the expertise of the exact provisions for each of these groups, allows me to identify which labour migrant group is the subject of discussion.

## **The German Parliament and the Selection of Material**

Germany is a federal parliamentary republic, meaning that legislative power is distributed to both, the *Bundestag*, which is the federal parliament, and the *Bundesrat*, often described as the upper house of parliament, representing the German federal states [*Länder*].<sup>115</sup> The Federal Government [*Bundesregierung*], the *Bundestag* and the *Bundesrat* have the right to initiate a law.

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<sup>114</sup> See Anderson, "Exclusion, Failure, and the Politics of Citizenship," 58 for an excellent assessment of "skilled" in policies versus real experience and human qualities.

<sup>115</sup> "Wie Ein Gesetz Entsteht - 24 X Deutschland," accessed May 27, 2015, <http://www.bpb.de/politik/grundfragen/24-deutschland/40463/wie-ein-gesetz-entsteht>.

Once a draft bill from a Ministry is approved by the Cabinet, it is submitted to the *Bundesrat* for comment. Equipped with the *Bundesrat*'s opinion, the design goes into the so-called first reading in the *Bundesrat* plenary. Yet, a discussion in the first reading only takes place "when the federal government and the parliamentary groups want to explain their fundamental opinions concerning the bill to the public."<sup>116</sup> Afterwards, the standing committees of the *Bundestag*, which revises the bill before it goes into the second reading. In this second reading, the opposition has the possibility to propose amendments again. In this way they can express their concerns to a law to the public. The second reading is often followed directly by the third reading in which the law is finally accepted or rejected. If the law has clear financial or administrative effects on the federal states, the *Bundesrat* needs to approve the bill before it can be implemented.<sup>117</sup>

The fact that every federal law has to be discussed, revised and approved in the federal parliament, makes the *Bundestag* "the most important organ of the legislative branch in the German Federation."<sup>118</sup> Being as well the only political body that is directly elected by the German people, it symbolizes,<sup>119</sup> as Teun van Dijk puts it, "democratic discussion, decision making and power."<sup>120</sup> Every MP along with the members of the Federal Government and of the *Bundesrat* have the right to talk in front of the *Bundestag*. However, this debate time is limited. The debating time is distributed to parliamentary groups (generally grouped up

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<sup>116</sup> "Ein Gesetz Entsteht | Bpb," accessed May 27, 2015, <http://www.bpb.de/politik/grundfragen/deutsche-demokratie/39351/ein-gesetz-entsteht?p=1>.

<sup>117</sup> There is also the *Landtag*, a parliament with legislative competences for the individual German *Länder*. However, as laws on migration issues are decided on federal level, this political body is not of importance for this research.

<sup>118</sup> "German Bundestag - Function and Role," accessed May 28, 2015, [http://www.bundestag.de/htdocs\\_e/bundestag/function/function/197608](http://www.bundestag.de/htdocs_e/bundestag/function/function/197608).

<sup>119</sup> Every German citizen has two votes. With the first one they can vote a regional representative into the Bundestag. The second vote is given to the party and determines, therefore, the relative strength of that party in the Bundestag as long as the party reaches the threshold of 5% or wins at least 3 direct mandates.

<sup>120</sup> Ruth Wodak and Teun Adrianus van Dijk, *Racism at the Top : Parliamentary Discourses on Ethnic Issues in Six European States*, Investigation, Explanation and Countering of Xenophobia and Racism ; 2 (Klagenfurt/Celovec [Austria]: Drava [for] Austrian Federal Ministry of Education, Science and Culture, 2000), 13.



according to parties) in regards to their relative strengths in the *Bundestag*. In these debates, the parties in government (coalitions of parties that build the government) have to face the critical scrutiny of the opposition parliamentary groups. The *Bundesrat*, on the other hand, represents an important political body to take the considerations of the regional *Länder* into account. The *Bundesrat* normally consists of the minister-presidents of the *Länder* and other cabinet ministers.

Despite its elemental role in legislation, parliamentary debates as forms of political discourse have not received much academic attention. However, “It is in parliament that immigration and minority policies are discussed and legitimized, and legislation adopted that vitally influences the daily lives of migrants.”<sup>121</sup> Parliamentary debates embody opinions built on different ideologies “formulated against background of different interests as represented by members of parliament (MPs) of different political parties. As representatives, MPs are expected to voice the opinions of the citizens and organizations about immigration and ethnic affairs.”<sup>122</sup> Therefore, parliamentary debates, as the venue where policies are framed, justified and challenged with the purpose to represent voters and influence public opinion, constitute a significant source for the investigation of how different categories of labour migrants are constructed and normatively labelled.

In the selection of material for analysis, I limited the data body to plenary debates of the *Bundesrat* and the *Bundestag*, thus excluding for instance committee debates, interviews or question hours in the parliament. Furthermore, I only selected debates that are part of legislative processes regarding the 2005 Migration Act or rather the Residence Act, which include all provisions for labour migrants, as outlined in the second chapter. Therefore, it was not important if the legislation was actually adopted or not. The time frame of the research starts

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<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

with the first debate in 2003 about the legislation that would become the 2005 Migration Act and ends in 2012 with the last legislative procedure amending the Residence Act. I intentionally excluded the earlier legislative procedures on the Migration Act in 2001 and 2002, partially because this Act was declared invalid by the Federal Constitutional Court, because this same proposal was introduced in later debates, and also because of the time constraints involved.<sup>123</sup>

As the analysis of all the parliamentary debates concerning the Migration and the Residence Act would certainly exceed the word limits of this thesis, I concentrate only on the first readings in the *Bundestag* and the *Bundesrat*. These first readings, as mentioned before, only take place when the Federal Government or the parliamentary parties want to explain their general opinion to the public. Instead of discussing the bills word for word, these first readings tell more about the parties' position in general and thus represent a valuable source material for the purposes of this thesis. With these criteria in mind I retrieved the corresponding parliamentary debates on the *Bundestag*'s official website *bundestag.de*. As illustrated in the following table, Table 1, ten parliamentary debates concerning six bills that aim at amending the Migration Act or rather the Residence Act are the subject of the analysis.

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<sup>123</sup> See more detailed explanation in chapter one.

<b>Table 1:</b>		
Analysed Bills and Parliamentary Debates		
<b>15<sup>th</sup> Bundestag 17.10.2002-18.10.2005</b>		
<b>Governing coalition:</b> Social Democratic Party (SPD) and Alliance '90/The Greens		
<b>Opposition:</b> Christian Democratic Union of Germany (CDU)/Christian Social Union (CSU); Free Democratic Party (FDP), Party of Democratic Socialism (PDS)		
<b>1</b>	<b>Bill to Control and Restrict Immigration and to Regulate the Residence and Integration of EU Citizens and Foreigners (Migration and Integration Act)</b> <i>[Gesetz zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern (Zuwanderungssteuerungs- und Integrationsgesetz)]</i>	
	1. Round Bundesrat	14.02.2003
	1. Reading Bundestag	13.03.2003
	Initiated by the Federal Government	Entry into force: 01.01.2005
<b>16<sup>th</sup> Bundestag 18.10.2005-27.10.2009</b>		
<b>Governing coalition:</b> SPD and CDU		
<b>Opposition:</b> FDP; the Alliance '90/The Greens; The Left		
<b>2</b>	<b>Bill for the Implementation of EU Directives Regulating Residence and Asylum</b> <i>[Gesetz zur Umsetzung aufenthalts- und asylrechtlicher Richtlinien der Europäischen Union]</i>	
	1. Round Bundesrat	11.05.2007
	1. Reading Bundestag	26.04.2007
	Initiated by the Federal Government	Entry into force: 01.09.2008
<b>3</b>	<b>Bill for the Adequate Regulation of High-skilled Immigration according to the Labour Market and for the Amendment of further Residence Provisions</b> <i>[Gesetz zur arbeitsmarktdäquaten Steuerung der Zuwanderung Hochqualifizierter und zur Änderung weiterer aufenthaltsrechtlicher Regelungen (Arbeitsmigrationssteuergesetz)]</i>	
	1. Round Bundesrat	10.10.2008
	1. Reading Bundestag	25. 9. 2008
	Initiated by the Federal Government	Entry into force: 25.12.2008
<b>17<sup>th</sup> Bundestag 27.10.2009-18.22.2013</b>		

<b>Governing coalition:</b> CDU and FDP		
<b>Opposition:</b> SPD; Alliance '90/The Greens		
<b>4</b>	<b>Bill for the Amendment of the Residence Act (Family Reunification of Spouses)</b> [ <i>Gesetzes zur Änderung des Aufenthaltsgesetzes (Ehegattennachzug)</i> ]	
	1. Reading Bundestag	02.06.2010
	Initiated by the opposition party Alliance '90/The Greens	Not adopted
<b>5</b>	<b>Bill for the Implementation of EU Directives Regulating the Immigration of Highly-skilled</b> [ <i>Gesetz zur Umsetzung der Hochqualifizierten-Richtlinie der Europäischen Union</i> ]	
	1. Round Bundesrat	10.02.2012
	1. Reading Bundestag	1.03.2012
	Initiated by the Federal Government	Entry into force: 01.08.2012
<b>6</b>	<b>Bill for the Amendment of the Residence Provisions for Family Reunification of Spouses</b> [ <i>Gesetz zur Änderung des aufenthalts- und freizügigkeitsrechtlichen Ehegattennachzugs</i> ]	
	1. Reading Bundestag	22.03.2012
	Initiated by the opposition party SPD	Not adopted
<b>Source:</b> <a href="http://www.bundestag.de">www.bundestag.de</a>		

## Research Methodology

Rhetoric is fundamental for policy-making and the parliament, as outlined above, provides the law-makers with a forum to express and challenge political ideas and values in the policy-making process for the public record. The MPs prepare their speeches with the public in mind and use the parliament as a venue to explain and justify their political stance to the voters. These debates are broadcasted live on the Parliament TV<sup>124</sup> and on the television channel *Phoenix*. Furthermore, one can listen to the debates on the telephone through a special hotline.

<sup>124</sup> On this channel, all parliamentary debates, committee meetings and public hearing are broadcasted. It is accessible via satellite or internet.

Additionally, all these proceedings are uploaded in the form of written protocols and videos on the website *bundestag.de*, and represent therefore, the official historical records of the parliamentary policy-making.

In order to examine how the categories of the highly-skilled, skilled and low-skilled migrant have been constructed and normatively labelled as “desirable”, “deserving” and “welcome” or rather as “unwanted”, “undeserving” and “not “welcomed”, I apply a discourse analysis approach. This interpretive approach is in the agreement with those that declare that the “effort to exclude meaning and values from the work of the policy analyst cuts the very heart out of political inquiry.”<sup>125</sup> For the purpose of this thesis, I use Bacchi’s definition of discourse, which constitutes a set of “related statements, signs and practices that creates the object(s) and domain(s) it purports to describe, giving those object and domains status as ‘truth’ or ‘knowledge’.”<sup>126</sup> Discourse, therefore, does not simply reflect the world like a mirror; it rather constructs and organizes the subjective understandings of social reality. Drawing on the social constructionist perspective, discourse theory, as such, is built on the assumption “that all actions, objects, and practices are socially meaningful and that these meanings are shaped by the social and political struggles in specific historical periods.”<sup>127</sup> Thus discourse analysis represents a valuable method to investigate how migrants categories formed by socially interpreted meanings and understandings, which are “produced and reproduced through discursive practices.”<sup>128</sup>

Rosalind Gill identified three key features of discourse analysis which are of great value for my methodological approach. First, discourse is a topic of its own. This means that instead of

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<sup>125</sup> Frank Fischer, *Reframing Public Policy : Discursive Politics and Deliberative Practices: Discursive Politics and Deliberative Practices* (OUP Oxford, 2003), 216.

<sup>126</sup> Carol Bacchi, *Analysing Policy: What’s the Problem Represented to Be?*, 1 edition (Frenchs Forest, N.S.W.: Pearson Education Australia, 2009), 275.

<sup>127</sup> Fischer, *Reframing Public Policy*, 73.

<sup>128</sup> *Ibid.*, 13.

seeing discourse as a pathway to find out “what really happened”, discourse analysts are interested in the content and organization of the text or talk.<sup>129</sup> The second feature of discourse analysis is that it views language as constructed and constructive. Thereby discourse makes use of pre-existing language resources – like terms, narratives and metaphors – whereas a selection from a number of different possibilities has to be made. While we interact with the world through constructions, these practices, in turn, construct our world. Thus, all ideas and assumptions within parliamentary debates reflect a certain social reality within a specific context. Therefore, discourse analysis does not aim to evaluate, falsify or verify the political arguments; but rather it intends to show how “objects and actions come to be socially constructed and what they mean for social organization and interaction.”<sup>130</sup>

Finally, discourse as a social practice cannot occur in a social vacuum. This means that in the analysis of parliamentary debates the specific context in which these debates are produced cannot be ignored. More specifically, Teun van Dijk argues that parliamentary debates, rather than being discursively specific, are defined by their specific political context, in terms of “MPs giving speeches in parliament, as representatives of constituencies, as members of political parties, or as defending or opposing government positions, and thus accomplishing many political actions within the overall act or process of legislation.”<sup>131</sup> Thus, it is not only crucial to analyse the parliamentary debates within the specific policy framework in which they occur; but is also to consider the different political parties and their role as governing political group or opposition.

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<sup>129</sup> Rosalind Gill, “Discourse Analysis,” in *Qualitative Researching with Text, Image and Sound: A Practical Handbook for Social Research*, ed. Martin W. Bauer and George D. Gaskell, 1 edition (Los Angeles: SAGE Publications Ltd, 2000), 174.

<sup>130</sup> Fischer, *Reframing Public Policy*, 73.

<sup>131</sup> Wodak and Dijk, *Racism at the Top*, 23.

In analysing the data, I followed the step-by-step guide for thematic analysis of Virginia Braun and Victoria Clarke.<sup>132</sup> After repeated reading of the material, I systematically coded the debates in an inclusive manner. This means I tried to identify as many patterns as possible whereby I kept a little of the surrounding of the coded extracts when collecting them in separate computer files sorted by the six different Acts as well as by the speakers' political affiliation. In the next phase, I analysed the different codes examining their intrinsic relationship as well as identifying and refining main themes and sub-themes. In the following chapter the results are presented.

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<sup>132</sup> Virginia Braun and Victoria Clarke, "Using Thematic Analysis in Psychology," *Qualitative Research in Psychology* 3, no. 2 (January 1, 2006): 77–101, doi:10.1191/1478088706qp063oa.

## Chapter 3: Analysis of the Parliamentary Debate

The discourse analysis was conducted on the basis of ten parliamentary debates discussing six bills to create or rather amend the Residence Act between 2003 until 2012. The outcome of the analysis can be organised in different ways. As the aim of the analysis was, but not limited, to examining how the different ideas, arguments and assumptions, which constructed the categories of the highly-skilled, skilled and low-skilled labour migrant categories, developed over time, I organise this chapter along the time line of the different debates, starting with the oldest and ending with the latest. Only the debates about the “Act for the Implementation of EU Directives Regulating Residence and Asylum” (2007), the “Act for the Amendment of the Residence Act (Family Reunification Spouses)” (2010) and the “Act for the Amendment of the Residence Provisions for Family Reunification of Spouses” (2012) are examined jointly in one section, since all of these debates address the same issues concerning family reunification. Furthermore, rather than structuring the debates only according to themes, I order the specific arguments, ideas and assumptions presented along the political parties within the governing coalition and the opposition.<sup>133</sup> This enables the reader to understand the clash of ideas and arguments that defines the parliamentary discourse.

### The Creation of the Migration Act

The first two parliamentary debates in the *Bundesrat* and in the *Bundestag* discuss the “Bill to Control and Restrict Immigration and to Regulate the Residence and Integration of EU Citizens and Foreigners”, in short the Migration Act. The bill was initiated by the Federal Government and proposes, among other things, different labour migration channels to enter and reside in Germany. The draft specified that all students, who acquired a German university

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<sup>133</sup> Considering the relatively weak strengths of the PDS or rather The Left party in the Parliament and the fact that the party’s view differs considerably from the rest, the stance of this party will only play a marginal role in this analysis.



degree should receive a residence permit for one year in order to find a job. Additionally, the bill introduces a provision for skilled workers to enter the German labour market either through an approval of the Federal Employment Office or a bi-national agreement. Furthermore, highly-skilled immigrants such as scientists, professors and employees in leading positions<sup>134</sup> would receive a permanent settlement permit. Finally, the bill included a provision to recruit labour migrants on the basis of a point system according to certain criteria such as age, family status, and education as well as language skills. This last provision would not require a certain job offer. Yet, after long negotiation between the SPD and CDU in 2003 and 2004, the point system was not adopted, while other provisions proposed also were restricted.<sup>135</sup>

### *Position of the Governing Parties: SPD and Alliance '90s/ The Greens*

In these two debates taking place in 2003, there is an apparent consensus among members of the governing parties on the reason why this law should be implemented. It is argued that one should accept that Germany is and will continue to be a country of immigration. This argument is mostly illustrated on the basis of the number of immigrants that live already in Germany and the growing migration flows as a consequence of an ever more globalised world:

In times of globalization it is a misconception to think that you can stop migration completely. A foreclosure policy [ ... ] can only delay this development but it cannot prevent it. This means that Germany is an immigration country. That is the reality, even if you stick your head in the sand in front of this truth.<sup>136</sup>

Members of the Green party explicitly outline that the recognition that Germany is an immigration country, requires not only accepting immigrants as part of the society but also to acknowledge the otherness of immigrants concerning their religion and culture: "This also

<sup>134</sup> The category of specialists and employees in leading positions includes a salary threshold of 86.300 Euros.

<sup>135</sup> The Federal Government, "Draft: Act to Control and Restrict Immigration and to Regulate the Residence and Integration of EU Citizens and Foreigners (Migration and Integration Act)- Drucksache 22/03," January 16, 2003.

<sup>136</sup> Deutscher Bundestag, "31. Meeting (15th Bundestag)," March 13, 2003, Josef Winkler (The Greens).

includes that we have to tackle that immigration changes the face of society.”<sup>137</sup> It is argued that the problems with not-integrated immigrants can only be solved if Germany takes the first step and sets signs to show that people of different beliefs are tolerated and welcome. The Migration Act is, thus, seen as a way to send a message to the world and to immigrants living in Germany that the German society is foreigner-friendly and inclusive.

The acknowledgment that migration cannot be stopped leads the governing politicians to the conclusion that it should be controlled rather than blocked. The politician Otto Schily, emphasizes the importance to control immigration in a “qualitative” way in order to accept those migrants that are needed and block those migrants that are not wanted:

Without the redesign of the migration law the current regulations and the certain kinds of immigration that we do not want in this form and quality would persist. If we only adopt an integration law, the consequences would be that we spend a lot of money on integration measures of people whose immigration we actually want to stop [...] Without management and qualification of immigration – that is the current legal status- no capping mechanism, no consideration of our own economic interests, undiminished immigration into the social system [...] no residence permit for qualified and excellently integrated foreign university graduates.<sup>138</sup>

Accordingly, Otto Schily pleads for the migration management according to the immigrants’ “quality”, assuming that if migrants do not have the “quality” wanted, they do not find a job and end in the social system whereby money is “wasted” on their integration. On the other hand, the assumed very well-integrated university graduates are welcome to stay, as this would be in the economic interest of the country. Contrasting these two migrant categories is a quite direct way to draw the line between those that are labelled as skilled, well-integrated and

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<sup>137</sup> Ibid. Marieluise Beck (The Greens).

<sup>138</sup> Ibid. Otto Schily (SPD)

economically useful and those “others” that depend on the social welfare system and are not able or willing to integrate.

It is continuously emphasized that labour immigration, also in case of the point system, is and has to be labour market oriented and should only take place as a last resort in order to fill certain labour market needs: “Immigration can only take place in case of professionals, who are not available in sufficient numbers in the German labour market.”<sup>139</sup> It is clear that the priority of German citizens has to be pointed out explicitly in order to justify these liberations of immigration channels in times of an unemployment rate of four percent. Whereby the need for skilled workers is only mentioned in passing, the liberations for highly-skilled immigrants are justified, yet not often, by linking them to labour market shortages and their importance for the social welfare systems:

There are currently economic harmful barriers against the immigration of much-needed scientists and entrepreneurs to Germany. Our economy needs these professionals. They are urgently needed for the stabilization of our social security systems. Those who keep quiet about that do not recognize in which situation the social security systems are in Germany.<sup>140</sup>

Highly-skilled are, therefore, not only portrayed as much “needed” to fill in labour market demands and to keep the economy going but they are also assumed to be of major importance as tax payers to preserve the social security systems. On top of that, highly-skilled immigrants are connected to innovation and competitiveness of corporations: “Modern and innovative companies that want to survive in the international competition must breathe. Those who run isolation, represent therefore a barrier to innovation and harm the sustainability/future of our

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<sup>139</sup> Ibid.

<sup>140</sup> Ibid. Hans-Joachim Hacker (SPD).

country.”<sup>141</sup> Accordingly, highly-skilled workers are presented here as crucial for the health of the national economy.

Some members of the governing parties describe the new migration law as a necessary tool to lure highly-skilled with attractive general conditions. Thereby it is assumed that Germany finds itself in direct competition with other countries that also try to attract the “high potentials”. Referring to the Green Card initiative, which did not lure the desired amount of IT specialists to Germany, Volker Beck notes: “Obviously is the pressure to come to Germany not so big and it is obvious that the rules that we can create on the basis of existing law are not sufficiently attractive in the competition for high potentials on the international labour market.”<sup>142</sup>

The assumptions about highly-skilled, which justify the advantageous conditions that the law is supposed to grant them, represent the exact opposite of the assumptions about low-skilled immigrants. It is assumed that there is only a limited amount of highly-skilled workers and, thus, countries face a competition situation in attracting them. Low-skilled people on the other hand, are presumed to exist in high numbers:

We have kept the recruitment stop for un- and low-skilled on purpose. This is an area where a large part of our domestic unemployed persons can be assigned to, so that the corresponding jobs can be generally filled entirely from the existing workforce.<sup>143</sup>

A liberation of low-skilled immigration policies is therefore suspected to raise unemployment rates in the country even further. In the attempt to justify the liberations of skilled and highly-skilled labour immigration, the law is presented as a counterpart to the guestworker programmes in Germany, which had the purpose to recruit low-skilled immigrants: “The Migration Act does not introduce again those targeted recruitments, which the Federal

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<sup>141</sup> Ibid. Volker Beck (the Greens).

<sup>142</sup> Ibid.

<sup>143</sup> Ibid. Otto Schily (SPD).

Employment Office conducted before 1973; We do not plan to include contracts with guestworker-countries.”<sup>144</sup> Low-skilled labour force is, thus, linked to Germany’s (negative) historical experience with the guestworker programme.

### *Position of the Opposition: CDU/CSU and FDP*

While the FDP is generally welcoming provisions on highly-skilled, skilled and even low-skilled (to be accepted on a temporary basis), members of the CDU and the CSU generally reject the idea of opening the labour market to skilled immigration on the basis of a point system. On the other hand, only two politicians mention the importance of highly-skilled immigration:

The presented reason is that we would have to participate in global competition for the best brains. Of course we have to do this. We really would make a mistake if we would not try to attract international top talents. But this is only addresses in a single provision of the law. – This provision is not disputed in principle.<sup>145</sup>

Wolfgang Bosbach approves therefore the provision for highly-skilled immigrants such as scientists, professors or employees in leading positions and does not question its purpose. Yet, the idea of opening the labour market to any other labour migrant group is immensely rejected and contested among MPs in the CDU and CSU. “Because we believe that if the red-green<sup>146</sup> Migration Act becomes reality, it would mean great harm for our country. Because the red-green Migration Act is actually a Migration-expansion Act.”<sup>147</sup> The general position of CDU and CSU politicians, therefore, assumes that the proposed liberations for labour migration goes too far.

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<sup>144</sup> Deutscher Bundesrat, “785. Meeting (15th Bundestag),” February 14, 2003. Otto Schily (SPD).

<sup>145</sup> Deutscher Bundestag, “31. Meeting (15th Bundestag). Wolfgang Bosbach (CDU).”

<sup>146</sup> Refers to the SPD and The Greens

<sup>147</sup> Deutscher Bundestag, “31. Meeting (15th Bundestag). Helmut Koschyk (CSU).”

The justifications for the CDU/CSU position are manifold, yet, the argumentation always comes back to one big and general issue: the idea of Germany as a country of immigration. The underlying ideas of these discussions are not necessarily about the question if Germany is an immigration-country or not; but rather about if it *should* be. The idea of Germany as a country of immigration is not necessarily rejected, facing the amount of immigrants that live in Germany. However, it is always specifically emphasised that it is not a classical one. The proposed Migration Act is seen as a manifestation to transform Germany into a multicultural country of immigration:

The redesign of the existing legislation on foreigners has the aim to turn Germany into a classic, multicultural country of immigrants. We do not want a multicultural society. We do not want more immigration, we want more integration. We gladly to do justice to our increasing responsibility. Therefore we reject the law.<sup>148</sup>

More labour migration channels are, therefore, rejected with the argument that more integration should be the watchword of the moment. This view is based on the assumption that migration is not something positive but rather a source of trouble that disrupts the harmony of the nation state. This perspective is justified and emphasised by linking migrants to integration and societal problems such as criminality and unemployment. Foreigners in general are, therefore, portrayed rather as a problem that has to be “solved” through integration measures:

Did you not realize that the dramatic rise in youth crime in Berlin is attributed the proportion of young foreigners? It must shake us that children rarely learn German, fail at school, have poor chances in the labour market and interact only in their own milieu. In the end there is no integration but only isolation and exclusion.<sup>149</sup>

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<sup>148</sup> Ibid. Wolfgang Bosbach (CDU).

<sup>149</sup> Ibid. Helmut Koschyk (CSU).

Additionally, the demanded sanctions for those migrants that do not attend the compulsory integration courses underlie the CDU/CSU's negative view on migrants as people that are not willing or not able to integrate into the German value system. Furthermore, CDU members seem not to get tired of explicitly listing all numbers of unemployed and social-welfare dependent foreigners in the country:

The proportion of foreign unemployed is twice as high as their share of the population. The proportion of foreign welfare recipients is three times higher than their share in the population. The number of foreign unemployed has doubled in the past decade. The rate is now 580 000. Does anyone seriously think that we could solve these problems with the lifting of the recruitment ban or with more immigration? In so doing we will exacerbate the problems instead of solving them.<sup>150</sup>

Immigration is, thus, seen not only as a problem concerning national harmony and criminality but it is specifically connected to unemployment and empty pockets of public social systems. By contrasting the numbers of foreign unemployed and social recipients to those of German citizens, the politicians construct a strong separating message between “us” and “them” and thereby labelling “them” as excessively economically weak, dependent and a burden for the social systems.

Basing on this negative view on immigrants as disruptive element in the nation state, being unable to integrate and dependent on social-welfare systems, the MPs belonging to the CDU/CSU refer to the limited capacity [*Aufnahmefähigkeit*] of Germany to receive more immigrants. “We, the Union, want to preserve the identity of the state and society. We want the consideration of the absorption capacity of our country and we want to prevent further immigration in our collapsing social security systems.”<sup>151</sup> This argument is often emphasized by listing the amount of foreigners that Germany already has in a detailed way.

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<sup>150</sup> Ibid. Wolfgang Bosbach (CDU).

<sup>151</sup> Ibid. Helmut Koschyk. (CSU)

Although it is not explicitly mentioned as such, CDU/CSU politicians outline continuously the danger of “foreign infiltration”. It is assumed that there is a considerable immigration pressure to Germany whereby the amount of immigrants that come to Germany is said to exceed those of classic immigration countries. The MPs stress that with the opening of the labour market to skilled migrants, as proposed in the Migration Act, the amount of foreigners within Germany would be doubled by 2050, which in the eye of the CDU/CSU “irresponsible”. In the argumentation against further immigration and “foreign infiltration” it is discernable that CDU/CSU MPs aim to legitimise their view by referring repeatedly to the “will of the people.”<sup>152</sup> Similarly, Helmut Koschyk refers to the “common good”: “We are committed to the common good. We ask the question how much immigration this country can cope with. In this, we know that, we agree with the majority of our population.”<sup>153</sup>

Finally, following the negative view on migration, there seems to be a consensus among the CDU/CSU that skill shortage cannot and should not be solved through immigration; but rather it should be a matter of family, education and labour market policies:

If there is actually a skill shortage in Germany, then that is a task for education policy [...] and not a development that can be answered with more immigration. We cannot solve these problems with immigration law, but only with a better education and training of our children and the younger generation.<sup>154</sup>

Thereby the gravity of the skill shortage is inherently questioned throughout the debate. One politician even goes that far to suggest that, in order to prevent demographic problem, policies to protect unborn life should be overthought instead of trying to solve the problem with more immigration. Furthermore, the unsuccessfulness of the Green Card programme is taken as an

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<sup>152</sup> Ibid. Thomas Strobl (CDU).

<sup>153</sup> Ibid. Helmut Koschyk (CSU).

<sup>154</sup> Ibid. Wolfgang Bosbach (CDU).



example to illustrate that immigration policies cannot and should not be the answer to skill shortages.

## **Integration Measures, Family Reunification and the Salary Threshold for Highly-Skilled**

The grand coalition (SPD and CDU/CSU) of the 16. *Bundestag* used the “Bill for the Implementation of EU Directives Regulating Residence and Asylum” of 2007 to implement further integration measures concerning immigrants with a limited residence permit (skilled migrants) and family reunification. The bill proposed that a limited residence permit can only be prolonged if a successful participation in integration courses is proven. Additionally, it introduced a language test for spouses from third countries as compulsory precondition in order to enter Germany. Furthermore, the act set the age minimum for spouses to 18 years. Since the law excludes the spouses of highly-skilled immigrants as well as those spouses with a university degree, the provisions for family reunification specifically addresses skilled and unskilled immigrants from third countries. Furthermore, certain nationalities from countries such as Canada, the United States and Japan are also not required to fulfil any language requirements. Finally, the FDP submitted a proposal to lower the salary threshold of highly-skilled immigrants<sup>155</sup> according Section 19 of the Residence Act. However, this provision was not implemented in the end.<sup>156</sup>

The provision that implemented the compulsory language test for spouses before entering Germany was challenged later by the opposition parties Alliance '90/The Greens with the “Bill for the Amendment of the Residence Act (Family Reunification Spouses)” (2010) and the SPD with the “Bill for the Amendment of the Residence Provisions for Family Reunification of

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<sup>155</sup> Specialists and employees in leading positions according to the old version of the Residence Act Section 19(2.3)

<sup>156</sup> The Federal Government, “Draft: Act for the Implementation of EU Directives Regulating Residence and Asylum - Drucksache 16/5065,” April 23, 2007.

Spouses” (2012).<sup>157</sup> Even though the SPD implemented this provision in times of the grand coalition, it is later referred to as a “painful compromise” in exchange for liberations concerning asylum. The political stand of these parties are therefore more complex and not only split into governing parties and opposition. Therefore, it is important here to outline the discrepancies between the parties.

### *Position of the Governing Parties: SPD and the CDU/CSU*

In the debate, the broad difference between the governing parties SPD and CDU/CSU lies again in their perspective on Germany as a country of immigration and the values connected to this. MPs of the SPD see the implementation of this law as a manifestation that Germany indeed is a country of immigration and coming down to this reality, regulations are needed in order to decide on the future conduct concerning immigration issues. The requirements of language skills are seen as the balance of interests between foreigners and the German society:

I am in favour of people coming to us. There should also be voting rights and such. But we must create a balance of interests. You can demand all sorts of things even that all doors are opened, but we have seen in the 90s that there are issues which can overwhelm the German society. Our task is to create a balance of interests.<sup>158</sup>

Here, Michael Buersch refers to the rise of right-wing extremism in Germany in the 90s, when migration flows of *Aussiedler* and asylum seekers grew rapidly as a consequence of the breakdown of the Soviet Union. It is assumed that if immigrants do not integrate to a certain extent, that means by learning the language, German society will turn more hostile towards foreigners. The German language courses are therefore seen as the middle way between not

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<sup>157</sup> Alliance '90/The Greens, “Draft: Act for the Amendment of the Residence Act (Family Reunification of Spouses) - 17/1626,” 2010; SPD, “Draft: Act for the Amendment of the Residence Provisions for Family Reunification of Spouses - Drucksache 17/8921,” July 3, 2012.

<sup>158</sup> Deutscher Bundestag, “94. Meeting (16th Bundestag),” April 26, 2007, Michael Buersch (SPD).

too many constraints to the right of family reunification and the presumed interest of the German society.

On the other hand, MPs belonging to the CDU/CSU have a very different perspective of the purpose of integration and language courses. The CSU politician Stephan Mayer, puts it as followed:

It becomes clear that, I want to emphasize in the utmost determination, Germany is not an immigration country. In follow-up of the Migration Act, which came into force on 1 January 2005, this law finally exhales the multicultural gout, which inherited the immigration and foreigner law to this date.<sup>159</sup>

“Multicultural” policies are seen as being the exact opposite of integration, and are thus linked to presumed problems such as the existence of a parallel society, unemployment and arranged marriage. For the CDU/CSU, integration measures such as language courses have not only the purpose to make sure that immigrants learn German, but these measures are also seen as a way to “germanise” immigrants in terms of societal values:

[...] we want a reasonable coexistence of Germans and foreigners in Germany. For this coexistence there are indeed conditions. One of those conditions is not only that German is spoken, but also the Basic Law is applied here and not the Koran. In Germany is important that Muslim girls have bright minds, but it does not matter what they wear on their heads.<sup>160</sup>

The language requirements for spouses from third-countries are therefore understood as a tool to prepare the spouses for the German culture, laws and life-style. According to the Conservatives, only the “unlimited acceptance” of these values can lead to a successful integration of immigrants and abolish parallel societies. Thus, the integration measures are presented to solve problems related to immigrants and bring “inner peace” and to improve tolerance within the country. “We take it seriously now with a policy about the coexistence of

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<sup>159</sup> Ibid. Stephan Mayer (CSU).

<sup>160</sup> Ibid. Reinhard Grindel (CDU).

Germans and foreigners, we do not any longer accept segregation.”<sup>161</sup> Furthermore, the specific reference to Islam is not an accident. Throughout the debate it becomes clear that integration and family reunification is inherently understood in context to the Turkish community in Germany. This becomes especially clear with the presumed linkage between family reunification and arranged marriage, as explained later.

Under the slogan “support and demand” [*fördern und fordern*], the integration measures are described as a “give and take” mechanism in which Germany gives immigrants the possibility to integrate into societies whereby immigrants are expected to do their part of the job. Therefore, sanctions are proposed for those immigrants that do not participate in the obligatory integration courses. Furthermore, the precondition of a language test before the spouses enter Germany is justified by referring to problem cases where the compulsory integration course is not attended:

Our main consideration was [...] that we do not reach those who would need our offers the most. Those people that live in an isolated environment where German unfortunately does not play a role in everyday life. Those are the families where the children born in Germany grow up without speaking a word of German, which is why they have less chances in school and education in the first place.<sup>162</sup>

It follows that immigrants are pictured as probable integration deniers, who are either not willing or not able to learn the German language and find contacts outside their milieu. This suggests not only the CDU’s general mistrust of immigrants that enter Germany through family reunification but also their presumed negative image of immigrants’ way of life. The fact that immigrant families do not speak German at home is pictured as irresponsible as it would have negative influence on the education of children. This would not only have negative effects on

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<sup>161</sup> Ibid. Reinhard Grindel (CDU).

<sup>162</sup> SPD, “Draft: Act for the Amendment of the Residence Provisions for Family Reunification of Spouses - Drucksache 17/8921, Reinhard Grindel (CDU).”

the personal life of the children but also for the country as a whole: “[...] if the children with an immigration background do not have good prospects, then also our country has no good prospects.”<sup>163</sup> Therefore it is, argued that the preconditions for language skills can address the issue of the parallel society by reaching the problems from the inside: “The foreigners themselves - foreign fathers and mothers - have to give their children a chance. For this they have to speak German.”<sup>164</sup>

Another argument that is presented in order to defend precondition of language skills for spouses before they enter Germany and this is apparently the most important reasoning considering how often and intensively CDU/CSU politicians address this issue, is that language requirements can prevent arranged or forced marriage:

Many immigrants who come through family reunification are in fact the object of the action. They are married off, they are brought to Germany, they are held in homes, and some are victims of violence. In almost every integration course you meet women who are in Germany since 17 or 20 years, but they virtually do not speak a word of German. They do not leave their immediate environment because they are uncertain or because they are not allowed to. Family reunification was all too often a resettlement into a parallel society.<sup>165</sup>

This quote describes quite directly the assumptions of the Conservatives about family reunification. Presuming that a large part of marriages are arranged or forced, women are portrayed as the victims of their unlawful culture. Here, instead of being not willing to integrate, women are assumed to not be allowed to integrate, although they would like to. In the battle against this “parallel society” language requirements are seen as a tool to empower these women to defend themselves against their fundamentalist families.

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<sup>163</sup> Deutscher Bundestag, “94. Meeting (16th Bundestag). Reinhard Grindel.”

<sup>164</sup> SPD, “Draft: Act for the Amendment of the Residence Provisions for Family Reunification of Spouses - Drucksache 17/8921. Reinhard Grindel (CDU).”

<sup>165</sup> Deutscher Bundestag, “94. Meeting (16th Bundestag). Reinhard Grindel (CDU).”

With an explicit reference to the situation of many young Turkish girls, Stephan Mayer, asks: “What is the point of having helplines and citizens consultations for women with immigration background, who are enslaved in their family, who are treated in part very badly, who can simply not exercise their liberties?”<sup>166</sup> This suggests that for the Conservatives, family reunification is intrinsically linked to Turkish immigration whereby forced marriage and the accordingly horrible treatment of women is portrayed as a frequent issue. Defending this position against the opposition’s arguments that there can be insurmountable economic and geographical obstacles for spouses in order to take a language course in the foreign country of residence, Reinhard Grindel says: “Those who are able to arrange marriages, are probably also able to arrange German skills.”<sup>167</sup>

While the rights of family reunification for skilled and unskilled immigrants have been intensively debated and justified by linking them to the hostility towards foreigners, parallel society and arranged marriage, the provisions to lower the salary threshold for highly-skilled are barely addressed. Those MPs from the SPD and FDP, who mentioned highly-skilled immigration are in favour to design attractive provisions for the “needed” highly-skilled workforce:

The Association of German Engineers has reported last week that 48,000 engineering positions remain vacant in 2006. We need engineers and skilled workers. Therefore we have to make clear that we are an open country [...]. It is open and tolerant. We are willing to receive people. We have to have this positive attitude.<sup>168</sup>

With this quote, it becomes clear that highly-skilled immigration builds an immense contrast to the discussion on family reunification. By specifically underlying the shortage of skills, it is

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<sup>166</sup> Alliance '90/The Greens, “Draft: Act for the Amendment of the Residence Act (Family Reunification of Spouses) - 17/1626. Stephan Mayer (CSU)”

<sup>167</sup> Deutscher Bundestag, “94. Meeting (16th Bundestag). Reinhard Grindel”

<sup>168</sup> Ibid. Michael Buersch (SPD).

argued that Germany has to work on its attractiveness. Yet, considering that the proposed provision to lower the annual salary threshold for highly-skilled was not adopted, this view seems not be shared among the majority of MPs. The CDU/CSU politicians were especially silent on this issue, though there was one MP who argued that the resident permit for third-country students should only be granted on a trial basis because of the risk of radicalization: “I mean these home-grown terrorists, who were radicalized here in Germany only because they got into the hands of the wrong Imam.”<sup>169</sup> It goes without saying, that putting foreign students under a general suspicion of Muslim terrorism expresses a very negative view on both, foreign students and Islam.

Contrastingly, two SPD politicians even mentioned the importance to open the labour market as well to skilled immigration, as they also would be “urgently needed”. According to them, this can be best achieved through a point system. It is notable that the SPD demands for highly-skilled or skilled immigrants are presented as an additive solution to solve problems with the skill shortage caused by demographic changes. The priority of German unemployed is emphasised at the first place.

### *The Opposition's Critique*

The opposition's critique on the proposed law can be outlined in short, since the argumentation is quite straight forward. Furthermore, these arguments are not of explicit importance for the analysis for migrant categories as, in fact, these view of the opposition parties only represent criticism on the current legislation. Firstly, it is argued that the precondition of language skills constitute an economic and geographic obstacle for many immigrants and thus, these provisions represent a mechanism to that not only selects family members according to their economic utility but also creates the category of second class marriages. Secondly, the

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<sup>169</sup> Ibid. Stephan Mayer (CSU).

effectiveness of language requirements as a tool to prevent forced marriage is questioned. Thereby it is criticized that the governing parties lose sight of the fact that family reunification rights do not only concern Turkish nationals. Finally, the opposition parties condemn the fact that some nationalities such as Canadians, Japanese or Australians are excluded from this provision would constitute discrimination on the basis of ethnic origin.

## **Act to Adequately Regulate Labour Migration**

The parliamentary debates in 2008 discussed the “Bill for the Adequate Regulation of High-skilled Immigration according to the Labour Market and for the Amendment of further Residence Provisions”. It proposed several provisions for the control of labour migration such as the free movement of EU workers from Romania and Bulgaria. Yet, only the proposal to lower the annual salary threshold of specialists and employees in leading positions, pertaining to the highly-skilled provision, from about 86.000 to 63.600 Euros, concerns the labour migration framework for third-country nationals.

### *Position of the Governing Parties: SPD and the CDU/CSU*

The difference of opinions within the grand coalition concerning labour migration becomes clear in these debates. However, it is now acknowledged by all parties that a skill shortage exists while the demand for skills in the future is supposed to grow. Demographic changes in the German societies are commonly seen as the cause for the problem: “Our Republic is getting increasingly emptier. In some of the years, more people have emigrated as have newly immigrated. Our birth rate is the last or rather the second to last in Europe.”<sup>170</sup> The MPs also seem to agree that highly-skilled immigration can constitute one solution to the problem of skill shortage. “As early as the middle of next decade our economic growth may be

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<sup>170</sup> Deutscher Bundestag, “179. Meeting (16th Bundestag),” September 25, 2008, Ruediger Veit (SPD).



affected by this. That is why we need other professionals on top of the potentials we have at home.”<sup>171</sup>

Both, SPD and CDU/CSU see these measures as a toll to secure economic growth and employment in Germany:

It is a fact that the migration of highly trained professionals benefits especially the low-skilled in Germany. A new highly skilled worker creates three more jobs for less qualified workers. This ensures work. That creates jobs.<sup>172</sup>

This suggests how valuable highly-skilled people are seen not only in terms of pushing the national economy but also in comparison to low-skilled, who are rather received as those that normally do not find a job. However, while, the parties within the grand coalition apparently agree on highly-skilled immigration as a way to secure the business location Germany, they do not agree on how far the measures to attract highly-skilled immigrants should go. On the one hand, the MPs from the SPD emphasize the importance of highly-skilled as well as skilled immigration to secure the social security system and therefore demand a lowering of the salary threshold for highly-skilled as well as the implementation of a point system to select skilled immigrants more flexibly according to their qualities. On the other hand, CDU politicians right after acknowledging the problematic situation of skill shortage give a detailed reference to the unemployment rates in Germany, and thereby emphasis that German citizens should have priority over further immigration:

We do not want regulations that come at the expense of the employment opportunities of local workers. We do not want regulations that, to the detriment of employment prospects of young immigrants who have long lived in Germany. We want to facilitate access where it is in the German economy is not

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<sup>171</sup> Ibid. Josep Juratovic (SPD)

<sup>172</sup> Ibid.

possible to win by any other means professionals from the domestic market.<sup>173</sup>

The specific additional reference to young migrants, here, suggests that their job perspectives are seen as particularly problematic. Therefore the MP justifies the rather limited provisions for labour immigration to perceived integration problems of Germany's past immigration experience. In the same vein, it is argued that the salary threshold for highly-skilled should not be lowered, as these categories of migrants are granted an immediate and permanent settlement permit. "It is therefore important that the settlement permit, which makes Germany more attractive for highly-skilled workers, is only granted to those where we can tell that they will be permanently integrated in the German labour market without any government assistance."<sup>174</sup> This argument is quite straight forward, immigrants are only welcome to stay as long as they work and are not dependent on the state's welfare.

Low-skilled immigration is only mentioned in the EU context with the question about opening of the labour market to Romania and Bulgaria earlier. It is assumed that the opening would cause waves of unqualified immigration. Referring to high amount unskilled unemployed people in Germany as well as referencing Germany's experience with economic migration 50 years ago, it is assumed that unskilled immigration is not accepted and even feared in Germany:

We need to take the fears of the low-skilled seriously. Immigration should not be done only in economic terms, but must guarantee the existence of social peace in Germany.<sup>175</sup>

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<sup>173</sup> Deutscher Bundesrat, "848. Meeting (16th Bundestag)," October 10, 2008, Peter Altmaier (CDU).

<sup>174</sup> Ibid.

<sup>175</sup> Deutscher Bundestag, "179. Meeting (16th Bundestag). Josip Juratovic (SPD)"

### *Position of the Opposition*

The Greens and the FDP condemn the government's proposal as "half-hearted" and "hesitant" and emphasise the importance of opening the labour market to highly-skilled immigrant in a more confident and transparent way. Otherwise, according to the MPs, it would have enormous negative consequences for the German economy. The "battle for the best and brightest" is thereby an extensively used argument to underline that highly-skilled provision need to be attractive and welcoming:

In politics, you run here, you do not take note that other countries have qualified immigrants already rolled out the red carpet. They still believe the servants' entrance is on this group all good enough. But that will not work.<sup>176</sup>

Therefore, referring to the welcoming provisions in other countries it is suggested that if Germany does not implement active policies to attract highly-skilled immigrants, that are assumed to be wanted in the whole world, Germany will "lose this battle". Thereby, MPs of the Greens as well as of the FDP propose a point system in order to select migrants according to "interest-oriented" criteria: These questions are important: Who do we want to invite to Germany? Who can advance our society?<sup>177</sup> This is considered as a "modern, clear and comprehensible migration management" that is custom tailored for German needs. Finally, the "welcome culture", a concept that plays a major role in the following debate on the EU Blue Card, is mentioned the first time. Here, it refers to the advantageous framework granted to the "wanted" immigrants in order to attract them to Germany.

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<sup>176</sup> Ibid. Brigitte Pothmer (The Greens).

<sup>177</sup> Ibid. Hartfrid Wolff.

## The Blue Card

The parliamentary debates in 2012 discussed the “Bill for the Implementation of EU Directives Regulating the Immigration of Highly-skilled”. While the EU Directive requires the member states to implement certain provisions in general, it has to be noted that the member states still have liberties to decide how exactly these provisions are designed. The proposal included all new provisions concerning the Blue Card according Section 19a in the Residence Act. Furthermore, the bill proposed liberations for foreign students who would like to find a job in Germany after graduation.

In this debate the general agreement to use highly-skilled immigration as a tool to counter the negative effects of shortage skill is much more pronounced than in previous debates: “Yes, Germany needs immigration. It is mathematically adventurous if we claim that the demographic change and the need for skilled labour could be countered without.”

The positive influence of opening the labour market to highly-skilled immigrants are extensively explained. Highly-skilled immigration is thus linked to economic growth, competitiveness and innovation and expressively emphasized as substantial and without question “needed” in order to secure prosperity in Germany:

The hiring of highly qualified foreign professionals ensures more investment in jobs and is essential for the competitiveness of our companies. Germany needs qualified professionals, researchers and developers and entrepreneurs from abroad.<sup>178</sup>

Referring to the competition between states for those migrant, “whose knowledge is demanded everywhere in the world,”<sup>179</sup> the introduction of attractive provisions for these “wanted” and “needed” migrants are justified: “The EU member states – we must not forget that – are in

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<sup>178</sup> Deutscher Bundestag, “162. Meeting (17th Bundestag),” January 3, 2012, Hartfrid Wolff (FDP).

<sup>179</sup> Deutscher Bundestag, “162. Meeting (17th Bundestag),” January 3, 2012, Ole Schroeder (CDU).

strong competition for the best minds.”<sup>180</sup> Furthermore, it is argued that Germany has to actively engage in attracting and keeping these valuable immigrants as: “It is simply an illusion to believe: All well-qualified people just wait for the possibility to work and live in Germany, to pay taxes here and to send their children to school.”<sup>181</sup>

This constitutes a sharp contrast to the dominant view in parliament concerning skilled migrants and family reunification. Instead of demanding something from the migrant such as the participation in integration and language courses, highly-skilled as the “wanted” and “needed” migrants are put into a position where they are able to demand something from the state: “What expectation does a highly-skilled have? What expectations would we have? [...] you would ask yourself: am I welcome there?”<sup>182</sup> It is assumed that if the highly-skilled immigrant is not granted the conditions he would like to have he would just chooses a different country of residence, where his expectations are met.

In this context the term “welcome culture” became the catchphrase of the debate. The term, as used in the debate, describes the attractive framework of rights and conditions that are granted to highly-skilled immigrants. As such it is supposed to send a clear message to the “wanted” and “needed” out there: “You are needed, you and your family is welcome and you have a future in Germany! We want to be cosmopolitan and attractive for the brightest minds of the world.”<sup>183</sup> Such welcoming provisions are in this debate a lower annual salary threshold or a job-seeking time and the possibility for fast track-acquisition of a settlement permit for foreign students with a German university.

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<sup>180</sup> Deutscher Bundestag, “162. Meeting (17th Bundestag),” January 3, 2012, Ole Schroeder (CDU).

<sup>181</sup> Deutscher Bundestag, “162. Meeting (17th Bundestag),” January 3, 2012, Serkan Toeren (FDP).

<sup>182</sup> Ibid. Ole Schroeder (CDU).

<sup>183</sup> Ibid.

However, not only the highly-skilled immigrant himself profit from these advantageous provisions but also his family. The family members of highly-skilled receive automatically a residence permit and unlimited labour market access without any language requirements. The better conditions for highly-qualified migrants for the fact that they and their family members do not have to proof a certain language level or attend an integration course, is justified in terms of their presumed labour market integration “We do not require the language test because we assume that the highly-skilled take this into their own hands as they actively participate in working life from when they first arrive.”<sup>184</sup> This assumption says much about how highly-skilled are imagined to be. Here, the family members are pictured as being active members of society, having a job and being probably skilled too. Again, this constitutes an immense contrast to the image on migrant women coming through family reunification, as presented by MPs. Only the FDP proposes language requirements, yet not specifically for highly-skilled immigrants, for those that do not only want to come “territorially” to Germany.

During the whole debate it is emphasised that migration managed to assure that only those that are “needed” and have the “willingness to perform” can come.

We can and must as legislators, however, regulate the conditions under which someone may come, and thus influence the decision of a migrant positively or negatively. That's why we introduce the so-called Blue Card EU [...]. It is aimed at highly-skilled migrants. Thereby we want to exclude immigration into the social systems.<sup>185</sup>

Therefore, everyone that does not fit into the neatly constructed categories of highly-skilled is presumed to be a possible burden to the state's welfare system. Even in the case of highly-skilled migrants the CDU/CSU proposed a provisions that would enable the state to withdraw the permanent settlement permit from highly-skilled migrants that become unemployed within

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<sup>184</sup> Ibid.

<sup>185</sup> Ibid.

the first three years. This suggests, again, that immigrants in general are only welcome as long as they are economically active.

The modern migration management according to labour market and economic interests is contrasted to the pronounced “uncontrolled” guestworker programs in the 1960s. The integration problems and the precarious situation of young people with migration background is related to the “uncontrolled” manner that mainly brought unskilled immigrants to Germany,

In addition, we should take more care of people with a migration background who have come to us in times when migration was not yet regulated. Exactly that is our problem: For decades, immigration has been largely unregulated. At that time a lot of mostly unqualified people came to us, in particular through the family reunification [ ... ] We need to fix this now. This is called **remedial** integration. This will cost millions. Therefore, nobody should tell me that any form of migration would be a business for the state.<sup>186</sup>

This suggests that the German experience with the guestworker programme and the following family reunification are seen as being intrinsically connected to low-skilled migration.

### *The Position of the Opposition: SPD and Alliance 90'/ The Greens*

The opposition parties call the government's proposal, again, “half-hearted, inconsistent and hesitant.”<sup>187</sup> It is argued that Germany facing alarming skill shortage will soon miss necessary impulses for innovation if the government does not start to engage actively in the recruitment of skill and high-skilled immigrants as “The alarm bells are ringing.”<sup>188</sup> Swen Schulz uses a metaphor to describe the progress of the proposed bill that is described by the governing parties as a “quantum leap” concerning Germany's labour migration management:

With such a choice of words - jump - I think involuntarily of a big cat, the elegant and dynamic fast forward. But if you look at the whole process and look at what is included in the bill, one

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<sup>186</sup> Ibid. Hans-Peter Uhl

<sup>187</sup> Ibid. Swen Schulz (SPD).

<sup>188</sup> Ibid. Memet Kilic (The Greens).

comes to the conclusion that the Federal Government gives the image of a sleepy St. Bernard that needs to be pushed so something would happen.<sup>189</sup>

The opposition parties emphasise that since the competition for the highly-skilled is “huge” and as Germany has a fundamental interest in attracting and keeping highly-skilled workers, the proposed law is not sufficiently attractive to achieve the necessary outcomes. Instead of introducing more and more exceptions to the recruitment stop, the opposition demand a transparent and welcoming migration. To convince highly-skilled to decide in favour for Germany: “Of all the countries in the world and that might offer me great deals, I choose Germany. I go there and want to work there.”<sup>190</sup> Therefore, the provision to grant the settlement permit to highly-skilled only on a trial bases receives much criticism:

What kind of message is this? Thus you say to the people: you can here many years working dutifully , pay taxes , create jobs and secure , but if there is a problem , then get out with you . - That's the opposite of welcoming culture.<sup>191</sup>

Here “welcome culture”, as understood by the opposition, means not only that Germany should present itself as a cosmopolitan and welcoming country but also as one that accepts immigrants as equal citizens and part of the society. However, although the opposition parties demand more liberal and welcoming provisions for labour migrants it is also noted that there is a limit to it: “We have to anyway, even against this trend, clearly recognize and also tell people: We need immigration from abroad to advance our economy and to be able to continue to finance our welfare state.”<sup>192</sup>

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<sup>189</sup> Ibid. Swen Schulz (SPD).

<sup>190</sup> Ibid. Ayden Ozoguz (SPD)

<sup>191</sup> Ibid. Swen Schulz (SPD).

<sup>192</sup> Ibid.



# Conclusion

This thesis was aimed at answering the following question: *How were the categories of the high-skilled, skilled and low-skilled labour migrants discursively constructed, justified and legitimised in the German parliament and what role played ethnicity in the construction of these categories?* It found in conducting a discourse analysis of ten parliamentary debates on the amendment of the Migration or rather Residence Act evidence of framing for all three labour migrant categories.

The category of highly-skilled migrants has been framed very consistently in exclusively economic terms. They are labelled as “urgently needed” not only because of skill shortage and demographic changes but also because they are assumed to be intrinsically linked to the economic innovation and competitiveness of corporations. Furthermore, as highly-skilled are presumed to be well integrated and active in the labour market they are also seen as crucial for the stabilisation of social security systems. Whereas this framing did not change much within the time period of the debates, the category of who are considered to be highly-skilled was gradually expanded over the years, by adding certain professions and as well by lowering the annual salary threshold. Relatively new is the discussion is the concept of “welcome culture” linking to the attractive provisions for those that are perceived as “deserving” and “needed”. In a way, there is almost a role-reversal, in the case of skilled and low-skilled the states hold the traditional role: it requires these migrants to meet certain requirements and conditions. Yet in the case of high-skilled migrants, it is almost as if this role has been dropped. States form their policies to what they believe are the expectations of highly-skilled migrants, by providing a whole host of benefits and rights that almost put them on par with full-citizens.

Despite the fact that MPs claimed that skilled migrants were needed too, in the assessment of the parliamentary debates analysed here, it was clear that they might be needed but not

welcome. Skilled and as well low skilled migrants are linked to unemployment, criminality and parallel societies while being framed as being economically dependent and not able or not willing to integrate. This was especially true in terms of family reunification rights. The debates analysed in this thesis showed that these rights, in terms of skilled migrants, were being linked to the Turkish guest worker experience and claims about Islam. Finally, low-skilled labour migration has been only discussed in the EU context, which suggests that policy-makers are largely assuming that low-skilled labour needs will be filled exclusively by EU citizens. These findings reveal that the prior literature on migration management that addresses labour migrants' rights from the perspective of rational choice are missing the wider picture, by not considering the role of ethnicity.

In this thesis I argue that considerations about ethnicity have been replaced by economic concerns in the case of highly-skilled immigration. But is this true for other migrant categories that were not considered in this thesis? For example, this thesis specifically excluded asylum seekers from consideration in limiting the data body. It would be worthwhile to apply the same approach taken in this thesis also to non-worker movements in order to assess the role of ethnicity and economic utility in the process of policy framing. In doing so, this approach provides a fresh perspective on the interplay and dynamics of economic and ethnicity concerns in the policy making process.

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