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**The Influence of 9/11 on the Asylum Policies Towards Muslims: The Case-  
Studies of France, Germany and the United Kingdom**

By

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## **Introduction**

The crashing of American Airlines Flight 11 and United Airlines Flight 175 into the two towers of the World Trade Center on the morning of September 11, 2001, not only filled the sunny, bright sky of New York City with clouds of black smoke and debris, but also changed the way people perceive terrorism. Following these collisions, another two commuter planes targeting the Pentagon and possibly the US Congress building or the White House, made it clear that this attack was fully coordinated and thoroughly planned.

Since the 9/11 attack on the United States, government officials and intelligence personnel have tried to examine how its perpetrators were able to prepare and execute their plans with success. Questions have been raised about how these terrorists were able, numerous times, to enter and exit, the United States and several European countries without difficulties. Do the borders of the United States and other Western countries remain penetrable by terrorists now and in the future? What can countries do to prevent terrorists from entering and endangering their population and interests?

The purpose of this research is to examine whether and how the events of September 11, 2001, have influenced the refugee policies of Western countries. The paper focuses specifically on Muslim asylum seekers and examines whether the fact that the attack's perpetrators were Islamic fundamentalists has made states less willing to accept Muslim refugees into their territories.

The first chapter explains the connection between immigration, specifically of refugees, and security issues, a connection that is not necessarily apparent. The next chapter discusses some of the previous researches on the effects of 9/11 on immigration and refugee control policies. The third chapter presents the methodology of the research, and the fourth chapter surveys the asylum policies of the three case studies – France, Germany and the United Kingdom (UK) – before and after 9/11. Based on the data presented in this chapter, the fifth chapter attempts to explain why such changes occurred or did not occur in the different countries. The final chapter integrates the different variables and reaches conclusions.

The main conclusion of this research is that terrorism has played an important role in the asylum policy towards Muslims in the UK, to a lesser degree in Germany and the least in France. This is mostly because the UK and Germany had not previously witnessed international Islamic terrorism to the extent that France had. Although the results of the study

are consistent with the security variable, understanding why a specific policy was adopted and not another requires examining the domestic political environment influencing each of the states and their governments.

### **Chapter 1 – Linking Asylum with Security Issues**

Neither the connection between asylum and security, nor the links between international migration and security have been obvious.<sup>1</sup> Immigration in general was not long ago viewed as a domestic issue affecting the national identity, labor markets, culture and ways of life of the host countries. Traditionally, a state's security has been viewed as the need to protect its sovereignty and interests from external military threats. Migration, with the exception of mass influxes of refugees, was not perceived as a true security issue.<sup>2</sup>

Yet with the intensification of international terrorism and the end of the military rivalry between the United States and the Soviet Union, some view migration and other types of threats as national security issues. These threats, which not only involve physical security but also economic, social, environmental and human security, have been seen as “much more relevant to most people than military ones, especially since the end of the Cold War.”<sup>3</sup>

The evolving connection between migration – and specifically asylum – and security during the 1990s was fostered by several large-scale refugee crises and the growth of the globalization process. This process has enabled refugees to reach their destination not only by crossing land borders but also by air or sea.<sup>4</sup> The events of 9/11 have only increased security concerns regarding the movement of people across borders, and even though none of the nineteen hijackers who committed the 9/11 attacks were refugees or asylum seekers, the attacks have increased public perceptions of refugees as a threat to society.

Huysmans, in one of his articles on the connection between migrants and security, has raised the example of “refugee warriors,” who are migrants who form, for instance, a community of freedom fighters operating from the territory of the host state. This may be

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<sup>1</sup> Thomas Faist, “‘Extension du domaine de la lutte’: International Migration and Security before and after September 11, 2001,” International Migration Review, Vol. 36, No. 1 (Spring 2002), p. 10.

<sup>2</sup> Suman Bhattacharyya, “Migration and Security: September 11 and Implications for Canada's Policies,” Refuge, Vol. 20, No. 4 (August 2002), p. 50.

<sup>3</sup> Benjamin Miller, “The Concept of Security: Should It Be Redefined?,” Journal of Strategic Studies, Vol. 24, No. 2 (June 2001), pp. 18-20.

<sup>4</sup> Bernhard Santel, “Loss of Control: The Build-up of a European Migration and Asylum Regime,” in Robert Miles and Dietrich Thränhardt (eds.), Migration and European Integration: The Dynamics of Inclusion and Exclusion (London: Pinter, 1995), p. 81.

perceived by the population as threatening the host-country, thus turning the migrants into a security problem.<sup>5</sup> Freitas suggests that since asylum is political, the acceptance of a particular migrant depends on the host country's relations with the country of origin. A host country may tighten controls from a particular origin if it fears that refugees from there might use the host country as a base for eventual terrorist activities.<sup>6</sup> During the Cold War, it was feared that spies from the Soviet bloc would exploit the refugee system to enter Western states.

The tendency to link refugees and asylum seekers with acts of terrorism was present before 9/11, though it was enhanced following the attacks.<sup>7</sup> One representative example is UN Security Council Resolution 1373, which was adopted on 28 September 2001:

... before granting refugee status, all States should take appropriate measures to ensure that the asylum seekers had not planned, facilitated or participated in terrorist acts. Further, States should ensure that refugee status was not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation were not recognized as grounds for refusing requests for the extradition of alleged terrorists.<sup>8</sup>

The resolution implies that Member States are requested to exclude terrorists from refugee status under Article 1F of the 1951 Refugee Convention, though their actions can be considered political rather than radical.<sup>9</sup>

Interestingly, only few refugees have been accused of engaging in terrorist activities. In addition, a terrorist would presumably not choose to enter a country via its asylum system, since it exposes him/her to the state's authorities. As Adelman put it: "Any sophisticated terrorist would reasonably be expected to avoid such an exposure."<sup>10</sup> Yet, when the danger comes from international terrorism, attention naturally turns to migration control in an effort

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<sup>5</sup> Jef Huysmans, "Migrants as a Security Problem: Dangers of 'Securitizing' Societal Issues," in Robert Miles and Dietrich Thranhardt (eds.), Migration and European Integration: The Dynamics of Inclusion and Exclusion (London: Pinter, 1995), p. 55.

<sup>6</sup> Raquel Freitas, "Human Security and Refugee Protection after September 11: A Reassessment," Refuge, Vol. 20, No. 4 (August 2002), p. 40.

<sup>7</sup> Monette Zard, "Exclusion, Terrorism and the Refugee Convention," Forced Migration Review, Vol. 13 (June 2002), p. 32.

<sup>8</sup> United Nations, Press Release SC/7158, Security Council, 4385<sup>th</sup> Meeting (Night), "Security Council Unanimously Adopts Wide-Ranging Anti-Terrorism Resolution; Calls for Suppressing Financing, Improving International Cooperation," 28 September 2001.

<http://www.un.org/News/Press/docs/2001/sc7158.doc.htm>

<sup>9</sup> Rene Bruin and Kees Wouters, "Terrorism and the Non-derogability of Non-refoulement," International Journal of Refugee Law, Vol. 15, No. 1 (January 2003), p. 7.

<sup>10</sup> Howard Adelman, "Refugees and Border Security Post-September 11," Refuge, Vol. 20, No. 4 (August 2002), p. 11.

to invigilate the entry of foreigners, whether they are students, tourists, illegal migrants or asylum seekers.<sup>11</sup> Those who are considered even mildly suspicious of having terrorist links, whether fitting the profile of a young, unmarried, male Muslim like some of the 9/11 terrorists, or any other profile, are not permitted to enter.<sup>12</sup>

Muslims, in particular, have been associated more with international terrorism than other religious groups. This religious group, whether refugees or communities living in the West, has sometimes been depicted as “enemies of what the West stands for, and Muslim residents [have] become the scapegoats of right wing and racist elements in Western society.”<sup>13</sup>

Some human rights organizations and refugee organizations have blamed the media and right-wing parties in Europe for characterizing refugees as criminals, terrorists or phony refugees looking for a better life rather than fleeing persecution. Indeed, up until the emergence of international terrorism the negative view of refugees in Western countries was largely linked to the burden they impose on these countries’ welfare systems and not necessarily to their religious or ethnic affiliation. On other occasions, refugees have been considered a threat because of the number of people who applied for asylum: the more people who apply, the more the public perceives them as a threat. Globalization, too, has affected how people regard refugees. The process has obscured the distinction between the local and global spheres, making some communities hostile towards changes in what they have known as their national identity.<sup>14</sup>

However, international terrorism has brought further concerns to the public, which now fears the presence of sleeper cells in their homeland. This stems, perhaps, from the special characteristics of immigrants and refugees, who tend to live in closed communities and preserve their traditional languages and customs. Their living standards, which usually are lower than the country’s average, and the fact that as refugees they are expected to leave in

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<sup>11</sup> Colin Harvey, “Securing Refugee Protection in a Cold Climate,” *Refuge*, Vol. 20, No. 4 (August 2002), p. 2.

<sup>12</sup> This profile of a young, unmarried, male Muslim without family connections did not suit all the 9/11 hijackers, a point that makes it harder to detect a potential terrorist. Perhaps because of this difficulty, every Muslim, including women, is considered a potential threat. Reg Whitaker, “Refugee Policy after September 11: Not Much New,” *Refuge*, Vol. 20, No. 4 (August 2002), pp. 32-33.

<sup>13</sup> Yvonne Yazbeck Haddad and Jane I. Smith (eds.), *Muslim Minorities in the West: Visible and Invisible* (Walnut Creek, CA: Altamira Press, 2002), p. xi.

<sup>14</sup> This is true for other types of migration as well. Huysmans, “Migrants as a Security Problem,” pp. 55, 63.

the future, may intensify (Islamic) fundamentalist attitudes in these communities and turn some individuals to terror groups or organizations.<sup>15</sup>

## **Chapter 2 – Survey of the Current Literature**

The connection between asylum and security has, then, received additional interest since 9/11. Indeed, much has been written on international migration in general and security, but the relationship between asylum and terrorism has received less attention. For instance, a study by the Migration Policy Group has indicated that the events of September 11 “did not in themselves have an impact on the foundations of immigration policies’ governance structures, or lead to changes in them, other than those already proposed” before the attacks. Yet the attacks did add a range of other issues to the overall policy agenda, including issues related to the fight against terrorism and the immigration agenda (where security issues became a priority).<sup>16</sup>

The August 2002 issue of *Refuge* contains articles on how September 11 affected the national refugee and asylum policies of Canada and the United States. Although these countries are not included in this research, it is worth noting that all the contributors acknowledge the need to address international terrorism, while what is problematic is the way basic human rights principles have been lost in the process.<sup>17</sup> Adelman explains that the United States and Canada introduced several changes after 9/11 aimed at improving the control mechanisms and reducing the threat of terrorism.<sup>18</sup> Whitaker maintains that refugee policies were included within these two states’ national security discourse well before 9/11; hence, September 11 was a precipitating rather than a formative event.<sup>19</sup>

With regard to Germany, Glaeßner has explained that the 9/11 attacks were an opportunity to impose restrictive measures on asylum and immigration, measures that “had been on the agenda for quite a long time but were met with stiff resistance by a wider public and relevant

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<sup>15</sup> John Lloyd, “The Closing of the European Gates? The New Populist Parties of Europe,” in Sarah Spencer (ed.), The Politics of Migration: Managing Opportunity, Conflict and Change (Madlen, MA: Blackwell Publishing, 2003), pp. 93-95.

<sup>16</sup> Reynald Blion, Catherine Wihtol de Wenden and Nedjma Meknache, “France,” in Jan Niessen, Yongmi Schibel and Raphaële Magoni (eds.), EU and US Approaches to the Management of Immigration (Brussels: Migration Policy Group, 2003), preface.

<sup>17</sup> Harvey, “Securing Refugee Protection,” p. 2.

<sup>18</sup> Adelman, “Refugees and Border Security Post-September 11,” p. 5.

<sup>19</sup> Whitaker, “Refugee Policy after September 11,” pp. 29-30.

groups within the governing coalition.”<sup>20</sup> There are, however, other opinions. Birkland, for example, argues that early evidence indicates that the events of September 11 triggered what Anthony Downs has called an “alarmed discovery” of the domestic terrorism problem. Birkland suggests that the events will eventually fade on the national agenda, but not to pre-September 11 levels.<sup>21</sup> Brouwer and Catz have conducted another study on the effects of 9/11 on laws and policies, specifically focusing on several European countries. This study, like that of the Migration Policy Group, suggested that the 9/11 attacks were used in the first few months after they occurred to consolidate policies that had not received enough support in the preceding years.<sup>22</sup>

Brouwer concludes that in the fields of immigration and asylum law,

...new measures included extra search powers for police authorities, measures on detention and information exchange and even the activation of emergency plans. Only in Germany and the UK, amendments to the migration and asylum law, were directly related to the anti-terrorism policy.<sup>23</sup>

These conclusions, which will be elaborated in the present study, do not differentiate between types of asylum seekers, such as Muslims and non-Muslims. This research will assess whether the 9/11 events have specifically affected the asylum policy towards Muslims. No studies appear to have been done on this specific issue.

### **Chapter 3 – Methodology and Framework of Analysis**

This section presents the methodology of the research, including the different hypotheses, the explanatory variables and their definitions.

#### **3.1 –The Hypotheses**

As noted, this research examines how the 9/11 events have affected Western countries’ refugee policies towards Muslims. Such terrorist acts threaten and harm the national security of any country. Specifically, the security threat they pose is twofold.

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<sup>20</sup> Gert-Joachim Glaeßner, “International Security and the New Anti-Terrorism Act,” German Politics, Vol. 12, No. 1 (April 2003), p. 51.

<sup>21</sup> Thomas A. Birkland, “‘The World Changed Today’: Agenda-Setting and Policy Change in the Wake of the September 11 Terrorist Attacks,” Review of Policy Research, Vol. 21, No. 2 (2004), p. 196.

<sup>22</sup> Evelien Brouwer, “Immigration, Asylum and Terrorism: A Changing Dynamic - Legal and Practical Developments in the EU in Response to the Terrorist Attacks of 11.09,” European Journal of Migration and Law, Vol. 4 (2003), p. 422.

<sup>23</sup> Ibid.

First, the terrorist organization behind the 9/11 attacks, Al Qaeda, has openly expressed its hostility towards the United States and its allies. Already in February 1998, Osama bin Ladin's network, the World Islamic Front for Jihad against the Jews and Crusaders, declared its intention to attack Americans and their allies, including civilians, anywhere in the world.<sup>24</sup>

Although Al Qaeda targeted mostly the United States itself and the Jewish people, it has attacked, along with its network, other states as well. For instance, Egypt's two largest Islamic terrorist groups, Jamaat al-Islamiyya (whose name means "the Islamic Group") and Egyptian Islamic Jihad, both of which are considered a part of the Al-Qaeda network, have conducted two acts in the summer of 1995: the assassination attempt on President Hosni Mubarak in Ethiopia and the car bombing of the Egyptian embassy in Pakistan. Another group suspected of having links with Al Qaeda, Jemaah Islamiyah (meaning "Islamic Organization") has been accused of carrying out the attack in the Indonesian island of Bali in October 2002. Not only are Al Qaeda's motives and activities relevant to this research, but also its network and other Islamic fundamentalist terrorist organizations.

Therefore, the first security hypothesis of this research is: the closer a state is to the United States - in terms of (economic and strategic) partnership and values - the more it will feel threatened by Al Qaeda and other Islamic fundamentalist organizations.

As a second hypothesis, a country's past experience with Islamic terrorism affects how the state perceives security threats and whether its policies will shift following a terrorist attack, such as 9/11. A country that has experienced Islamic terrorism before 9/11 will already have adjusted its asylum policy towards Muslims, making the 9/11 events irrelevant. These two hypotheses, constituting the security threat variable, are represented in Figure 3.1 below.

Figure 3.1 – The Influence of the Security Threat Variable on Policy Following 9/11

		Previous Islamic Terrorist Attacks	
		Many	Few
Partner of the United States	Yes	9/11 attacks will have little effect	9/11 attacks will have the greatest effect
	No	9/11 attacks will have little effect	9/11 attacks will have great effect

<sup>24</sup> International Policy Institute for Counter Terrorism, "Al Qaeda - The Base," [http://www.ict.org.il/inter\\_ter/orgdet.cfm?orgid=74](http://www.ict.org.il/inter_ter/orgdet.cfm?orgid=74), accessed on 20 November 2004.



According to this security threat variable, previous Islamic terrorist attacks have a stronger influence on the current asylum policy towards Muslims than does the state's partnership with the United States. This is because it is assumed that previous terrorist attacks have already altered the asylum policy (towards a much restrictive strategy), making the partnership hypothesis less relevant. It follows that a state having had few previous attacks and being a partner of the United States will be affected to a greater extent after 9/11 than a state having had few previous attacks that is not a partner of the United States.

Another hypothesis of this research is that rather than security considerations shaping the asylum policy of countries, it is domestic politics – the agenda of the political parties and interest groups – that has shaped governments' asylum policies towards Muslims. Although this hypothesis is not expected to exclude the security threat hypotheses, the latter stress external factors of a state, such as international terrorism and partnerships, whereas the former focuses on internal factors such as party politics, interest groups and right-wing parties. To obtain the clearest picture possible, it is essential to examine both.

Within the domestic politics variable, one hypothesis stresses party politics: different parties in power promote different asylum policies, depending on the political system within which they work, their goals and the coalitions needed to pass legislation. However, this picture may be different if the government takes other concerns into account, such as security concerns (as introduced in the previous variable), the interests of pressure groups and the restrictions set by the constitutional framework of the state.

For the purposes of this study, there are two types of interest groups – those opposing restrictions on the entry of asylum seekers and those favoring restrictions on their entry. Interest groups of the first type are usually either human rights organizations or ethnic and religious groups seeking to influence the government to allow their compatriots to join them. If a certain ethnic or religious group has a large presence and more importantly, is politically organized in the country, it will be able to influence the government more effectively. This also depends on the institutional constraint: whether the political structure of the state enables groups to influence the government. This hypothesis assumes that interest groups existing within a developed organizational structure will be better able to influence the government than groups in countries lacking this feature.

Those favoring restrictions on the entry of asylum seekers are usually either right-wing parties or right-wing extremists who are banned from political activity. When a right-wing party receives much support from the public or is gaining popularity, this signals to the government a change in public attitudes towards the issue of foreigners and migration. However, as Anastasakis has observed: “The complex nature of the phenomenon is accentuated by the existence of a variety of radical right parties and groups in the different national settings. These may be nationalist populist parties, nationalist regionalist or nationalist with authoritarian leanings.”<sup>25</sup>

The extreme intricacy of right-wing extremism – a field of research in itself – necessitates using a simplistic definition of the term. Therefore, this study will only refer to those groups and parties that have a significant presence in the asylum discourse, where the extreme-right discourse is usually focused on racist and xenophobic arguments.<sup>26</sup>

Each case study has a unique political system and different political dynamics. Only by scrutinizing the deliberations in the national parliaments and governments, can one truly discern why a certain country chose a specific course of action. This “domestic” variable also involves the constitutional framework in each country. Given that this research focuses on a specific religious group, it is especially important to see how the national judicial bodies have reacted to laws that sometimes may seem discriminatory towards asylum seekers.

### **3.2 – Definitions of the Research**

**Refugees:** According to the 1951 UN Convention on the Status of Refugees, a refugee is defined as a person who:

...owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.<sup>27</sup>

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<sup>25</sup> Othon Anastasakis, “Extreme Right in Europe: A Comparative Study of Recent Trends,” Discussion Paper No. 3, the Hellenic Observatory, the European Institute, London School of Economics and Political Science (November 2000), p. 5.

<sup>26</sup> *Ibid.*, p. 6.

<sup>27</sup> United Nations, Convention and Protocol Relating to the Status of Refugees (Geneva: UNHCR, 1951), Article 1A(2).

This definition has been and remains the principal universal international instrument setting basic principles for the international protection of refugees. However, the granting of refugee status differs from country to country according to national legislations. These laws will be explored in this study.

**Refugee policy** (the dependent variable): Since this research focuses on the admission of refugees into countries, it will consider refugee policy only from the standpoint of “refugee control.” Questions such as whether there are exclusions from asylum procedures and/or from refugee status will be examined in terms of legislation or regulation and alternations in the definitions of the protected individuals, the introduction of accelerated procedures and the reception practices, such as detention, of each country.<sup>28</sup>

**Security threat:** This is the most important explanatory variable of the research and, as explained above, is divided into two hypotheses. The first hypothesis concerns the number of previous Islamic terrorist attacks in the country. To this day, there is still no universally agreed definition of terrorism. Gearson has noted that the definition of the term is subjective, depending on the interests and objectives of those who define it. As an example, he pointed out that whereas the US State Department defined terrorism as “premeditated, politically motivated violence perpetuated against non-combatant targets by sub-national groups or clandestine agents, usually intended to influence an audience,” the FBI characterized it differently as “the use of serious violence against persons or property, or the threat to use such violence, to intimidate or coerce a government, the public, or any section of the public in order to promote political, social or ideological objectives.”<sup>29</sup> Such a definition is also subject to debate regarding what is considered “serious violence.”

The current study tends towards the FBI definition, since terrorism is not only politically motivated. Yet, this research will not include the planning or any suspected preparations for terrorist attacks as terrorism, since there have been many events where individuals were thought to be planning or preparing to execute a terrorist attack but the suspicions proved incorrect.<sup>30</sup> Therefore, a terrorist attack is an attack on a state’s soil or on its interests abroad

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<sup>28</sup> Khalid Koser, “Asylum Policies, Trafficking and Vulnerability,” *International Migration*, Vol. 38, No. 3 (2000), p. 109.

<sup>29</sup> John Gearson, “The Nature of Modern Terrorism,” in Lawrence Freedman (ed.), *Superterrorism: Policy Responses* (Malden, MA: Blackwell Publishing, 2002), p. 9.

<sup>30</sup> It is possible that with intensive efforts, a country succeeds in preventing terrorist attacks in its territory and against its citizens and interests. However, this paper stresses the effects of terrorist attacks on the public and the

(i.e., bombing a financial or political institution of the country located abroad), inflicting damage on properties and/or human life. This variable is dichotomous, divided into “many” and “few,” according to the scope of the Islamic terrorist attacks that took place throughout the 1990s.

In addition, many have considered whether to include acts of anti-Semitism as terrorism. Is the burning of a synagogue simply a hate crime or is it terrorism? Is it terrorism if an individual decides by himself, with no group affiliation, to perpetrate such a crime? I believe these crimes warrant inclusion in this research as acts of terrorism. However, methodological problems arise when trying to include all the anti-Semitic attacks committed by Muslims. Since the perpetrators of many of the anti-Semitic attacks in Europe have not yet been found or proven guilty, including only the attacks that were proven to be committed by Muslims would bias the research’s conclusions.<sup>31</sup> Therefore, though acknowledging anti-Semitic acts as terrorism, these will not appear in the present study.

The second hypothesis concerns a country’s relations with the United States. A partnership may not involve military ties, but rather common values and interests. Such a relationship between states is characterized by mutual cooperation and responsibility, where the states are regularly involved in joint actions and do not counteract each other on issues of importance. The question here is whether the states see eye to eye in matters of national security or regarding the achievement of a specified goal.

**Muslims:** For purposes of this research, a Muslim is defined as a person (in this case an asylum seeker) who comes from a country at least 95 percent of whose population consists of followers of Islam.<sup>32</sup> These countries are: Afghanistan, Algeria, Djibouti, Egypt, Iran, Iraq, Jordan, Libya, Mauritania, Morocco, Niger, Pakistan, Qatar, Saudi Arabia, Tunisia, Turkey,

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government. An actual terrorist attack has a greater impact on policies and the psychological perceptions of the public than do the intentions of terrorists to commit attacks, which are expressed all the time. Once an attack has been executed, it is much more tangible and real than a threat.

<sup>31</sup> For instance, if State A had 100 anti-Semitic attacks in the year 2000 but only 15 were confirmed as committed by Muslims, and State B had 50 attacks that year but only 30 were proved to be committed by Muslims, taking only the confirmed figures might distort reality. State A may actually have suffered 80 attacks committed by Muslims.

<sup>32</sup> This threshold was chosen so as to include at least a representative sample of Muslim states without needing to further lower the threshold. Data taken from the Central Intelligence Agency, Director of Central Intelligence, *The World Factbook 2004*, <http://www.cia.gov/cia/publications/factbook/index.html>, accessed 12 October 2004.

United Arab Emirates, and Yemen. That is, all of these countries are considered countries of origin of Muslim asylum seekers.

This definition is problematic and deficient, since it does not take into consideration Muslim asylum seekers from other countries of origin and does not distinguish asylum seekers who are not Muslims but originate from these countries. Indeed, people fleeing from a Muslim country might be precisely those belonging to a different religion. The definition of a Muslim used in this research does not take this point into consideration. However, since it was difficult to find data on the religion of every single asylum seeker applying for refugee status in the states examined, the best alternative was to pick states with an overwhelming majority of Muslims, in lieu of Arab and other countries where Muslims are less than 95 percent of the population. Thus, Oman, Kuwait or Indonesia – the largest Muslim country in the world – do not meet the criterion.

**Interest groups:** These include ethnic groups (especially of Muslim origin) and nongovernmental organizations (NGOs), such as organizations encouraging a government to receive refugees on humanitarian grounds or to reject them on nationalistic grounds. The research will investigate whether pressure from ethnic groups or NGOs had an impact on the refugee admission policy, via political channels, in each country according to its political system.

**The constitutional framework of the state:** These are sets of laws and the constitutional laws, whether a written constitution or a common law, that define the limits of the executive and legislative branches. This study will examine whether the constitutional courts in a country have ruled a relevant law as unconstitutional, hence forcing the government to alter its decisions.

### **3.3 – Research Strategy**

This research is qualitative in nature and uses comparative approach, which is a compromise between an in-depth single case study and a quantitative approach. A quantitative research could have been conducted by examining numerical data on Muslim asylum seekers who were granted refugee status. However, such an approach would not validate any causal inference. In addition, important explanatory variables, such as political, constitutional and ethical considerations, are of course difficult to quantify.

The research will include a “pretest” and a “posttest.” In other words, the research will first identify the refugee policies before the 9/11 attacks and then will identify those following 9/11, and will try to assess the reasons for any change found in the countries’ policies. This pretest-posttest approach permits demonstrating time sequence. However, it will be essential to compare the ethnic composition of asylum seekers before and after 9/11; any change unnoticed may produce a biased conclusion.

The ability to compare will be demonstrated through the use of time sequence, using a restricted period of time (1997-2003), keeping any interfering variable constant for all the case studies. These interfering variables can include EU membership, economic performance and standard of living and international events such as the Second Gulf War (2004).

It should be pointed out that no liberal democracy worthy of the name would pass a law discriminating between individuals of different religious backgrounds. Therefore, when trying to identify whether the changes have been directed distinctively towards Muslims, various means of causal inference are needed. For instance, this study will not only verify numerically whether Muslims have been granted less asylum recognition since 9/11, but also whether the debates in the national parliaments have focused on Muslims and the threat of Islamic fundamentalism and terrorism. The research will assess whether the state associates international terrorism with Muslims or Islamic fundamentalism and, if so, whether restrictive measures specifically aimed at preventing the entry of possible terrorists could be seen as measures targeting Muslim asylum seekers.

## **Chapter 4 – Has There Been a Change in the Asylum Control Policies towards Muslims Following 9/11?**

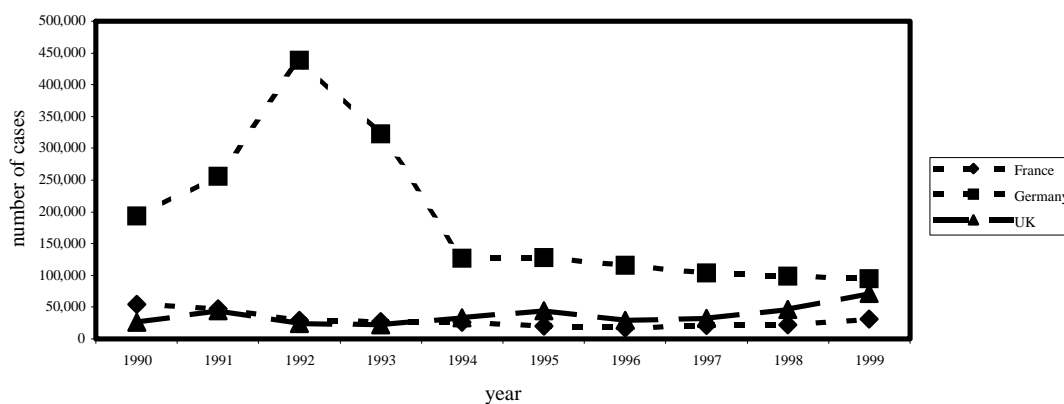
Terrorism has become a significant variable, especially in the last decade, influencing the policies of national governments. However, before examining how the terrorist attacks of September 11 affected the policies of France, Germany and the UK regarding the admission of Muslim refugees, a short historical survey of these admission policies is in order.

### **4.1 – Policies before 9/11**

The three countries in question have had different past experiences with foreigners and asylum seekers. To better understand the policies of these countries, it is helpful to compare

the respective numbers of asylum seekers who applied for refugee recognition in these countries in the 1990s.

**Figure 4.1 - Asylum Applications, 1990-1999**



Source: UNHCR, *Asylum Applications in Industrialized Countries: 1980-1999*, Geneva, November 2001, <http://www.unhcr.ch>

Figure 4.1 illustrates the general trend of asylum applications for the 1990s. However, since this research divides asylum seekers into two categories, Muslims and non-Muslim, Table 4.1, shown next, usefully demonstrates the differences in the number of asylum seekers from each group who applied for asylum in the three countries.

**Table 4.1 – Annual Number of Asylum Applications by Groups, 1997-2003**

	France		Germany		UK*	
	Muslims	Non-Muslims	Muslims	Non-Muslims	Muslims	Non-Muslims
1997	4,360	17,660	44,680	61,410	4,800	15,990
1998	4,142	16,448	47,865	77,785	3,630	12,785
1999	4,900	17,860	34,020	46,690	NA	NA
2000	9,283	28,614	32,287	27,508	9,160	41,950
2001	14,440	45,921	26,930	23,004	24,750	45,020
2002	18,120	50,295	26,841	41,446	31,565	71,725
2003	26,096	61,101	26,930	22,419	30,226	77,088

\* The figures for 1998 were not available.

Source: UNHCR, the *Statistical Overviews* of the years 1997-2000 and the *Statistical Yearbooks* of 2001-2003. Additional data was made available with the help of Tarek Abou Chabake and Christian Oxenboll of the Population Data Unit, Population and Geographic Data Section, UNHCR, Geneva, [www.unhcr.ch/statistics](http://www.unhcr.ch/statistics).

Table 4.1 illustrates that while applications decreased in general in Germany for the period 1997-2003, the number of asylum applications in France and the UK have risen quite

drastically for both Muslims and non-Muslims. The next section of this research will depict the developments in each country that might account for these figures.

## **France**

Certain historical developments in the French case deserve particular attention, though Figure 4.1 shows that the levels of asylum applications remained fairly steady throughout the 1990s. These levels stemmed from changes in the 1980s; specifically following the 1986 elections, Interior Minister in Jacques Chirac's government of *cohabitation*, Charles Pasqua, launched a series of initiatives and bills that which came to be known as *la loi Pasqua*. These were intended to give greater power to the police, especially the *Police de l'Air et des Frontières* (PAF), to arrest and deport undocumented migrants and to deny entry to asylum seekers, who would not be allowed to appeal their cases to the OFPRA.<sup>33</sup> However, due to massive protests against the reform by immigrant rights groups, Pasqua and Chirac eventually had to withdraw the bills from consideration.<sup>34</sup>

Pasqua, however, had another chance to tighten immigration controls in March 1993. Once again he proposed a set of bills, known as *la loi Pasqua II*. Just like *la loi Pasqua I*, this legislation "limited the civil rights of immigrants and asylum seekers, by increasing the powers of the police and the administration to detain and deport unwanted migrants."<sup>35</sup> Under the new policy, immigrants who threatened "public order" could be arrested and deported.<sup>36</sup>

The Council of State warned the government that the law was legally problematic. Furthermore, the Constitutional Council, which has powers of judicial review, also found several aspects of the law unconstitutional. This body ruled that restrictions on the right of appeal and provisions in the law for automatic refoulement of refugees were unconstitutional. Pasqua, who was determined to achieve his reform, called for a constitutional amendment, claiming that France need not jeopardize its participation in the Dublin Convention and the

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<sup>33</sup> OFPRA – French Office of Protection of Refugees and Stateless People. James F. Hollifield, "Immigration and Integration in Western Europe: A Comparative Analysis," in Emek M. Uçarer and Donald J. Puchala (eds.), Immigration into Western Societies: Problems and Policies (London: Pinter, 1997), p. 42.

<sup>34</sup> James F. Hollifield, "Ideas, Institutions and Civil Society: On the Limits of Immigration Control in France," in Grete Brochmann and Tomas Hammer (eds.), Mechanisms of Immigration Control: A Comparative Analysis of European Regulation Policies Oxford and New York: Berg, 1999), pp. 69-70.

<sup>35</sup> Hollifield, "Immigration and Integration in Western Europe," p. 44.

<sup>36</sup> Ibid.



Schengen Agreement. This amendment eventually gave the state the power to turn back asylum seekers without hearings or appeals.<sup>37</sup>

The Pasqua law was not the only change in French migration policy during the 1990s. One obvious reason for the numerous alterations in policy was the changes in government. In late 1996, the Juppé government proposed a new law that came to be known as the Debré law, after then-Interior Minister Jean-Louis Debré. This law required all citizens to notify local authorities whenever they received any non-EU foreigner in their homes. Because it intruded into the private lives of individuals, the Debré law was denounced as a threat to the basic civil liberties of all French citizens.<sup>38</sup>

By the time the French Parliament passed the final version of the Debré law in March 1997, provisions on notification of the whereabouts of foreigners had been trimmed down or eliminated altogether. The Constitutional Council subsequently discarded stipulations that would have given the police access to the fingerprints of all asylum seekers.<sup>39</sup>

The elections of May-June 1997, called by President Chirac, brought a new government to power. Jean-Pierre Chevènement, the new interior minister introduced a law that, similarly to the previous migration laws, did not pass as first scheduled in December 1997. Only after several change did the National Assembly approve the new law, according to which a “threat to public order” is still grounds for exclusion.<sup>40</sup> The Chevènement Law also brought some changes, the most important of which was creating two different forms of asylum. Individuals persecuted because of their activities on behalf of freedom would receive constitutional asylum, whereas those who would be in imminent personal danger if they were returned to their country of origin were granted territorial asylum.<sup>41</sup>

## **Germany**

The German legislature too, altered its asylum policy, but not as often as its French counterpart. Until 1993, the year Germany extensively revised its asylum law, the right to asylum was based on Article 16 (II, 2) of the 1949 Basic Law, which granted asylum to all those who were persecuted on grounds of political belief, race, religion or membership of a

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<sup>37</sup> Hollifield, “Ideas, Institutions and Civil Society,” pp. 78-79.

<sup>38</sup> *Ibid.*, p. 82.

<sup>39</sup> *Ibid.*, p. 83.

<sup>40</sup> *Ibid.*, p. 88.

<sup>41</sup> *Ibid.*, p. 89.

certain social or ethnic group in their country of origin.<sup>42</sup> This liberal asylum policy was a conscious act of atonement for Germany's Nazi past.<sup>43</sup> However, this generous policy also turned Germany into Europe's top destination for asylum seekers. As shown in Figure 4.1, the asylum crisis peaked in 1992-1993, when Germany received more asylum seekers than all the other EU countries combined.<sup>44</sup>

The large number of refugees in Germany, together with the series of much publicized attacks against foreigners in 1992-1993, forced the Christian-Liberal governing coalition, with the agreement of the opposition SPD, to amend Article 16 of the constitution in May 1993.<sup>45</sup> This compromise was aimed at restricting the entrance of two types of asylum seekers: those arriving via "safe third countries," where an asylum seeker is safe from persecution and could apply for asylum, and those whose claims are regarded as "manifestly unfounded" since their country of origin is considered "safe." Asylum seekers fitting these two categories were by definition excluded from the asylum process and denied entry or subjected to immediate deportation.<sup>46</sup>

To accommodate this constitutional amendment, the Asylum Seekers' Benefit Act (*Asylbewerberleistungsgesetz*) and a new Asylum Procedures Code, including a special accelerated procedure at the airports (*Flughafenverfahren*), were introduced. The latter enabled the authorities to swiftly handle applications for asylum by individuals who had no valid passport or means of identification, or came from a safe country of origin.<sup>47</sup> Since then,

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<sup>42</sup> Thomas Faist, "How to Define a Foreigner? The Symbolic Politics of Immigration in German Partisan Discourse, 1978-1992," *West European Politics*, Vol. 17, No. 2 (April 1994), p. 65.

<sup>43</sup> Christian Joppke, *Immigration and the Nation-State: The United States, Germany, and Great Britain* (Oxford: Oxford University Press, 1999), p. 86.

<sup>44</sup> Niklaus Steiner, *Arguing about Asylum: The Complexity of Refugee Debates in Europe* (New York: St. Martin's Press, 2000), p. 63.

<sup>45</sup> Hollifield, "Immigration and Integration in Western Europe," p. 49.

<sup>46</sup> Christian Joppke, "Asylum and State Sovereignty: A Comparison of the United States, Germany, and Britain," *Comparative Political Studies*, Vol. 30, No. 3 (June 1997), p. 282.

<sup>47</sup> Provided that the asylum seeker could be accommodated at the airport and his claim could be processed within a maximum period of nineteen days. In addition, this airport procedure was limited to those decisions that could be rejected as manifestly unfounded. Roger Zetter, David Griffiths, Silva Ferretti and Martyn Pearl, *An Assessment of the Impact of Asylum Policies in Europe, 1990-2000*, Home Office Research Study 259 (Home Office Research, Development and Statistics Directorate, June 2003), p. 63.

the number of deportations has risen sharply and the federal agency for refugees has reduced the amount of pending cases dramatically, giving asylum seekers a decision in a short time.<sup>48</sup>

### **The United Kingdom**

Although the UK has never experienced the surge of asylum seekers that Germany has witnessed, the UK has sought to restrict their entry. Unlike Germany, throughout the past decade, the UK has revised its asylum policy numerous times.

In the UK, the most important piece of legislation regarding asylum since the Immigration Act of 1971 has been the Asylum Appeals Act of 26 July 1993. This is mostly because until then there were no separate regulations for asylum.<sup>49</sup> According to a Home Office study, the latter act was designed to improve the decision-making process in light of the massive accumulation of asylum cases. Among the act's prime features was a provision aimed at denying entry to asylum seekers arriving to the UK via a "safe third country" and a provision introducing the fingerprinting of all asylum seekers, as a means of determining their identity in case they had improper papers. Asylum seekers were, however, given the opportunity to appeal an immigration officer's decision, with a forty-eight-hour time limit for those individuals processed under accelerated procedures.<sup>50</sup>

Three years later, however, the 1996 Asylum and Immigration Act was passed. This piece of legislation, which corresponds to the Dublin Convention, included the extension of "fast-track" procedures for asylum seekers from designated "safe countries" (the so-called White List) and removed the right of appeal against return in the safe-country rule.<sup>51</sup> Moreover, three years later, during the Labour Party's first term in office after many years, the government introduced the 1999 Immigration and Asylum Act (IAA), which took effect in April 2000. Some of this Act's specifications had already been envisioned in Labour's 1997 manifesto.<sup>52</sup>

Relevant to this research is that the act extended carriers' liability, including presenting new measures to refuse entry to undocumented passengers and permit the detention of asylum

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<sup>48</sup> The number of deportations grew from 8,232 in 1991 to 36,165 in 1993, 36,183 in 1994 and fell in 1995 to 21,487. Dietrich Thränhardt, "Germany's Immigration Policies and Politics," in Grete Brochmann and Tomas Hammer (eds.), Mechanisms of Immigration Control: A Comparative Analysis of European Regulation Policies (Oxford and New York: Berg, 1999), pp. 47, 49.

<sup>49</sup> Joppke, "Asylum and State Sovereignty," p. 285.

<sup>50</sup> Zetter, An Assessment of the Impact, pp. 92-93.

<sup>51</sup> Ibid., pp. 93-94.

<sup>52</sup> Eytan Meyers, International Immigration Policy: A Theoretical and Comparative Analysis (New York: Palgrave Macmillan, 2004), p. 76.

seekers who made false statements in their applications. In addition, the act abolished the White List but continued the fast-tracking of those with “manifestly unfounded claims” and increased powers of entry, search and arrest for immigration officers.<sup>53</sup>

This last section of the research has illustrated that all three countries have altered their asylum policies before 9/11. Both the governments of France and the UK have had responsive policies towards the asylum flows to their countries, each modifying the policies every few years. Germany’s most important development was the constitutional amendment, which required specific changes to asylum procedures.

#### **4.2 – Policies after 9/11**

This section presents the changes in asylum policy subsequent to 9/11. These changes did not necessarily result from the terrorist attacks, a question that the next chapter will consider.

##### **France**

The French government has introduced a number of laws since September 2001, several of which focus directly on the issue of immigration, such as the law on Immigration Control, Temporary Residence in France and Nationality (of 26 November 2003) and the law on the Right of Asylum (of 10 December 2003). The first law, however, is not relevant to this study because it does not deal with asylum. The second decree does address the subject and its aims are basically to shorten the period of examination of the applicants, to rationalize the procedures and to modernize the operation of the OFPRA.<sup>54</sup> This law is mostly technical, integrating the different types of asylum procedures and specifying the period and how the procedures are to be conducted.

Other enactments in France following 9/11 included the Law on Everyday Security (LES) and the Law on Internal Security (LIS). With these two laws, France adopted measures to deal with criminals and dangers to society. As Brouwer notes, the draft of the LES, which was presented in the summer of 2001, included measures to fight juvenile delinquency, drug abuse

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<sup>53</sup> Zetter, *An Assessment of the Impact*, pp. 95-96.

<sup>54</sup> Sénat, “Analyse des discussions législatives et des scrutins publics: Loi relative à la maîtrise de l’immigration, au séjour des étrangers en France et à la nationalité,” [http://www.senat.fr/dossierleg/tc/ana\\_pjl02-396.html](http://www.senat.fr/dossierleg/tc/ana_pjl02-396.html), accessed on 8 November 2004.

and the illegal possession or trade of weapons. However, following 9/11, a new chapter on the fight against terrorism was introduced and adopted by the French Senate.<sup>55</sup>

These new antiterrorism provisions did not directly address the issue of asylum seekers. Instead they introduced, among other things, “extra search powers for police agencies, and in certain circumstances, for private security agencies, and the recording and retrieving of internet connection data.”<sup>56</sup> The LES does state that foreigners with a short-term residence permit convicted of *threatening* behaviors that disturb public order may be expelled, through what is known as “*double peine*” - double penalty. Previously, double penalty was applied only to foreigners convicted of a crime; through the new law it applies when the offender represents a threat to public order.<sup>57</sup>

The LIS also does not speak explicitly of asylum seekers or refugees, but refers to foreigners in general. For instance, the LIS enables the authorities to withdraw a residence permit from a foreigner who is liable to criminal prosecution, and also to deport a foreigner who has constituted a threat to public order even if his entry into France was legal.<sup>58</sup>

## Germany

Immediately following 9/11, the Schröder government enacted the first antiterror package of legislation (*Sicherheitspaket I*), which among other things, amended the Law Governing Private Associations so as to enable banning extremist religious and ideological organizations. The package was aimed at preventing religious or ideological organizations from violating the law and pursuing anticonstitutional goals that are allegedly based on religious beliefs.<sup>59</sup> However, this first package, which entered into force in December 2001, had already been prepared before 9/11.<sup>60</sup>

A second antiterror package, which was composed of many different laws, also addressed the issue of foreigners and asylum seekers. Also known as the Antiterrorism Law (*Gesetz zur Bekämpfung des internationalen Terrorismus*), it came into force on 1 January 2002. The

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<sup>55</sup> Brouwer, “Immigration, Asylum and Terrorism,” p. 405.

<sup>56</sup> Ibid.

<sup>57</sup> Blion, “France,” p. 3.

<sup>58</sup> Recherches dans le Journal Officiel de la République Française, “Loi n° 2003-239 du 18 mars 2003 pour la sécurité intérieure,” Journal Officiel n° 66 du 19 mars 2003, <http://www.admi.net/jo/20030319/>, accessed on 8 November 2004.

<sup>59</sup> Federal Ministry of Interior, “Cornerstones of Germany’s Second Anti-terror Package,” 11 May 2001, [http://www.eng.bmi.bund.de/dokumente/Pressemitteilung/ix\\_64084.htm](http://www.eng.bmi.bund.de/dokumente/Pressemitteilung/ix_64084.htm)

<sup>60</sup> Brouwer, “Immigration, Asylum and Terrorism,” p. 404.

amendments that are relevant to this study are those regarding the Foreigners Act (*Ausländergesetz*), the Asylum Procedure Act (*Asylverfahrensgesetz*) and the Act Governing the Central Aliens Register (*Ausländerzentralregistergesetz*).<sup>61</sup>

The amendments to the Foreigners Act permit declining to grant a visa or residence authorization to anyone who engages in or supports terrorism or acts of violence. In order to refuse entry, it is sufficient to establish that the individual poses a threat to the free, democratic, basic order or to the security of the Federal Republic of Germany. However, for reasons relating to the rule of law, it is not sufficient merely to harbor suspicions. Those who provide false information during the visa procedure or who provide false information to the authorities dealing with foreigners are to be expelled.<sup>62</sup>

In order to implement these regulations effectively, the grounds for regular expulsion were expanded, though not to an extent that would conflict with the binding provisions set forth in the Refugee Convention of 1951. The introduction of forgery-proof identity cards was extended to asylum seekers as well.<sup>63</sup> Through the Asylum Procedure Act, it became possible to record people's voices for the purposes of establishing identity. Such recordings could only be made if the person was notified of this measure in advance. Furthermore, to enhance the access of security authorities, fingerprints and other identity-establishing documents obtained during the asylum procedure could be stored for ten years.<sup>64</sup>

Finally, important amendments have been made to the Act Governing the Central Aliens Register, making it possible to store data on visa-related decisions in the visa files, which until then only included data on visa applications. These changes were aimed at improving the clearance checks conducted on persons entering the country. For this purpose, police authorities' access to the file in "the event of abstract dangers" was to be improved.<sup>65</sup>

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<sup>61</sup> Other changes of interest here are the Amendment of the Security Clearance Check Act (*Sicherheitsüberprüfungsgesetz*); expanding the duties of the Federal Border Police; the Amendment to the Act Governing Passports and Identity Cards (*Pass- und Personalausweisgesetz*); strengthening the Law Governing Private Associations (*Vereinsgesetz*); and enhancing aviation security. Bundesregierung, "Zweites Anti-Terror-Paket in Kraft getreten," 18 February 2002, [http://www.bundesregierung.de/emagazine\\_entw-413.65820/Zweites-Anti-Terror-Paket-in-K.htm#0](http://www.bundesregierung.de/emagazine_entw-413.65820/Zweites-Anti-Terror-Paket-in-K.htm#0)

<sup>62</sup> Federal Ministry of Interior, "Cornerstones of Germany's Second Anti-terror Package."

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

<sup>65</sup> *Ibid.*

## **The United Kingdom**

In the UK, several measures were adopted following September 2001, such as the Anti-terrorism, Crime and Security Act 2001 (ATCSA), which received royal assent on 14 December 2001.<sup>66</sup> This act was a supplement to the existing Terrorism Act 2000 and intended to assist the policy of detaining persons suspected of being international terrorists or persons who, based on a reasonable belief, constitute a risk to national security (sections 21-32). This statute applies only to non-British citizens, including asylum seekers,<sup>67</sup> and includes extensive provisions on the treatment of asylum seekers deemed to be international terrorists.<sup>68</sup>

According to the ATCSA, any person having “links” with an international terrorist group (section 21(2)(c)) is defined as a terrorist. Such a link exists if this individual “supports or assists” an international terrorist group (s 21(4)). Zard asserts that the ambiguity of the terminology makes it possible to define asylum seekers as terrorists “on account of their political, ethnic or religious affiliations or ties.”<sup>69</sup>

The ATCSA also provides measures allowing nonconsideration of the substance of an asylum claim made by certain people whose removal from the UK is conducive to the public good (sections 33 and 34). A third stipulation permits the foreign secretary to retain fingerprints taken in asylum and certain immigration cases, which previously were destroyed once the case was decided. This point has altered Section 141 of the IAA, which allowed fingerprints to be taken in certain circumstances relating to immigration and asylum. Section 143 of the IAA requires the fingerprints to be destroyed within a certain time. However, Section 36 of the ATCSA removes this requirement, both for fingerprints taken in future and ones already held; such fingerprints will now be retained for ten years.<sup>70</sup>

Article 33(1) of the Refugee Convention of 1951 - often termed the nonrefoulement provision - prevents the removal of a refugee where this would lead his or her life or freedom being threatened on account of race, religion, nationality or membership of a particular social

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<sup>66</sup> David Bonner, “Managing Terrorism while Respecting Human Rights? European Aspects of the Anti-Terrorism Crime and Security Act 2001,” European Public Law, Vol. 8, No. 4 (September 2002), p. 498.

<sup>67</sup> Helen Fenwick, “Responding to 11 September: Detention without Trial under the Anti-Terrorism, Crime and Security Act 2001,” in Lawrence Freedman (ed.), Superterrorism: Policy Responses (Malden, MA: Blackwell Publishing, 2002), pp. 86-87.

<sup>68</sup> Harvey, “Securing Refugee Protection,” p. 4.

<sup>69</sup> Zard, “Exclusion, Terrorism and the Refugee Convention,” p. 33.

<sup>70</sup> The Stationery Office, Explanatory Notes to the Anti-Terrorism, Crime and Security Act 2001, <http://www.hms.o.gov.uk/acts/en2001/2001en24.htm#end>, accessed on 20 November 2004.

group or political opinion. Yet, Article 33(2) provides an exception to this protection where there are reasonable grounds for regarding the refugee as a danger to the country's security. Article 1(F) affirms that the provisions of the Convention do not apply to any person regarding whom there are serious reasons for suspicion of having committed one of the crimes listed in that Article.<sup>71</sup> According to the Stationery Office, such felonies include terrorist acts. Thus, if either or both of Article 1(F) or 33(2) applies, a person can be removed without contravening the UK's obligations under the Refugee Convention.<sup>72</sup>

The legal foundation of the ATCSA was subject to much debate since the government decided to derogate from Article 5 of the European Convention on Human Rights (ECHR), according to which every person has the right to liberty and security.<sup>73</sup> The result, which also caused much debate, was that detention became much more popular following 9/11.<sup>74</sup>

In addition to the ATCSA, the Nationality Immigration and Asylum Act was legislated in 2002. In the field of asylum, the purpose of the law was to shorten the application and the appeal processes of asylum seekers. It also declared that asylum applications received from EU candidate countries are unfounded. Moreover, asylum seekers who have not registered their applications immediately upon their arrival will encounter more barriers to application review.<sup>75</sup>

According to this section during the period following 9/11 Germany and the UK have witnessed clear and direct changes in their asylum policies, while France has not.

## **Chapter 5 – Explaining the Policies after 9/11**

In explaining the changes in the policies of the three countries, first it is helpful to compare how many asylum seekers were granted refugee status in each of them before and after 9/11. Importantly, all three countries have been trying for many years to decrease the inflow of refugees. One might, then, expect that the decline in the number of Muslim asylum seekers

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<sup>71</sup> Available at the UNHCR website: [www.unhcr.ch](http://www.unhcr.ch)

<sup>72</sup> The Stationery Office, Explanatory Notes to the Anti-Terrorism, Crime and Security Act 2001.

<sup>73</sup> Harvey, "Securing Refugee Protection," p. 4.

<sup>74</sup> Joanne van Selm, "Refugee Protection in Europe and the U.S. after 9/11," In Niklaus Steiner, Mark Gibney and Gil Loescher (eds.), Problems of Protection: The UNHCR, Refugees, and Human Rights (New York: Routledge, 2003), p. 253.

<sup>75</sup> SOPEMI, Trends in International Migration: Continuous Reporting System on Migration, Annual Report 2002 (OECD, 2003), p. 88.



granted refugee status is not exclusive to Muslims, but represents a general trend. This is not the case.

Table 5.1 shows each country's annual percentage of asylum seekers granted refugee status among the total number of asylum applicants whose case was decided each year. For purposes of this research, the two groups presented are Muslims and non-Muslims.<sup>76</sup> The year 2001 was removed from the table because the terror attacks took place in September, hence, disrupting the pattern of the year.

Table 5.1 - Annual Percentage of Asylum Seekers Granted Refugee Status by Groups\*

	France		Germany		The UK**	
	Muslims	Non-Muslims	Muslims	Non-Muslims	Muslims	Non-Muslims
1997	21.10	16.14	35.70	3.35	13.54	20.58
1998	17.48	16.78	18.11	2.96	28.24	30.90
1999	17.96	18.70	23.22	4.56	NA	NA
2000	11.68	9.54	30.82	3.30	21.62	17.63
2001						
2002	11.46	14.33	19.32	2.00	19.75	20.32
2003	10.73	14.45	8.36	2.94	12.13	16.67

\* Figures from the same source were not available for the years before 1997.

\*\* The figures for 1998 were not available.

Source: UNHCR, the *Statistical Overviews* of the years 1997-2000, the *Statistical Yearbooks* of 2001-2003, and the help of Tarek Abou Chabake and Christian Oxenboll.

The fairly constant policy in France since 1997 – seeking to reduce the number of Muslim asylum seekers admitted – is clearly evident in Table 5.1. However, the figures for non-Muslims do not demonstrate a clear trend. Although the figures for Germany show a great decline in the admission of Muslim refugees, especially in 2003, before that point the numbers of Muslims fluctuate. The percentage of recognized non-Muslim refugees stays more or less constant throughout 1997-2003, suggesting a change in policy specifically towards Muslims.

In the UK, the percentage of Muslim asylum seekers granted refugee status fell after 2001, especially in 2003, perhaps following the adoption of the Nationality, Immigration and Asylum Act of 2002 and the implementation of the ATCSA.

Nevertheless, the figures presented here are insufficient for drawing conclusions, especially since they reflect only a limited period of time following the attacks. A clear

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<sup>76</sup> For example, in 1997 only 21.1 percent of the Muslim asylum seekers in France were granted refugee status.

direction cannot be concluded, therefore, the next section will try to base causal inference on an in-depth examination of the case studies.

## **5.1 – Security Threats**

The British case demonstrates a clear connection between terrorism, Muslims and the laws. The discussions in Parliament, including the proceedings of the ATCSA, have revolved around the dangers international terrorism pose to the UK and the effects of the potential laws on the country's Muslim community. Although legislation on terrorism was passed even before the 9/11 attacks with the Terrorism Act 2000, the UK enacted a state of public emergency shortly after 9/11 with the derogation from Article 5(1) of the Convention. The Human Rights Act 1998 (Designated Derogation) Order 2001 ("the 2001 Order") was instituted on 11 November 2001, having been approved by both houses of Parliament. It states:

There exists a terrorist threat to the United Kingdom from persons suspected of involvement in international terrorism. In particular, there are foreign nationals present in the United Kingdom who are suspected of being concerned in the commission, preparation or instigation of acts of international terrorism, of being members of organisations or groups which are so concerned or of having links with members of such organisations or groups, and who are a threat to the national security of the United Kingdom.

As a result, a public emergency, within the meaning of Article 15(1) of the Convention, exists in the United Kingdom.<sup>77</sup>

In Germany, too, government officials made a clear connection between the laws and security. After the last reading of the second antiterror package in the Bundestag on 14 December 2001, Interior Minister Otto Schily stated that the laws were proposed in response to the threats posed by worldwide Islamic terrorism, which became evident in the 9/11 attacks.<sup>78</sup>

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<sup>77</sup> The Stationery Office, The Human Rights Act 1998 (Designated Derogation) Order 2001, Statutory Instrument 2001 No. 3644, [www.hmsso.gov.uk/si/si2001/20013644.htm](http://www.hmsso.gov.uk/si/si2001/20013644.htm)

<sup>78</sup> "am 14. Dezember 2001 hatte Bundesinnenminister Otto Schily daran erinnert, dass mit dem Gesetz Konsequenzen aus einer Bedrohung durch den weltweiten islamistischen Terror gezogen werden, die in ihrer Tiefendimension durch die schrecklichen Terroranschläge am 11. September 2001 auf New York und Washington deutlich geworden ist. Ziel des Gesetzes ist es daher, dafür zu sorgen, dass die Sicherheitsinstitutionen zu einer Früherkennung solcher Aktivitäten in der Lage sind." Bundespresseamt, "Terrorismusbekämpfung - Eine Sachstandsinformation der Bundesregierung" Homepage Bundesregierung (5 May 2002), <http://www.sicherheitspolitik.bundeswehr.de/3/8/2.php>

However, as the methodological section of this study suggests, the intensity of the security threat following 9/11 differs in each country according to two variables: the number of previous Islamic terrorist attacks and the country's relations with the United States.

Since 1980, terrorist attacks committed in France have come from three fairly distinct types of groups. For most of the 1980s, the most prominent were groups that espoused a radical leftist ideology such as Direct Action, which was similar to the Red Army Faction (RAF) in Germany. The second type is the regional separatist groups that advocate independence or autonomy for specific regions, primarily the Basque Country, Brittany and Corsica. Such groups have committed hundreds of attacks over the years. The third type of groups, which have gradually increased terror attacks over the years are international and “overwhelmingly of Middle Eastern origin.”<sup>79</sup>

Unlike Germany and the UK, France has witnessed numerous terrorist attacks linked to its previous colonies, such as Algeria. Already in 1963 France experienced a spate of terrorism connected to the Algerian War of Independence.<sup>80</sup> Also, during February, March and September 1986 a group demanding the release of three terrorist leaders in French custody - the Committee for Solidarity with Near Eastern Political Prisoners (CSPPA) – carried out twelve attacks.

But the most significant wave of terrorist attacks on France began in 1993-1994, with the emergence of the Armed Islamic Group (GIA). The GIA succeeded in rallying all the Algerian Islamic movements together and found external support from Islamic extremists in Tunisia, Libya and Morocco.<sup>81</sup> Since then France has often been targeted by the GIA and other Islamic extremists, including the series of bombings in the Paris metro.<sup>82</sup>

Although both Germany and the UK have both seen their share of terrorist attacks over the past decade, whether by the RAF in Germany or the IRA in the UK, neither has experienced

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<sup>79</sup> Jeremy Shapiro and Bénédicte Suzan, “The French Experience of Counter-terrorism,” *Survival*, Vol. 45, No. 1 (Spring 2003), pp. 68-69.

<sup>80</sup> *Ibid.*, p. 77.

<sup>81</sup> Gerard Chilian, *L'arme du terrorisme* (Paris: Louis Audibert, 2002), cited in Shapiro and Suzan, “The French Experience of Counter-terrorism,” p. 79.

<sup>82</sup> During the summer of 1995, in a total of eight bombings, twelve people were killed and nearly two hundred injured. The GIA claimed responsibility and its members were convicted of committing the attacks, which included the bomb that exploded on a train at the St. Michel Metro stop on 25 July 1995, killing eight people and injuring about 150; the attack on 6 October 1995 at the Maison Blanche stop that injured eighteen people and the Musée d'Orsay attack, which injured 27. BBC, “Algerians Get Life for Paris Bombings,” Wednesday, 30 October 2002, <http://news.bbc.co.uk/2/hi/europe/2378997.stm>

such a magnitude of Islamic terrorist attacks. The causes for this disparity are beyond the scope of this study; it should, however, be noted most of the Islamic incidents in Germany have been connected to the Turkish-Kurdish conflict. But the most well-known attack by Islamic extremists in (West) Germany occurred on 5 April 1986, when a Libyan bomb in a West Berlin nightclub, killed two US soldiers and wounding seventy-nine. Since then, though Islamic extremists in Germany have been very active in other ways, the significant terrorist attacks have usually targeted Jewish communities.

Much has been said about the radical Islamic infrastructure in Germany. According to Figchel, an intelligence analyst, up until the publication of his article in May 2002 members of the Muslim Brethren – one of the leading radical Islamic groups in Germany – had not been involved in violence outside their native countries. However, their activities in Europe did include training courses and an annual congress attended by radical Islamic clerics from abroad. The group is also known for distributing extreme publications marked by incitement.<sup>83</sup>

Outside their country, Germany citizens have often been victims of terrorism. For instance, eleven German tourists were killed on 11 April 2002 when a tanker full of natural gas exploded outside the oldest synagogue of Djerba on the Tunisian resort island.

Out of the three case studies, the UK has seen the lowest number of Islamic terror attacks targeting its citizens and interests. Although the bombing of Pan American Flight 103 over Lockerbie, Scotland in 1988 took place over British terrain, the attack was aimed at the United States. There have also been PKK attacks in the UK, but the IRA has been responsible for most of the deadly incidents there.<sup>84</sup>

As for relations with the United States, all the three countries are considered among its allies, whether because they are members of NATO, the OECD or simply because they are Western. The UK, however, is considered closer to the United States than the other two, maintaining a true partnership with America.

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<sup>83</sup> Jonathan Figchel, "International Terrorism in Germany: An Ongoing Threat," International Policy Institute for Counter-Terrorism at the Interdisciplinary Center Herzliya, 1 May 2002, <http://www.ict.org.il/articles/articledet.cfm?articleid=437>

<sup>84</sup> U.S. Department of State, "Patterns of Global Terrorism," various years, Office of the Coordinator for Counterterrorism, [www.state.gov/s/ct/rls/pgtrpt](http://www.state.gov/s/ct/rls/pgtrpt)

France and the United States have had their share of disputes regarding NATO, Africa, the Middle East and the Balkans. More recently, tensions have centered on the concept of “rogue states,” which France does not accept, while also rejecting “the US policy of confronting rogue states with economic sanctions and military force.”<sup>85</sup> Additionally, since the end of the Cold War the French have sought to make the world more multipolar, hence ending US unilateralism and creating a Europe that is a counterweight to America.<sup>86</sup>

France, like Germany, has been offended that the United States, among other things, did not sign the treaty banning antipersonnel mines; refused to ratify the Comprehensive Test Ban Treaty; tends to support Israel, when Israel is viewed as the aggressor and the Palestinians as the victims; and abrogated its agreement to the Kyoto Protocol.<sup>87</sup> Gordon has summarized these tensions well:

The sources of Franco-American friction over the past sixty years have thus been constant. France, resentful of American power, has been unwilling to play the passive junior partner in an alliance dominated by the United States, and the United States, in turn, has never been willing to modify its approach.<sup>88</sup>

France has also long resisted the dominance of modern American culture, including television and films and fast food, while trying to defend the French language “from les anglicismes and the internet.”<sup>89</sup> In this regard, the British possess a great advantage over the French; since they are linked to America by culture, language and history, the dominance of American culture is far less threatening to their national identity.<sup>90</sup>

Although (West) Germany has long been considered an important partner to the United States tensions have arisen between the two countries especially during the 1990s, over such

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<sup>85</sup> For elaboration on Franco-American tensions, see Philip H. Gordon, “The French Position,” *The National Interest*, Vol. 61 (Fall 2000), pp. 57-65; Pascal Boniface, “The Specter of Unilateralism,” *Washington Quarterly*, Vol. 24, No. 3 (summer 2001), pp. 155-162; James Petras and Morris Morley, “Contesting Hegemons: US-French Relations in the ‘New World Order,’” *Review of International Studies*, Vol. 26 (2000), pp. 49-67. This quote was taken from Gordon, “The French Position,” p. 59.

<sup>86</sup> Gordon, “The French Position,” p. 57; Boniface, “The Specter of Unilateralism,” p. 158.

<sup>87</sup> Boniface, “The Specter of Unilateralism,” pp. 158-159.

<sup>88</sup> Gordon, “The French Position,” p. 59.

<sup>89</sup> *The Guardian*, “France’s Identity Crisis: The Underlying Problem Affects Us All,” Monday, 18 October 1999, [www.guardian.co.uk/print/0,3858,3913454-103682,00.html](http://www.guardian.co.uk/print/0,3858,3913454-103682,00.html)

<sup>90</sup> Gordon, “The French Position,” p. 60.

issues as the interventions in Bosnia-Herzegovina and Kosovo or environmental matters.<sup>91</sup> As Larres pointed out: “U.S.-German relations are characterized by a mutual incomprehension of each other’s political culture and deeply held political values.”<sup>92</sup> Germany’s dissatisfaction with the status quo is also manifested in its seeking a greater international role, as in its repeated demand for a permanent seat on the UN Security Council.<sup>93</sup>

US-UK relations are visibly superior to US-German relations. There have been many inquired into the “special relationship,” as Winston Churchill described it in 1946 and there are different ways to explain the two countries’ ties. One obvious connection is the fact that colonists from England founded the United States. The two countries have also generated a uniquely successful civil society accompanied by shared values, such as democracy and the rule of law, a strong commitment to individualism and honoring contracts and covenants. They also, of course, share a linguistic and cultural tradition.<sup>94</sup>

Wallace has characterized this relationship as “built upon an existing network of economic, social, and cultural ties and upon the wartime identity of interests.”<sup>95</sup> Although the two countries have their share of disputes on various issues, these are considered mere “family quarrels.”<sup>96</sup>

The UK, then, being a closer partner of the United States than France or Germany, is more prone to Islamic terrorist attacks, which typically are aimed at the United States and its closest partners. The French case demonstrates how the two security hypotheses work in different directions. France had witnessed more Islamic terror attacks than Germany or the UK despite the fact that the UK is considered a closer partner to the United States.

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<sup>91</sup> Michaela C. Hertkorn, “The Relevance of Perceptions in Foreign Policy: A German-U.S. Perspective,” World Affairs, Vol. 162, No.2 (Fall 2001), pp. 61-62.

<sup>92</sup> Klaus Larres, “Mutual Incomprehension: US-German Value Gaps beyond Iraq,” Washington Quarterly, Vol. 26, No. 2 (Spring 2003), pp. 23-24.

<sup>93</sup> Hertkorn, “The Relevance of Perceptions in Foreign Policy,” p. 65.

<sup>94</sup> As presented by James Bennett, “The Emerging Anglosphere: America and the West,” Orbis, (Winter 2002), cited in Robin Harris, “The State of the Special Relationship,” Policy Review, Vol. 113 (June-July 2002), pp. 39-40.

<sup>95</sup> William Wallace, The Foreign Policy Process in Britain (London: RIIA, 1975), pp. 119, 217, cited in Jorgen Rasmussen and James M. McCormick, “British Mass Perceptions of the Anglo-American Special Relationship,” Political Science Quarterly, Vol. 108, No. 3 (Autumn 1993), p. 516.

<sup>96</sup> John C. Hulsman and Sudabeh Koochekzadeh, “A Global Free Trade Association to Preserve and Expand the U.S.-UK Special Relationship,” Orbis, Vol. 46, No. 3 (Summer 2002), p. 435.

As explained in the methodological section, physical terror attacks tend to affect a government's policies more than intangible international ties to certain states. While France has been combating Islamic terrorism in the past decades regardless to its relations with the United States, this has, nevertheless, shaped its asylum policy towards Muslims. In addition, it is worthy to note that the Islamic forces striking France have not been exactly the same ones that attacked the United States and threaten its allies.

## **5.2 – Domestic Politics**

### **5.2.1 – Party Politics**

The events of September 11 delayed the passage of a liberalization reform in Germany's immigration policy that was aimed at attracting skilled workers to the German economy.<sup>97</sup> Interior Minister Schily now pledged that the government would demonstrate "absolute toughness" towards radical Islamic fundamentalists operating in Germany and he proposed a series of measures designed to strengthen internal security.<sup>98</sup>

Although Germany has a multiparty system that requires negotiations and compromises between the parties in order to pass legislation, yet party politics did not play a central role in the first antiterror package. This package reflected what most Germans regarded as long-overdue security improvements. Hence, when it was introduced within weeks of the September 11 attacks, it won broad support both in the coalition and the opposition parties. The CDU and the Liberals (FDP) endorsed the tightened security measures, and the Bundesrat then gave its speedy acquiescence as well.<sup>99</sup> Only days after the Bundestag approved the package, the "Caliph State" Islamic organization in Cologne, which was suspected of having links with Al Qa'ida, was banned, and its leader, serving a prison sentence, was deported to Turkey.<sup>100</sup>

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<sup>97</sup> Meyers, *International Immigration Policy*, p. 159.

<sup>98</sup> Adrian Hyde-Price, "Germany and 11 September," PSA Conference, University of Leicester (March 2003), p. 4, [www.psa.ac.uk/cps/2003%5CAdrian%20HydePrice.pdf](http://www.psa.ac.uk/cps/2003%5CAdrian%20HydePrice.pdf)

<sup>99</sup> Deutsche Welle, "Second Anti-Terror Package Presented to German Parliament," 14 December 2001, <http://www.dw-world.de/dw/article/0,1564,355802,00.html>

<sup>100</sup> Meyers, *International Immigration Policy*, p. 158; Patricia Hogwood, "German Immigration Policy after September 11: Militant Democracy in the Twenty-first Century," ECPR Joint Sessions of Workshops, Workshop 16 on "Who Makes Immigration Policy?" (Uppsala, 13-18 April 2004), pp. 8-9.

Such consensus was not seen, however, in the debates on the second package. Despite being marginal parties, both the FDP and the former Communist party, PDS, vowed to vote against the proposals, which they charged with infringing civil rights. The main point of dispute was the expulsion of foreign extremists. Schily originally called for expelling all foreigners found to belong to extremist groups. Volker Beck, the legal affairs specialist and deputy leader of the Greens parliamentary group, stated that “the coalition will not allow the expulsion” or detention of foreigners “only because of a suspicion” of terrorist activities.<sup>101</sup> Because of the Greens’ protest, the measure had to be removed from the package.<sup>102</sup> The CDU/CSU, in contrast, criticized this modification, arguing that it would make expelling foreigners suspected of terrorist acts much more difficult.

Another factor influencing the government’s policy was the timing of the federal election in September 2002. It was a foregone conclusion that security would play a key role both in party manifestos and in the public debate. The SPD took a tough stance on asylum and foreigners in general, perhaps in an attempt to appeal to the CDU/CSU voters. Edmund Stoiber, the CSU leader, vowed that immigration would be an important issue in his election campaign, given that the government had “forced through” its new immigration law.<sup>103</sup>

Although French legislation after 9/11 had little to do with changing the asylum system, for the 2002 elections, too, politicians were eager to address the security issue. However, unlike Germany, the migration-security issue in France has been extant for many years, since before 9/11. Indeed on 12 September 2001 the French prime minister activated the emergency plan *le Plan Vigipirate*, which strengthened the powers of the police and armed forces. According to Brouwer, this may indicate that the French legislature used 9/11 as an excuse to add enhancing internal security.<sup>104</sup>

In the debates in the UK Parliament on the ATCSA, Home Secretary David Blunkett asked the members what measures should be taken to address the fact that people seek to exploit

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<sup>101</sup> Volker Beck, interviewed by *Berliner Zeitung*, cited in *Deutsche Welle*, “Anti-Terror Package II Facing Roadblocks,” 08.12.2001, <http://www.dw-world.de/dw/article/0,1564,349044,00.html>

<sup>102</sup> Deutsche Welle, “Second Anti-Terror Package.”

<sup>103</sup> Hogwood, “German Immigration Policy after September 11,” pp. 10-11.

<sup>104</sup> Brouwer, “Immigration, Asylum and Terrorism,” p. 405.



rights of asylum so as to hide in the country and organize terrorist acts.<sup>105</sup> Labour MP Kevin Hughes (Doncaster, North) asserted that after September 11, antiterrorist legislation was probably long overdue.<sup>106</sup> MP Simon Hughes (Southwark, North and Bermondsey), however, inquired about the fact that the bill not only allows rejecting an individual before his/her application is considered, but also introduces the power to retain asylum seekers' fingerprints indefinitely.<sup>107</sup>

The debates in Parliament made clear connections among the threat of international terrorism, the possibility of asylum seekers exploiting the system, and the ATCSA's effect on the Muslim community in the UK. What attracted the most criticism was the proposal to make incitement to religious hatred a crime in the same way that incitement to racial hatred is a crime.

The legislative proceedings of the ATCSA demonstrated the different ways in which the House of Commons and House of Lords scrutinize and influence legislation. The two-party system enabled the government to pass its emergency legislation on terrorism swiftly in the House of Commons.<sup>108</sup> Peers from the Labour Party raised fears that the legislation, which includes plans to detain terrorist suspects without trial, was too far-reaching and was being rushed through Parliament too fast. Despite this challenge and widespread criticism from the opposition, the government's substantial majority enabled passing the bill without a real danger of defeat. In accordance with the continuing criticism that the legislation was illiberal and a hasty response to 9/11, Conservative home affairs spokesman Lord Dixon-Smith said the bill was in need of "intensive care."<sup>109</sup>

Changes in the bill were made in the House of Lords, where it was feared that Tory peers might unite with Liberal Democrats and/or the Labour rebels to defeat the government on various points of contention. The Lords spent one day giving general consideration to the bill

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<sup>105</sup> The United Kingdom Parliament, "Orders of the Day on the Anti-terrorism, Crime and Security Bill," House of Commons, Hansard Debates for 19 November 2001,

<http://www.publications.parliament.uk/pa/cm200102/cmhansrd/vo011119/debtext/11119-08.htm>

<sup>106</sup> Ibid.

<sup>107</sup> Ibid. <http://www.publications.parliament.uk/pa/cm200102/cmhansrd/vo011119/debtext/11119-17.htm>

<sup>108</sup> Jonathan Isaby, "Peers and MPs Battle over Terror Bill," BBC, Thursday, 6 December 2001,

[http://news.bbc.co.uk/1/hi/uk\\_politics/1695836.stm](http://news.bbc.co.uk/1/hi/uk_politics/1695836.stm)

<sup>109</sup> BBC, "Terror Bill Meets Peer Pressure," Tuesday, 27 November 2001,

[http://news.bbc.co.uk/1/hi/uk\\_politics/1679950.stm](http://news.bbc.co.uk/1/hi/uk_politics/1679950.stm)

at Second Reading, and then spent four days on its Committee Stage, during which the government suffered a defeat on a clause about the detention of foreign suspects.<sup>110</sup>

The debates in Parliament addressed the problem that the bill, which deals with international terrorism, might depict Muslims in general as terrorists. MP Oliver Letwin (West Dorset) stressed that dealing with the threat of terrorism and the persecution of Muslim communities in the same legislation sent out the wrong message:<sup>111</sup>

Muslims are not, as the Home Secretary and the Prime Minister have freely and frequently acknowledged, terrorists. Muslims are Muslims – they are from a religion – and terrorists are terrorists. We do not want to be discussing the one in the same breath as the other.<sup>112</sup>

The discussants realized that international terrorism has been associated mostly with Muslims, but feared the bill would affect the privacy and liberty of ordinary citizens.<sup>113</sup> For the Liberal Democrats, Simon Hughes stated that: “We still believe that even the events of 11 September do not justify citizens’ liberties being excessively restricted or the executive taking too much power.”<sup>114</sup> In the House of Lords, Lord Waddington (Tories) argued that the religious-hatred offense might be used against mere intemperate language and “more against Muslims than those who vilify them.”<sup>115</sup>

The House of Lords finally agreed to the ATCSA after concessions from Home Secretary David Blunkett, who agreed to drop proposals making incitement to religious hatred a criminal offense.<sup>116</sup>

This part of the research has demonstrated that party politics have affected the legislation process in both Germany and the UK following 9/11. However, the developments in each country illustrated that though party politics played a significant role regarding which sections of the legislation package would be selected, the variable does not explain *why* the bills were proposed in the first place.

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<sup>110</sup> Isaby, “Peers and MPs Battle over Terror Bill.”

<sup>111</sup> BBC, “Anti-terror Bill Clears First Hurdle,” Monday, 19 November 2001, [http://news.bbc.co.uk/1/hi/uk\\_politics/1663829.stm](http://news.bbc.co.uk/1/hi/uk_politics/1663829.stm)

<sup>112</sup> The United Kingdom Parliament, “Orders of the Day,” <http://www.publications.parliament.uk/pa/cm200102/cmhansrd/vo011119/debtext/11119-13.htm>

<sup>113</sup> BBC, “Compromise over Anti-terror Plans,” Friday, 7 December, 2001, [http://news.bbc.co.uk/1/hi/uk\\_politics/1698202.stm](http://news.bbc.co.uk/1/hi/uk_politics/1698202.stm)

<sup>114</sup> BBC, “Terror Laws Face Court Threat,” Friday, 14 December 2001. [http://news.bbc.co.uk/1/hi/uk\\_politics/1710996.stm](http://news.bbc.co.uk/1/hi/uk_politics/1710996.stm)

<sup>115</sup> BBC, “Terror Bill Meets Peer Pressure.”

<sup>116</sup> BBC, “Terror Laws Face Court Threat.”

## **5.2.2 – Interest Groups**

This section will assess the impact of interest groups, namely Muslim organizations and organizations advocating asylum seekers' rights, on the policy-making process following 9/11. All three countries enable interest groups to influence the decision-making process. In the UK, however, interest groups are not as closely linked to policy-making as in Germany.<sup>117</sup> French interest groups have to function in a very centralized state where there is a lack of confidence between them and the government. Some of the strong French interest groups, however, have a fairly institutionalized relationship with the government. In Germany, procedural rules require officials to consult with interest groups when drafting legislation.<sup>118</sup>

The UK differs from the other two countries because of its pluralist character. Only strong groups have played an influential role in the policy-making process, and the law requires groups to have a legal status. For instance, Muslims in the UK have been denied racial-group status because they are viewed as a religion and not as an ethnic or racial group.<sup>119</sup> Since there is no single view of Islam held by the UK Muslim community, it has been difficult to organize their interests on the national level, despite having had discussions with the government in several occasions.<sup>120</sup> Still, these problems have not been exclusive to the UK.

In France, according to Robinson, “it is unrealistic to expect the fragmented Muslim community... to create a truly representative body capable of entering into dialogue with the authorities.”<sup>121</sup> Yet following the developments in 2003 regarding the Muslim headscarf (*hijab*), the religious Muslim community felt it needed to be better organized. In any case, most of the Muslim organizations in France are not political. Organizations such as the UOIF and the LNMF<sup>122</sup> offer services in the areas of religion, media, cultural understanding, education, integration, activities, and explanation of Islam.<sup>123</sup>

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<sup>117</sup> B. Guy Peters, “The United Kingdom,” in M. Donald Hancock, David P. Conradt, B. Guy Peters, William Safran and Raphael Zariski (eds.), *Politics in Western Europe*, 2<sup>nd</sup> ed. (London: Macmillan Press, 1998), p. 75.

<sup>118</sup> David P. Conradt, “Germany,” in M. Donald Hancock, David P. Conradt, B. Guy Peters, William Safran and Raphael Zariski (eds.), *Politics in Western Europe*, 2<sup>nd</sup> ed. (London: Macmillan Press, 1998), p. 276.

<sup>119</sup> Joppke, *Immigration and the Nation-State*, p. 249.

<sup>120</sup> According to Joppke, British Islam is divided into about 1,400 Islamic organizations and 1,000 mosques. Yet Muslims have been very successful at the local government level. Joppke, *Immigration and the Nation-State*, pp. 250, 258.

<sup>121</sup> Neal Robinson, “France,” in David Westerlund and Ingvar Svanberg (eds.), *Islam outside the Arab World* (Surrey, UK: Curzon, 1999), p. 352.

<sup>122</sup> l'Union des Organisations Islamiques de France and Ligue Nationale des Musulmans de France, respectively.

<sup>123</sup> <http://www.uoif-online.com/uoif.php>, <http://lnmf.net/article.php?sid=43>

Not only Muslims have had difficulties in representing themselves, but also asylum seekers and refugees. In France, asylum seekers are the least represented among the migration flows. Nongovernmental actors such as the CIMADE and the FTDA (*France Terre d'Asile*) are extremely dispersed with each being in charge of certain issues linked to immigration. This diversity and fragmentation creates disputes, with no established entity to resolve them.<sup>124</sup>

In regard to the events of 9/11, German Muslim organizations agreed to the changes proposed by the government. The Central Council of Muslims in Germany (ZMD) issued a statement condemning any type of terrorism. The fact that Muslims were behind the attacks and used Islam to justify them, the statement said, intensified German Muslims' concerns and the community welcomed the laws dealing with Islamic extremism.<sup>125</sup> Yet PRO ASYL, an organization representing asylum seekers rights', has criticized the federal government's proposals, claiming that such practices as expulsion on suspicion, banning foreigners' associations and creating databases on foreigners are inappropriate to a liberal democracy. However, PRO ASYL agreed to several of the amendments in the combined bills on immigration and the second antiterror package because the government agreed to decrease the final security measures that were perceived as not conforming with the rule of law.<sup>126</sup>

In the UK, representatives of the Muslim Council of Britain (MCB), widely viewed as the official voice of Islam in Britain, have met with various politicians, other faith groups and the police. Immediately after 9/11, the MCB played a central role in seeking to reduce community tensions and accurately represent the concerns of most British Muslims. On 17 September a delegation, including representatives of other Muslim organizations, met with Foreign Secretary Jack Straw. This was followed on 20 September by a meeting with Home Secretary

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<sup>124</sup> Blion, "France," p. 9.

<sup>125</sup> Nadeem Elyas, Statement by the Chairman of the Central Council of Muslims in Germany on the "Fight against Islamic Extremism" (Sunday, 16 September 2001), [http://www.islam.de/?site=articles&archive=zmd-pressemitteilungen&article\\_number=299](http://www.islam.de/?site=articles&archive=zmd-pressemitteilungen&article_number=299)

<sup>126</sup> PRO ASYL, "Actionism with Serious Consequences for Liberal Democracy, PRO ASYL on Anti-Terror-Package II," Press Release, 17 October 2001, <http://www.proasyl.de/presse01/okt17.htm>; PRO ASYL, "PRO ASYL on Immigration Bill and Anti-Terror Package II: Crucial Demands of Churches, Associations and Human Rights Organisations Still Are Not Taken into Account," Press Release, 5 November 2001, <http://www.proasyl.de/presse01/nov05.htm>

Blunkett, in which concerns were raised about the effects of future antiterror legislation on the Muslim community.<sup>127</sup>

Another organization, the Commission on British Muslims and Islamophobia (CBM) issued a supportive commentary on Part 5 of the ATCSA, yet stated that the public debate should stop focusing on perceived abuses of asylum procedures.<sup>128</sup>

Since Germany began receiving guest workers from Turkey in the 1960s, it has become a top destination for asylum seekers, and immigrants in general, from Turkey, a Muslim country of origin. The large number of Turkish immigrants in Germany has influenced Germany's composition and culture and added intricacy to German-Turkish relations. Moreover, the ethnic conflict between Turkey and its Kurdish community has been externalized to Germany with the PKK engaging in acts such as firebombing Turkish establishments during 1994.<sup>129</sup>

Family reunification and network migration have made Germany's Turkish community the second largest in the world after only Turkey itself. The question is whether Germany's two million Turks can influence the federal government's policy towards asylum seekers coming from Turkey. In fact, the Turkish community in Germany lacks effective political organization. The obstacles are not legal but rather social, with the Turkish community finding it difficult to self-organize.<sup>130</sup>

In addition, Table 5.2 using the same dataset as Table 5.1 shows that asylum seekers from Turkey have not received preferential treatment compared to Muslim asylum seekers in general.

Table 5.2 - Annual Percentage of Asylum Seekers from Turkey Granted Refugee Status

	From Turkey	Muslims	Non-Muslims
1997	18.63	35.70	3.35
1998	14.56	18.11	2.96
1999	22.70	23.22	4.56
2000	22.58	30.82	3.30
2001			
2002	16.47	19.32	2.00
2003	13.10	8.36	2.94

<sup>127</sup> EUMC, Anti-Islamic Reaction in the EU after the Terrorist Acts against the USA: United Kingdom (Vienna, May 2003), pp. 20-21, <http://eumc.eu.int>.

<sup>128</sup> <http://www.runnymedetrust.org/meb/islamophobia/index.html>

<sup>129</sup> Meyers, International Immigration Policy, p. 152.

<sup>130</sup> Joppke, Immigration and the Nation-State, pp. 208-209.

This is mainly because about 80 percent of Turkish asylum seekers in Germany are Kurds rather than Turks. In total, the Kurds constitute between 20-30 percent of the two million people originating from Turkey. Following the violent incidents in 1994, the German government decided to deport Kurds involved in violence and to reject Kurdish asylum seekers.<sup>131</sup> Table 5.2 suggests that since 1997, the percentage of asylum seekers coming from Turkey who have been granted refugee status has been lower than the percentage of the total Muslim count, except for the year 2003. Perhaps the dangers of international terrorism have now surpassed the dangers of the externalization of the Turkish-Kurdish conflict.

### **5.2.3 – Right-Wing Parties**

Unlike France, Germany and the UK have not seen a nationally powerful party of the far Right in recent decades. In 2002-2003, however, far-Right parties made slight gains in these two countries' local elections.<sup>132</sup> In France, immigration has always been seen as a security issue, though not necessarily in terms of terrorism. Migrants have evoked fears of demographic invasion and cultural transformation. The 9/11 events intensified suspicions towards the already-settled, highly visible immigrants.<sup>133</sup>

Although the extreme right-wing parties usually do not have direct influence on the government, they typically have great influence on public perceptions. The relationship between public perceptions and right-wing parties goes in both directions: fears about foreigners, for any reason, increase these parties' popularity and parties' propaganda also influences public perceptions. Although it is not this study's aim to analyze the direction of influence, it is important to note that 9/11 augmented both tendencies.

In France, Jean Marie le Pen's National Front, the right-wing populist party, fueled anti-immigrant sentiments by stressing the differences between the native French and the foreigners. The National Front claimed 9/11 was an example of Muslims' unwillingness to integrate into society.<sup>134</sup> The rise of Islamism explains why immigration, a peripheral issue in the 1970s and 1980s, has become so central to French politics today.

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<sup>131</sup> Meyers, International Immigration Policy, p. 152.

<sup>132</sup> Lloyd, "The Closing of the European Gates?," pp. 88-89.

<sup>133</sup> Blion, "France," p. 5.

<sup>134</sup> Lloyd, "The Closing of the European Gates?," p. 94.

The National Front promoted the perception that the increasingly “visible” Muslim minority poses a direct challenge to the tenets of secularity. The French say their treatment of foreigners is not based on skin color or origin but on fear that their culture threatens French identity. In a state where religion is expected to be extremely private and discreet, Islam’s visibility has fostered fears of the “Islamization” of France. With the GIA attacks in the 1990s, this issue took on a dimension of terrorism.<sup>135</sup> Support for the National Front grew steadily throughout the 1990s, and reached its peak with le Pen’s victory over the Socialist candidate and Prime Minister Lionel Jospin in the first round of the French presidential elections of 2002. As noted earlier, to regain votes lost to the National Front, Chirac tackled the issue of foreigners and the perils they pose to French nationalism.

In Germany the unexpected success of Ronald Schill’s *Partei Rechtsstaatlicher Offensive* (the *Schill-Partei*, or Law and Order Offensive Party) in the Hamburg Land elections on 23 September 2001, underlined the need to pay more attention to the issue of domestic law and order. Hamburg has traditionally been a Social Democratic stronghold, but Schill’s party, highlighting the issue of domestic security in the wake of 9/11 – after it was revealed that three of the hijackers had lived and studied in Hamburg – won roughly 20 percent of the vote.<sup>136</sup>

As Hyde-Price notes, “this domestic political earthquake resulted in the end of 44 years of SPD rule in Hamburg and the formation of a CDU-PRO-FDP coalition, with Ronald Schill as the new Land Interior Minister.”<sup>137</sup> This indicated to the federal government that 9/11 had heightened public concerns about domestic security.<sup>138</sup>

Similar to the situation in Germany, the extreme-Right British National Party (BNP) made gains in the local elections, using “a platform designed to appeal to the anti-Islamic and anti-immigrant sentiments of the native population.”<sup>139</sup> Although anti-asylum sentiments are common in several localities, they have not been translated to the national political level.

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<sup>135</sup> Demetrios G. Papademetriou and Kimberly A. Hamilton, Converging Paths to Restriction: French, Italian, and British Responses to Immigration (Washington, D.C.: Carnegie Endowment for International Peace, 1996), p. 24.

<sup>136</sup> Hyde-Price, “Germany and 11 September,” p. 4.

<sup>137</sup> Ibid.

<sup>138</sup> Ibid.

<sup>139</sup> Paul Statham, “Understanding Anti-Asylum Rhetoric: Restrictive Politics or Racist Publics?,” in Sarah Spencer (ed.), The Politics of Migration: Managing Opportunity, Conflict and Change (Madlen, MA: Blackwell Publishing, 2003), p. 165.

### **5.3 – Constitutional Framework**

Each of the three countries has a different constitutional framework. Both France and Germany have a written constitution stating the rights and duties of the state and its citizens. In France, however, the changes in the constitution and its different interpretations have made it difficult to protest bureaucratic misconducts, though, as noted in the fourth chapter, the Constitutional Council was able to remove provisions of the Debré Law of 1997 that were thought to harm civil liberties.<sup>140</sup>

The scope of this study does not enable reviewing all the judicial developments in regard to asylum law. This section, however, illustrates how the courts have offered their opinions, sometimes forcing the governments to alter legislation. This was the case in Germany regarding the Immigration Act of 2002, which had already undergone the legislation procedure, but was stopped by the Federal Constitutional Court because of procedural shortcomings.

Throughout the legislation process of the ATCSA, several groups in the UK insisted that Part 4 of the law, regarding the certification of non-UK nationals as “suspected international terrorist,” was discriminatory and unlawful under Article 14. In May, June and July 2003, the Special Immigration Appeals Commission (SIAC)<sup>141</sup> heard appeals by ten individuals against their certification by the Home Secretary as “suspected international terrorists and national security risks,” and against their consequent detention under ATCSA. All ten judgments, however, confirmed the certifications and dismissed the appeals.<sup>142</sup>

Similar results were witnessed in Germany. In one instance, the Düsseldorf Court of Appeals declared the use of police dragnets a legal means of fighting terrorism, though only when not used on German citizens. The court stated that it would be sufficient “to limit investigations to those persons, who were nationals of a state considered by investigators to be suspicious, were born there or were followers of Islam.”<sup>143</sup>

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<sup>140</sup> Hollifield, “Ideas, Institutions and Civil Society,” p. 83.

<sup>141</sup> Under the ATCSA, Part 4 - Immigration and Asylum - section 35(3), the SIAC has been established as a tribunal with the same status as the High Court. The SIAC is empowered to grant bail to ATCSA detainees. Amnesty International, “United Kingdom: Justice Perverted under the Anti-terrorism, Crime and Security Act 2001,” 11 December 2003, <http://web.amnesty.org/library/index/engneur450292003>

<sup>142</sup> Ibid.

<sup>143</sup> Oliver Lepsius, “Liberty, Security, and Terrorism: The Legal Position in Germany,” German Law Journal, Vol. 5, No. 5 (May 2004), p. 453.



It is important to not, however, that already in the 1970s, in reaction to terrorist activities of the RAF, the German government legislated statutes that prompted an intense debate on the violation of constitutional rights via antiterrorist laws. Subsequently, these laws were examined and approved by the German Federal Constitutional Court.<sup>144</sup> The laws following 9/11 were antiterrorist laws directed at Germany's new challenge, international terrorism.

## **Chapter 6 – Discussion and Conclusions**

Security issues have sparked public debates and affected the agendas in all three countries since 9/11. Politicians have emphasized the need to change national policies on security and border control. However, each country has stressed different aspects of the security debate. In both Germany and France, the issue of radical religious groups was already debated before 9/11. Germany felt the need to ban religious groups showing extremist tendencies even before the attacks on the United States. France, too, has dealt with religion according to its own principles *laïcité* or secularism.<sup>145</sup>

Since 9/11, France has introduced the LES and the LIS. Although these two laws do not discriminate directly between French citizens and foreigners, they seem to be related to the way in which France deals with its foreigners. The LES and the LIS have focused on criminal offenses, such as “juvenile delinquency,” that are mainly attributed to foreigners living in the suburbs. Foreigners who constitute a threat to public order are deported. This suggests that France has used the “threat to public order” principle as a means to control unwanted migration flows, using the exclusion clause more often than before 9/11.<sup>146</sup> As we have seen, France did not drastically alter its asylum law after 9/11, however, Table 5.1 does not illustrate an unequivocal conclusion regarding France: perhaps the decline in the number of Muslim asylum seekers admitted began before the Islamic terror attacks of the 1990s. Since figures from the same data source for years before 1997 were not available, the case of France might be perceived as problematic. However, this numerical problem was compensated with an in-depth analysis.

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<sup>144</sup> *Ibid.*, pp. 435-436.

<sup>145</sup> Michel Wieviorka, “Tendencies to Racism in Europe: Does France Represent a Unique Case, or Is It Representative of a Trend?,” in John Wrench and John Solomos (eds.), Racism and Migration in Western Europe (Oxford: Berg, 1993), p. 60.

<sup>146</sup> <http://www.ofpra.gouv.fr>

France's tough stance on Islam was already evident in the 1990s, after the growth of Islam became a public issue in the 1980s. If at first foreign workers from abroad were perceived to pose a threat of ethnicity, the threat was now seen as coming specifically from Muslims.<sup>147</sup> This was heightened in the 1990s when the instability in Algeria spilled into French territory. First Algerians hijacked an Air France plane in December 1994, then perpetrated a wave of bombings that placed the authorities and the public in a constant state of fear.<sup>148</sup> France, concerned about the spread of fundamentalist Islam from within, decided to control the influx of foreigners, namely Muslims, into its territory.<sup>149</sup> Weil has suggested that 9/11 did not influence immigration and security in France because the French had been fighting Muslim terrorists since the bombings of the Paris Metro system in 1995.<sup>150</sup>

The situation has been different in Germany and the UK. The events of 9/11 heightened security concerns and forced both countries to address the possibility that terrorists would use the asylum system to enter the country. In addition to concerns about terrorism, a significant domestic event influenced Tony Blair's government: the violent "race riots" in the summer of 2001, across the northern towns of Bradford, Burnley, Oldham and Leeds, came as a shock because there had been no serious race-related disturbances for several years.<sup>151</sup>

The key outcome of these riots was that Pakistani and Bangladeshi Muslims came to be perceived as a problem in British society.<sup>152</sup> Nevertheless, when external threats arose, the government needed to pass laws that would not harm or offend the country's Muslim community. This point has been central to debates in Parliament, as shown in Chapter 5. In any case, the influence of the riots on government policies is hard to measure, especially given the close proximity.

One probable effect of the riots was the gains of the extreme-Right British National Party (BNP) in the 2002 local elections. It won three seats in Burnley, an area that had witnessed

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<sup>147</sup> Wieviorka, "Tendencies to Racism in Europe," p. 61.

<sup>148</sup> Papademetriou and Hamilton, *Converging Paths to Restriction*, pp. 29-30.

<sup>149</sup> *Ibid.*

<sup>150</sup> Patrick Weil, "Terrorism and Restrictionism: Their Impact on European Immigration Policies," A talk at the Nixon Center, Washington, D.C., with comments by Mark Krikorian, 8 May 2003, <http://www.nixoncenter.org>

<sup>151</sup> Paul Statham, "New Conflicts about Integration and Cultural Diversity in Britain: The Muslim Challenge to Race Relations," in Rene Cuperus, Karl A. Duffek and Johannes Kandel (eds.), *The Challenge of Diversity: European Social Democracy Facing Migration, Integration and Multiculturalism* (Innsbruck: Studienverlag, 2003), p. 128.

<sup>152</sup> *Ibid.*, p. 129.

clashes between Muslims and whites the year before.<sup>153</sup> Did feelings of insecurity stem only from the 9/11 attacks, or did the public incorporate the new problem of Islamic terror more generally into the issue of British race-relations? Perhaps the UK's distinctive role in supporting the United States in response to the 9/11 events has also added some official legitimacy to popular fears of Islamic extremism from within the country.<sup>154</sup>

A perfect example is the case of Richard Reid, the “shoe-bomber.” The London-born son of an English mother and Jamaican father, Reid converted to Islam and was caught, only months after 9/11 trying to set off explosives in his shoes while on an American Airlines flight from Paris to Miami. One of the main problems today is identifying potential terrorists, as this example and others lead people to view Muslims in general as potential terrorists.

Party politics, though it influenced the content of legislation, did not change the direction of policies. In Germany and the UK, it was clear that changes were needed to cope with the new security dangers. Party politics and, to a lesser degree, interest groups shaped the final outcome of legislative processes. Schröder's government feared more obstacles in enacting laws – having to take the Green Party's views into consideration and pass the bill in two houses – than Blair's government, which passed the ATCSA swiftly in the House of Commons, while meeting opposition in the House of Lords. In Germany and the UK, right-wing parties gained popularity at the local level but did not influence policy directly. Finally, only in Germany have constitutional constraints and judicial review of government legislation limited the final outcome of the legislation following 9/11. The courts in the UK reaffirmed Parliament's bills.

This study has found a connection between terrorism and the asylum policies of three European countries, not necessarily in response to 9/11 but sometimes in response to previous terrorist attacks. This has implications for the debate on how to define security. Today, a country not only has to protect itself from other countries but also from nonstate actors, such as terrorists. These individuals use all the advantages of today's global world to roam freely across borders, plan and execute their crimes in the name of God or ideology.

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<sup>153</sup> Ibid., p. 127.

<sup>154</sup> Ibid.

Despite not being assaulted directly on September 11, 2001, Germany and the UK have felt the need to tighten border controls, including with regard to asylum. This has been illustrated in Table 5.1 by the drastic decline in the admittance of Muslim refugees to both countries, especially in 2003.<sup>155</sup> France, having been assaulted in the 1990s, reacted to these attacks before 9/11. All three countries express the fears of future terrorist attacks. The mere possibility of a terror attack on citizens of these countries has made their asylum policies more restrictive towards Muslims, adding to the general trend of accepting fewer asylum seekers. Only time will tell if the reaction to 9/11 is a short-term response or will define asylum policies in the future.

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<sup>155</sup> The implementation of the laws passed in 2001 and 2002 in Germany and the UK could be seen clearly only in 2003. However, to consolidate this observation empirically it would be necessary to check the trends and developments in future years.

## **Bibliography**

Amnesty International, "United Kingdom: Justice Perverted under the Anti-terrorism, Crime and Security Act 2001," 11 December 2003,  
<http://web.amnesty.org/library/index/engneur450292003>

Anastasakis, Othon, "Extreme Right in Europe: A Comparative Study of Recent Trends," Discussion Paper No. 3, the Hellenic Observatory, the European Institute, London School of Economics and Political Science, November 2000.

BBC, "Algerians Get Life for Paris Bombings," Wednesday, 30 October 2002,  
<http://news.bbc.co.uk/2/hi/europe/2378997.stm>

BBC, "Terror Laws Face Court Threat," Friday, 14 December 2001,  
[http://news.bbc.co.uk/1/hi/uk\\_politics/1710996.stm](http://news.bbc.co.uk/1/hi/uk_politics/1710996.stm)

BBC, "Compromise over Anti-terror Plans," Friday, 7 December 2001,  
[http://news.bbc.co.uk/1/hi/uk\\_politics/1698202.stm](http://news.bbc.co.uk/1/hi/uk_politics/1698202.stm)

BBC, "Terror Bill Meets Peer Pressure," Tuesday, 27 November 2001,  
[http://news.bbc.co.uk/1/hi/uk\\_politics/1679950.stm](http://news.bbc.co.uk/1/hi/uk_politics/1679950.stm)

BBC, "Anti-terror Bill Clears First Hurdle," Monday, 19 November 2001,  
[http://news.bbc.co.uk/1/hi/uk\\_politics/1663829.stm](http://news.bbc.co.uk/1/hi/uk_politics/1663829.stm)

Bhattacharyya, Suman, "Migration and Security: September 11 and Implications for Canada's Policies," Refuge, Vol. 20, No. 4, August 2002, pp. 49-52.

Birkland, Thomas A., "'The World Changed Today': Agenda-Setting and Policy Change in the Wake of the September 11 Terrorist Attacks," Review of Policy Research, Vol. 21, No. 2, 2004, pp. 179-200.

Bliou, Reynald, Catherine Wihtol de Wenden and Nedjma Meknache, "France," in Jan Niessen, Yongmi Schibel and Raphaële Magoni (eds.), EU and US Approaches to the Management of Immigration, Brussels: Migration Policy Group, 2003.

Boniface, Pascal, "The Specter of Unilateralism," Washington Quarterly, Vol. 24, No. 3, Summer 2001, pp. 155-162.

Brouwer, Evelien, "Immigration, Asylum and Terrorism: A Changing Dynamic - Legal and Practical Developments in the EU in Response to the Terrorist Attacks of 11.09," European Journal of Migration and Law, Vol. 4, 2003, pp. 399-424.

Bruin, Rene and Kees Wouters, "Terrorism and the Non-derogability of Non-refoulement," International Journal of Refugee Law, Vol. 15, No. 1, January 2003, pp. 5-29.

Bundespresseamt, "Terrorismusbekämpfung - Eine Sachstandsinformation der Bundesregierung" Homepage Bundesregierung (05.05.02),  
<http://www.sicherheitspolitik.bundeswehr.de/3/8/2.php>

Bundesregierung, "Zweites Anti-Terror-Paket in Kraft getreten," 18.02.2002,  
[http://www.bundesregierung.de/emagazine\\_entw-413.65820/Zweites-Anti-Terror-Paket-in-K.htm#0](http://www.bundesregierung.de/emagazine_entw-413.65820/Zweites-Anti-Terror-Paket-in-K.htm#0)

Central Intelligence Agency, Director of Central Intelligence, The World Factbook 2004, <http://www.cia.gov/cia/publications/factbook/index.html>, accessed 12 October 2004.

Conradt, David P., "Germany," in M. Donald Hancock, David P. Conradt, B. Guy Peters, William Safran and Raphael Zariski (eds.), Politics in Western Europe, 2<sup>nd</sup> Ed., London: Macmillan Press, 1998, pp. 215-323.

*Deutsche Welle*, "Second Anti-Terror Package Presented to German Parliament," 14 December 2001, <http://www.dw-world.de/dw/article/0,1564,355802,00.html>

*Deutsche Welle*, "Anti-Terror Package II Facing Roadblocks," 8 December 2001, <http://www.dw-world.de/dw/article/0,1564,349044,00.html>

Elyas, Nadeem, Statement by the Chairman of the Central Council of the Muslims in Germany on the "Fight against Islamic Extremism" Sunday, 16 September 2001, [http://www.islam.de/?site=articles&archive=zmd-pressemitteilungen&article\\_number=299](http://www.islam.de/?site=articles&archive=zmd-pressemitteilungen&article_number=299)

Errera, Roger, "France," in Adèle Brown (ed.), Asylum Practice and Procedure: Country-by-Country Handbook, London: Trenton Publishing, 1999, pp. 55-63.

EUMC, Anti-Islamic Reaction in the EU after the Terrorist Acts against the USA: United Kingdom, Vienna, May 2003, <http://eumc.eu.int>

Faist, Thomas, "'Extension du domaine de la lutte': International Migration and Security before and after September 11, 2001," International Migration Review, Vol. 36, No. 1, Spring 2002, pp. 7-14.

Federal Ministry of Interior, "Cornerstones of Germany's Second Anti-terror Package," 11 May 2001, [http://www.eng.bmi.bund.de/dokumente/Pressemitteilung/ix\\_64084.htm](http://www.eng.bmi.bund.de/dokumente/Pressemitteilung/ix_64084.htm)

Fenwick, Helen, "Responding to 11 September: Detention without Trial under the Anti-Terrorism, Crime and Security Act 2001," in Lawrence Freedman (ed.), Superterrorism: Policy Responses, Malden, MA: Blackwell Publishing, 2002, pp. 80-104.

Fighel, Jonathan, "International Terrorism in Germany: An Ongoing Threat," International Policy Institute for Counter-Terrorism at the Interdisciplinary Center in Herzliya, 1 May 2002, <http://www.ict.org.il/articles/articledet.cfm?articleid=437>

Freitas, Raquel, "Human Security and Refugee Protection after September 11: A Reassessment," Refuge, Vol. 20, No. 4, August 2002, pp. 34-44.

Gearson, John, "The Nature of Modern Terrorism," in Lawrence Freedman (ed.), Superterrorism: Policy Responses, Malden, MA: Blackwell Publishing, 2002, pp. 7-24.

Glaebner, Gert-Joachim, "International Security and the New Anti-Terrorism Act," German Politics, Vol. 12, No. 1, April 2003, pp. 43-58.

Gordon, Philip H., "The French Position," The National Interest, Vol. 61, Fall 2000, pp. 57-65.

*The Guardian*, "France's Identity Crisis: The Underlying Problem Affects Us All," Monday, 18 October 1999, [www.guardian.co.uk/print/0,3858,3913454-103682,00.html](http://www.guardian.co.uk/print/0,3858,3913454-103682,00.html)

Haddad, Yvonne Yazbeck and Jane I. Smith (eds.), Muslim Minorities in the West: Visible and Invisible, Walnut Creek, CA: Altamira Press, 2002.

Harris, Robin, "The State of the Special Relationship," Policy Review, Vol. 113, June-July 2002, pp. 29-42.

Harvey, Colin, "Securing Refugee Protection in a Cold Climate," Refugee, Vol. 20, No. 4, August 2002, pp. 2-4.

Hertkorn, Michaela C., "The Relevance of Perceptions in Foreign Policy: A German-U.S. Perspective," World Affairs, Vol. 162, No. 2, Fall 2001, pp. 60-71.

Hogwood, Patricia, "German Immigration Policy after September 11: Militant Democracy in the Twenty-first Century," ECPR Joint Sessions of Workshops, Workshop 16 on "Who Makes Immigration Policy?," Uppsala, 13-18 April 2004.

Hollifield, James F., "Ideas, Institutions and Civil Society: On the Limits of Immigration Control in France," in Grete Brochmann and Tomas Hammer (eds.), Mechanisms of Immigration Control: A Comparative Analysis of European Regulation Policies, Oxford and New York: Berg, 1999, pp. 59-95.

Hollifield, James F., "Immigration and Integration in Western Europe: A Comparative Analysis," in Emek M. Uçarer and Donald J. Puchala (eds.), Immigration into Western Societies: Problems and Policies, London: Pinter, 1997, pp. 28-69.

Hulsman, John C. and Sudabeh Koochekzadeh, "A Global Free Trade Association to Preserve and Expand the U.S.-UK Special Relationship," Orbis, Vol. 46, No. 3, Summer 2002, pp. 435-447.

Huysmans, Jef, "Migrants as a Security Problem: Dangers of 'Securitizing' Societal Issues," in Robert Miles and Dietrich Thränhardt (eds.), Migration and European Integration: The Dynamics of Inclusion and Exclusion, London: Pinter, 1995, pp. 53-72.

Hyde-Price, Adrian, "Germany and 11 September," PSA Conference, University of Leicester, March 2003, [www.psa.ac.uk/cps/2003%5CA Adrian%20HydePrice.pdf](http://www.psa.ac.uk/cps/2003%5CA Adrian%20HydePrice.pdf)

Isaby, Jonathan, "Peers and MPs Battle over Terror Bill," BBC, Thursday, 6 December 2001, [http://news.bbc.co.uk/1/hi/uk\\_politics/1695836.stm](http://news.bbc.co.uk/1/hi/uk_politics/1695836.stm)

Joppke, Christian, Immigration and the Nation-State: The United States, Germany, and Great Britain, Oxford: Oxford University Press, 1999.

Joppke, Christian, "Asylum and State Sovereignty: A Comparison of the United States, Germany, and Britain," Comparative Political Studies, Vol. 30, No. 3, June 1997, pp. 259-298.

Koser, Khalid, "Asylum Policies, Trafficking and Vulnerability," International Migration, Vol. 38, No. 3, 2000, pp. 91-111.

Lambert, Hélène, "Asylum-seekers, Refugees and the European Union: Case Studies of France and the UK," in Robert Miles and Dietrich Thränhardt (eds.), Migration and European Integration: The Dynamics of Inclusion and Exclusion, London: Pinter, 1995, pp. 112-131.

Larres, Klaus, "Mutual Incomprehension: US-German Value Gaps beyond Iraq," Washington Quarterly, Vol. 26, No. 2, Spring 2003, pp. 23-42.

Lepsius, Oliver, "Liberty, Security, and Terrorism: The Legal Position in Germany," German Law Journal, Vol. 5, No. 5, May 2004, pp. 435-460.

Lloyd, John, "The Closing of the European Gates? The New Populist Parties of Europe," in Sarah Spencer (ed.), The Politics of Migration: Managing Opportunity, Conflict and Change, Madlen, MA: Blackwell Publishing, 2003, pp. 88-99.

Meyers, Eytan, International Immigration Policy: A Theoretical and Comparative Analysis, New York: Palgrave Macmillan, 2004.

Miller, Benjamin, "The Concept of Security: Should It Be Redefined?," Journal of Strategic Studies, Vol. 24, No. 2, June 2001, pp. 13-42.

Papademetriou, Demetrios G. and Kimberly A. Hamilton, Converging Paths to Restriction: French, Italian, and British Responses to Immigration, Washington, D.C.: Carnegie Endowment for International Peace, 1996.

Peters, B. Guy, "The United Kingdom," in M. Donald Hancock, David P. Conradt, B. Guy Peters, William Safran and Raphael Zariski (eds.), Politics in Western Europe, 2<sup>nd</sup> ed., London: Macmillan Press, 1998, pp. 5-112.

PRO ASYL, "Actionism with Serious Consequences for Liberal Democracy, PRO ASYL on Anti-Terror-Package II," Press Release, October 17, 2001, <http://www.proasyl.de/presse01/okt17.htm>

PRO ASYL, "PRO ASYL on Immigration Bill and Anti-Terror-Package II: Crucial Demands of Churches, Associations and Human Rights Organisations Still Are Not Taken into Account," Press Release, 5 November 2001, <http://www.proasyl.de/presse01/nov05.htm>

Rasmussen, Jorgen and James M. McCormick, "British Mass Perceptions of the Anglo-American Special Relationship," Political Science Quarterly, Vol. 108, No. 3, Autumn 1993, pp. 515-541.

Recherches dans le Journal Officiel de la République Française, "Loi n° 2003-239 du 18 mars 2003 pour la sécurité intérieure," Journal Officiel n° 66 du 19 mars 2003, <http://www.admi.net/jo/20030319/> accessed on 8 November 2004.

Robinson, Neal, "France," in David Westerlund and Ingvar Svanberg (eds.), Islam outside the Arab World, Surrey, UK: Curzon, 1999, pp. 337-256.

Santel, Bernhard, "Loss of Control: The Build-up of a European Migration and Asylum Regime," in Robert Miles and Dietrich Thränhardt (eds.), Migration and European Integration: The Dynamics of Inclusion and Exclusion, London: Pinter, 1995, pp. 75-91.

Sénat, "Analyse des discussions législatives et des scrutins publics: Loi relative à la maîtrise de l'immigration, au séjour des étrangers en France et à la nationalité," [http://www.senat.fr/dossierleg/tc/ana\\_pjl02-396.html](http://www.senat.fr/dossierleg/tc/ana_pjl02-396.html), accessed on 8 November 2004.



Shapiro, Jeremy and Bénédicte Suzan, “The French Experience of Counter-terrorism,” Survival, Vol. 45, No. 1, Spring 2003, pp. 67-98.

SOPEMI, Trends in International Migration: Continuous Reporting System on Migration, Annual Report 2002, OECD, 2003.

Statham, Paul, “New Conflicts about Integration and Cultural Diversity in Britain: The Muslim Challenge to Race Relations,” in Rene Cuperus, Karl A. Duffek and Johannes Kandel (eds.), The Challenge of Diversity: European Social Democracy Facing Migration, Integration and Multiculturalism, Innsbruck: Studienverlag, 2003, pp. 126-149.

Statham, Paul, “Understanding Anti-Asylum Rhetoric: Restrictive Politics or Racist Publics?,” in Sarah Spencer (ed.), The Politics of Migration: Managing Opportunity, Conflict and Change, Madlen, MA: Blackwell Publishing, 2003, pp. 163-177.

The Stationery Office, Explanatory Notes to the Anti-Terrorism, Crime and Security Act 2001, <http://www.hmso.gov.uk/acts/en2001/2001en24.htm#end>, accessed on 20 November 2004.

The Stationery Office, The Human Rights Act 1998 (Designated Derogation) Order 2001, Statutory Instrument 2001 No. 3644, [www.hmso.gov.uk/si/si2001/20013644.htm](http://www.hmso.gov.uk/si/si2001/20013644.htm)

Steiner, Niklaus, Arguing about Asylum: The Complexity of Refugee Debates in Europe, New York: St. Martin’s Press, 2000.

Thränhardt, Dietrich, “Germany’s Immigration Policies and Politics,” in Grete Brochmann and Tomas Hammer (eds.), Mechanisms of Immigration Control: A Comparative Analysis of European Regulation Policies, Oxford and New York: Berg, 1999, pp. 29-57.

The United Kingdom Parliament, “Orders of the Day on the Anti-terrorism, Crime and Security Bill,” House of Commons, Hansard Debates for 19 November 2001, <http://www.publications.parliament.uk/pa/cm200102/cmhansrd/vo011119/debtext/11119-08.htm>, <http://www.publications.parliament.uk/pa/cm200102/cmhansrd/vo011119/debtext/11119-13.htm> and <http://www.publications.parliament.uk/pa/cm200102/cmhansrd/vo011119/debtext/11119-17.htm>

United Nations, Press Release SC/7158, Security Council, 4385<sup>th</sup> Meeting (Night), “Security Council Unanimously Adopts Wide-Ranging Anti-Terrorism Resolution; Calls for Suppressing Financing, Improving International Cooperation,” 28 September 2001, <http://www.un.org/News/Press/docs/2001/sc7158.doc.htm>

United Nations, Convention and Protocol Relating to the Status of Refugees, Geneva: UNHCR, 1951, Article 1A(2).

UNHCR, Asylum Applications in Industrialized Countries: 1980-1999, Geneva, November 2001, <http://www.unhcr.ch>

U.S. Department of State, “Patterns of Global Terrorism,” various years, Office of the Coordinator for Counterterrorism, [www.state.gov/s/ct/rls/pgtrpt](http://www.state.gov/s/ct/rls/pgtrpt)

van Selm, Joanne, “Refugee Protection in Europe and the U.S. after 9/11,” in Niklaus Steiner, Mark Gibney and Gil Loescher (eds.), Problems of Protection: The UNHCR, Refugees, and Human Rights, New York: Routledge, 2003, pp. 237-261.

Weil, Patrick, "Terrorism and Restrictionism: Their Impact on European Immigration Policies," talk at the Nixon Center, Washington, D.C., with comments by Mark Krikorian, 8 May 2003, <http://www.nixoncenter.org>

Whitaker, Reg, "Refugee Policy after September 11: Not Much New," Refuge, Vol. 20, No. 4, August 2002, pp. 29-33.

Wieviorka, Michel, "Tendencies to Racism in Europe: Does France Represent a Unique Case, or Is It Representative of a Trend?," in John Wrench and John Solomos (eds.), Racism and Migration in Western Europe, Oxford: Berg, 1993, pp. 55-65.

Zard, Monette, "Exclusion, Terrorism and the Refugee Convention," Forced Migration Review, Vol. 13, June 2002, pp. 32-34.

Zetter, Roger, David Griffiths, Silva Ferretti and Martyn Pearl, An Assessment of the Impact of Asylum Policies in Europe, 1990-2000, Home Office Research Study 259, Home Office Research, Development and Statistics Directorate, June 2003.

<http://lnmf.net/article.php?sid=43>

<http://www.ofpra.gouv.fr>

<http://www.runnymedetrust.org/meb/islamophobia/index.html>

<http://www.uoif-online.com/uoif.php>

[www.unhcr.ch/statistics](http://www.unhcr.ch/statistics)