

## Limitations of Theorizing on Mobility Across International Borders

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Determining what constitutes the population of a state is a crucial precondition for theorising on cross-border mobility. By conventions rooted in nineteenth-century social and political theory,<sup>1</sup> the population of a state has been taken to consist of a group residing within the state borders. International borders must by consequence be held to be the dividing lines between insiders and outsiders. If Georg Simmel's definition of the stranger as the person who comes to day and stays tomorrow<sup>2</sup> holds true, however, cross-border movements of people blur the conceptually neat distinction between insiders and outsiders and destabilise the state population. Hence, theorising about cross-border mobility is in conflict with the politics of making or maintaining a state population, as pursued by lawmakers in processes of nationality or citizenship legislation and by administrators the implementation of the legislation. The overall goal under which nationality and citizenship legislation have stood for about one hundred and fifty years has been the maintenance of stability of the state population classed as a group of residents. This goal has been boosted by a theory of legitimacy that has derived the justification of states and governments from the consent of population groups with a social cohesion sufficiently strong to articulate some form of joint political will.<sup>3</sup>

The notion of population stability, however, has changed. From the learned Abbot Engelbert of Admont<sup>4</sup> and John Quidort of Paris<sup>5</sup> early in the fourteenth century to Justus Lipsius<sup>6</sup> and his fellow sixteenth-century political theorists<sup>7</sup>, to Thomas Hobbes<sup>8</sup> and John Locke<sup>9</sup>, contractualism has been informed by

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<sup>1</sup> Georg Jellinek, *Allgemeine Staatslehre*, 7th reprint of the third edn of 1913 (Bad Homburg: Gentner, 1960), pp. 394-434 [first published (Berlin: Häring, 1900)].

<sup>2</sup> Georg Simmel, *Soziologie*, edited by Otthein Rammstedt (Frankfurt: Suhrkamp, 1992), p. 764 [first published (Leipzig: Duncker & Humblot, 1908)].

<sup>3</sup> John Rawls, *A Theory of Justice* (Oxford: Clarendon Press, 1972). Peter Koller, *Neue Theorien des Sozialkontrakts* (Berlin: Duncker & Humblot, 1987).

<sup>4</sup> Engelbert of Admont, 'De ortu, progressu et fine regnorum et praecipue regni seu imperii Romani', cap. 2, edited by Melchior Goldast of Haiminsfeld, *Politica imperialia* (Frankfurt: Bringer, 1614), p. 755.

<sup>5</sup> John Quidort of Paris, *De potestate regali et papali*, cap. I, edited by Fritz Bleienstein (Stuttgart: Kohlhammer, 1969), pp. 71-5.

<sup>6</sup> Justus Lipsius, *Six Bookes of Politicks*, edited by W. Jones (London: R. Field, 1594), p. 128 [reprint (Amsterdam and New York: Theatrum orbis, 1970); first published (Antwerp: Plantin, 1589); newly edited by Jan Waszink (Assen: Van Gorcum, 2004)]. Lipsius, *Two Bookes of Constancie*, edited by John Stradling (London: R. Johnes, 1595), pp. 77-9, 95-6, 98 [first published (Antwerp: Plantin, 1584)]. Lipsius, *De constancia libri duo* (Antwerp: Plantin, 1584) [English version, *Two Bookes of Constancie*, edited by John Stradling (London, 1595: Richard Iohnes), pp. 95-96; edn of the English version by Rudolf Kirk and Clayton Morris Hall (New Brunswick: Rutgers University Press, 1939)].

<sup>7</sup> Francisco de Vitoria, 'Relectio de potestate civili [1528]', in Vitoria, *Relectiones morales* (Cologne:

the assumption that population groups are groups of residents. Up until the end of the eighteenth century, contractualism generated an interventionist population policy designed to accomplish population stability through the promotion of immigration. This was due to a variety of factors. First urban populations had a higher rate of death than of birth, so that cities could sustain their population size solely through immigration. This aspect of the demography of urban populations was known from the seventeenth century and triggered controversy about the best ways of enhancing immigration.<sup>10</sup> The second factor related to larger territories some of which, like Russia (not unlike early twentieth-century Australia), were thinly populated and, in the minds of their governments, could thrive merely through the settlement of immigrants.<sup>11</sup> A third factor was military in kind and grew out of the prolonged warfare that the unofficial

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Boethius, 1696), p. 5. Marius Salomonius, *De principatu libri septem* (Rome: s.n., 1544), p. 38. Juan de Mariana, *De rege et regis institutione libri III*, lib. I, cap. 1 (Toledo: Roderico, 1599), pp. 21-2 [reprint (Aalen: Scientia, 1969)]. Francisco Suarez, *De legibus (III 1-16): de civili potestate*, lib. III/ii, cap. 4-6, edited by Luciano Pereña Vicente and Vidal Abril (Madrid: Consejo Superior de Investigaciones Científicas, 1975), pp. 24-7 (Corpus Hispanorum de Pace. 15.) Richard Hooker, *Of the Lawes of Ecclesiasticall Politie. Eyght Bookes* (London: Windet, 1594), pp. 70-3 [reprint (Amsterdam and New York: Orbis Terrarum, 1971)]. Johannes Althusius [praes.], Hugo Pelletarius [resp.], *Disputatio politica de regno recte instituendo et administrando* (Herborn: The University, 1602), theses 6-56. Althusius, *Politica methodice digesta*, lib. I, cap. 2, lib. I, cap. 7, lib. IX, cap. 12, lib. XIX, cap. 12, third edn (Herborn: Corvinus, 1614) [first published (ibid., 1603); newly edited by Carl Joachim Friedrich (Cambridge: Cambridge University Press, 1932), pp. 15, 16, 90, 161] [reprint of the original edn (Aalen: Scientia, 1981); reprint of Friedrich's edn (New York: Arno Press, 1979)].

<sup>8</sup> Thomas Hobbes, *Leviathan*, Pt II, cap. XVII, XVIII (London: Crooke, 1651), pp. 85-90. Newly edited by Richard Tuck (Cambridge: Cambridge University Press, 1991), pp. 117-23.

<sup>9</sup> John Locke, *Two Treatises of Government* (Oxford: Churchill, 1689), Treatise II, §§14-15, 95-104, edited by Peter Laslett, second edn (Cambridge: Cambridge University Press, 1970), pp. 294-6, 348-54 [first edn (ibid., 1960); reprint (ibid., 1980)].

<sup>10</sup> Demographer John Graunt concluded from his studies of the London population that the number of deaths was larger than the number of recorded baptisms. See John Graunt, *Natural and Political Observations Made Upon the Bills of Mortality*, fourth edn (Oxford: s.n., 1665) [first published (London: s.n., 1662)]. However, in the eighteenth century, government support for cities came under severe criticism from theologians who feared disadvantages for the rural population and concluded from the fate of cities of Antiquity that every city would perish anyway. See Johann Peter Süßmilch, *Die göttliche Ordnung in den Veränderungen des menschlichen Geschlechts*, third edn (3 vols, Berlin: Buchhandlung der Realschule, 1765), vol. 1, pp. 103-108 [reprint, edited by Jürgen Cromm (Göttingen: Cromm, 1988)]. On Süßmilch and the history of demography see *Ursprünge der Demographie in Deutschland. Leben und Werk Johann Peter Süßmilchs*, edited by Herwig Birg (Frankfurt and New York: Campus, 1986). Birg, 'Johann Peter Süßmilch und Thomas Robert Malthus', in *Bevölkerungsentwicklung und Bevölkerungstheorie in Geschichte und Gegenwart*, edited by Rainer Mackensen, Lydia Thill-Thoner and Ulrich Stark (Frankfurt and New York: Campus, 1989), pp. 53-76. Jacqueline Hecht, 'L'ordre divin' aux origines de la démographie, vol. 1: Biographie, Correspondence, Bibliographie (Paris: Institut national d'études démographiques, 1979). Johann Christian Förster, *Nachricht von dem Leben und den Verdiensten des Oberconsistorialraths Johann Peter Süßmilchs* (Berlin: Buchhandlung der Realschule, 1768) [reprint, edited by Jürgen Cromm (Göttingen: Cromm, 1988)]. R. A. Horvák, 'L'Ordre divin de Süßmilch', in *Population*, 1 (1962), pp. 267-8. Horvák, 'Le bicentenaire de la mort de Johann Peter Süßmilch (1707 – 1767) et la discipline statistique', in *Revue de l'Institut Internationale de Statistique*, no 1 (1969), pp. 36-44. Wolfgang Neugebauer, 'Johann Peter Süßmilch. Geistliches Amt und Wissenschaft im friderizianischen Berlin', in *Berlin in Geschichte und Gegenwart. Jahrbuch des Landesarchivs Berlin* (1985), pp. 33-68.

<sup>11</sup> Tsarina Catherine II, [Manifesto to Promote Immigration to Russia, print, 25 July 1763], Stadtarchiv Ulm, A 3889, fol. 3r-4v. The file includes reports on the activities of recruitment officers in Russian service active in the city of Ulm. See Andreas Gestrich, 'Pietistische Rußlandwanderung im 19. Jahrhundert', in *Historische Wanderungsbewegungen*, edited by Andreas Gestrich, Harald Kleinschmidt and Holger Sonnabend (Munster and Hamburg: Lit, 1991), pp. 109-25. Otto Wiegandt, 'Ulm Stadt der Auswanderer', in *Ulm und Oberschwaben* 31 (1941), pp. 102-104.

imperial dynasty of the Habsburgs undertook against the Ottoman Turkish Empire. The Habsburgs took the view that effective military measures against Ottoman Turkish armies operating in the Balkans had to be bolstered on new settlements of warrior farmers capable of cultivating the land and, when necessary, taking up arms.<sup>12</sup> To accomplish these ends, migration policies were then designed to create positive, attractive images of and conditions for life at the destinations of would-be migrants. Wherever these policies were successful in attracting people, propagandists concluded that migrants had, in a way, voted by their feet to cancel the contract with the ruler of the territory of their origin and to enter into a new contract with the ruler of the territory of their destination.<sup>13</sup> In the seventeenth and eighteenth centuries, several rulers devised such policies simultaneously thereby creating a migration market wherein they competed over attracting the largest number of in-migrants.

However, in the nineteenth and twentieth centuries, contractualism merged with nationalism. The contract on the establishment of a government was understood to be a contract among nationals, and nationals were considered to be members of a geno group as a group of people whose relationships were described metaphorically in kin terms. The fair degree of openness that had been characteristic of border control regimes up to the early nineteenth century gave way to rigorous measures of border surveillance and migration restriction.<sup>14</sup> In-migration of non-nationals became classed as a jeopardy to the social cohesion of the geno group,<sup>15</sup> whereas out-migration was taken to be a dangerous reduction of national war-making

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<sup>12</sup> Emperor Leopold I, [Mandate on the settlement of Hungary, print, August 1689], Ulm, Donaueschwäbisches Zentralmuseum. On imperial population policy respecting the Balkans see *Migration nach Ost- und Südosteuropa vom 18. bis zum Beginn des 19. Jahrhunderts*, edited by Mathias Beer and Dittmar Dahlhausen (Sigmaringen: Thorbecke, 1999).

<sup>13</sup> Johann Heinrich Gottlob von Justi, *Grundsätze der Policywissenschaft*, third edn (Göttingen: Dieterich, 1782), pp. 77-84 [reprint (Frankfurt: Keip, 1969)]. On Justi and the formulation of population policy in the eighteenth century see Otto Friedrich Bollnow, 'Die philosophischen Grundlagen der Staats- und Wirtschaftslehren bei Johann Heinrich Gottlob Justi', in *Finanz-Archiv*, N. F., vol. 8 (1941), pp. 381-402. Horst Dreitzel, 'Justis Beitrag zur Politisierung der deutschen Aufklärung', in *Aufklärung als Politisierung – Politisierung der Aufklärung*, edited by Horst E. Bödeker and Ulrich Herrmann (Hamburg: Meiner, 1987), pp. 158-77. Ferdinand Frensdorff, *Über das Leben und die Schriften des Nationalökonomen Johann Heinrich Gottlob Justi* (Göttingen: Akademie der Wissenschaften, 1903) [reprint (Glashütten: Auvermann, 1970)]. Harm Klueting, *Die Lehre von der Macht der Staaten* (Berlin: Duncker & Humblot: 1986). Marcus Overt, *Die naturrechtliche 'politische Metaphysik' bei Johann Heinrich Gottlob von Justi (1717 – 1771)* (Frankfurt and Bern: Lang, 1992). Justus Remer, *Johann Heinrich Gottlob Justi, ein deutscher Volkswirt des 18. Jahrhunderts* (Stuttgart and Berlin: Kohlhammer, 1938). For hardly successful sixteenth- and eighteenth-century attempts by city councils to restrict the emigration of skilled craftsmen see Francesca Trivellato, *La fundamenta dei vetrai* (Rome: Donzelli, 2000). Klaus Jürgen Bade, 'Altes Handwerk, Wanderzwang und Gute Policy. Gesellenwanderung zwischen Zunftökonomie und Gewerbereform', in Bade, *Sozialhistorische Migrationsforschung* (Göttingen: Vandenhoeck & Ruprecht, 2004), pp. 64-5 [first published in *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 69 (1982), pp. 1-37]. Albrecht Bruns, *Die Arbeitsverhältnisse der Lehrlinge und Gesellen im städtischen Handwerk in Westdeutschland bis 1800*. Ph.D. Thesis (University of Cologne, 1938), p. 119.

<sup>14</sup> For details see Harald Kleinschmidt, *People on the Move* (Westport, CT: Praeger, 2003), pp. 209-212.

<sup>15</sup> Richard Böckh, *Der Deutschen Volkszahl und Sprachgebiet* (Berlin: 1869), pp. 7, 10-11 [reprint Berlin 1870]. Similarly during the Nazi period: Günter Herold, *Der Volksbegriff im Sprachschatz des Althochdeutschen und Altniederdeutschen*. Ph.D. Diss., typescript (University of Munich, 1940), pp. 287-288.

capability.<sup>16</sup> If, under these circumstances, state populations were found to decline, such as after major military conflicts, the increase of the fertility rate emerged as the major goal of population policy. Under the premise of nationalism, fulfilling the contract between rulers and ruled in the nineteenth century was identical with closing off one nation against all others.<sup>17</sup> Nationals were then expected to be residents in a given territory sharply demarcated against and sealed off against the territories of their alien neighbours. The postulate of residentialism, enshrined in nineteenth- and early twentieth social and political theories, helped downgrade cross-border mobility to a deviant pattern of behaviour for which explanations were deemed necessary and found mainly in economic conditions of life. Thus the image of migrants as poor, lonely and strange characters, being pushed and pulled around, stigmatised migrants as passive targets of anonymous ‘factors’ of ‘attraction’ and ‘repulsion’,<sup>18</sup> a maneuverable mass that, like rivers, flowed into a certain direction and precipitated destruction when out of control. Nineteenth-century scientism induced several statisticians to condense their observations on recurrent migratory features into statements that they proclaimed as ‘laws’.<sup>19</sup> The statistical method reduced migrants to numerical digits. Its practitioners hoped to glean migration motives from manipulations of statistical data rather than from empirical inquiries among migrants.<sup>20</sup>

Persons migrating nevertheless had to take high hurdles to find acceptance at their destinations. Lawmakers and administrators delved in a plethora of laws and other legal rules apt to define in-migrants as non-nationals. Scholars, lawmakers and administrators classed migrants as people who were unwilling to remain integrated in their communities of birth and faced little likelihood of finding acceptance at their destinations. They rated the chances of reintegration low and promoted the image of migrants as ‘uprooted’ people.<sup>21</sup> Much of nineteenth-century migration policy took the shape of measures aimed at

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<sup>16</sup> For one, see C. Herzog, ‘Was fließt den Vereinigten Staaten durch die Einwanderung zu, und was verliert Deutschland durch die überseeische Auswanderung?’, in (*Schmollers*) *Jahrbuch für Gesetzgebung, Verwaltung und Volkswirtschaft*, 9 (1885), p. 37.

<sup>17</sup> Paradigmatically Johann Gottlieb Fichte, *Der geschloßne Handelsstaat* (Tübingen: Cotta, 1800), pp. 58-9 [ed. by Reinhard Lauth and Hans Gliwitzky, Fichte, *Werke. 1800 – 1801* (Stuttgart: Frommann-Holzboog, 1988), p. 69 (Fichte. Gesamtausgabe. I/7.)]

<sup>18</sup> *London Times* (1851). Quoted in *Historical Aspects of the Immigration Problem*, edited by Edith Abbott (Chicago: University of Chicago Press, 1926), p. 126 [reprint (New York: Arno Press, 1969)].

<sup>19</sup> Ernest George Ravenstein, ‘Census of the British Isles 1871, Birthplaces and Migration’, in *Geographical Magazine* 3 (1876), pp. 173-7, 201-206. Ravenstein, ‘Laws of Migration. Counties and General’, in *Geographical Magazine* 3 (1876), pp. 229-33. Ravenstein, ‘Laws of Migration’, in *Journal of the Royal Statistical Society* 49 (1885), pp. 167-225, 52 (1889), pp. 214-301 [all reprinted in Ravenstein, *The Laws of Migration* (New York: Ayer, 1987)]. For a twentieth-century variation of Ravenstein’s ‘Laws’ see Everett S. Lee, ‘Theory of Migration’, in *Migration*, edited by J. A. Jackson (Cambridge: Cambridge University Press, 1969), pp. 282-97.

<sup>20</sup> E. g. Adna Ferrin Weber, *The Growth of Cities in the Nineteenth Century* (New York: Columbia University Press, 1899), p. 233 [reprint (Ithaca: Cornell University Press, 1963)]. Similarly Richard Mayo Smith, *Emigration and Immigration. A Study in Social Science* (New York: Scribner, 1890), p. 290, who argued that there was no need for the immigration of unskilled labour.

<sup>21</sup> For a classical study see Oscar Handlin, *The Uprooted. The Epic Story of the Great Migrations That Made the American People* (Boston: Little, Brown & Co, 1951) [reprint (ibid., 1979); second edn (Philadelphia: University of Pennsylvania Press, 2002)].

preventing penniless out-migrants from returning to their state of origin only to become a social welfare burden. In some states, for example the USA, nationality and citizenship were separated, as nineteenth-century US immigration policy proceeded from the assumption that migrants carried with them and could retain the nationality they had acquired by birth. By contrast, US citizenship was a status that migrants appeared to be able to acquire through state-controlled admission and registration procedures. Elsewhere, for example in Germany, citizenship and nationality were defined in ways that established widely overlapping if not completely identical terms (in German, there is no word for 'citizenship' still today).<sup>22</sup> Thus in-migrants were given the status of alien residents, temporary or permanent. A permanent alien resident has been regarded as entitled to stay but not to participate in the political activities of the nationals.<sup>23</sup>

Much as these distinctions may have appeared to be mandatory from an administrative point of view, they have nevertheless been informed by nationalist ideologies dating from the nineteenth century. The concept of the nation as a group of residents positioned the nation at the highest level of a hierarchy of social groups all of which were modelled upon the kin group occupying the lowest level.<sup>24</sup> In proclaiming this hierarchy of groups, social and political theorists insisted that membership in nations was to be acquired in the same way as individuals acquired kin membership, namely by birth.<sup>25</sup>

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<sup>22</sup> See *Immigration and the Politics of Citizenship in Europe and America*, William Rogers Brubaker (Lanham, MD: University Press of America, 1989). Brubaker, 'Einwanderung und Nationalstaat in Frankreich und Deutschland', in *Der Staat*, 28 (1989), pp. 1-30. Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, MA, and London: Harvard University Press, 1992). For a critical review of Brubaker's arguments see Andreas Fahrmeir, *Citizens and Aliens. Foreigners and the Law in Britain and the German States. 1789 – 1870* (Oxford and New York: Berghahn, 2000).

<sup>23</sup> The same is still true for the German immigration law of 5 August 2004: Gesetz zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthaltes und der Integration von Unionsbürgern und Ausländern, *Bundesgesetzblatt* (2004), Teil I, pp. 1950-2010. The law has the declared purpose of 'limiting immigration'. For a recent study avoiding to address this difficult aspect of German immigration policy see Ralph Rotte, 'Immigration Control in United Germany', in *International Migration Review*, 34 (2000), pp. 357-89. See also the report by the international Commission on Human Security, *Human Security Now* (New York: Commission on Human Security, 2003), pp. 40-55.

<sup>24</sup> See Johann Baptista Fallati, 'Die Genesis der Völkergesellschaft', in *Zeitschrift für die gesamte Staatswissenschaft*, 1 (1844), pp. 183-4. Albert Schäffle, *Bau und Leben des socialen Körpers* (6 vols, Tübingen: Mohr, 1881), vol. 4, pt 2, pp. 216-9. Herbert Spencer, *Principles of Sociology* (3 vols, New York and London: Appleton, 1910), vol. 1, pp. 449-53.

<sup>25</sup> On the history of nationality legislation see, among others John Breuilly, *Nationalism and the State*, second edn (Manchester: Manchester University Press, 1993). *Immigration and the Politics of Citizenship in Europe and America*, edited by William Rogers Brubaker (Lanham, MD, New York and London: University Press of America, 1989). F. El-Tayeb, "'Blood is a very special juice": Racialized Bodies and Citizenship in Twentieth-Century Germany', in *Complicating Categories. Gender, Class, Race and Ethnicity*, edited by Eileen Boris and Angélique Janssens (Cambridge: Polity Press, 1999), pp. 149-169 (International Review of Social History. Supplement zu Bd. 44.) Andreas K. Fahrmeir, 'Nineteenth-Century German Citizenships', in *Historical Journal* 40 (1997), pp. 721-752. Dieter Gosewinkel, *Einbürgern und Ausschliessen* (Göttingen: Vandenhoeck & Ruprecht, 2001) (Kritische Studien zur Geschichtswissenschaft. 150.) Lora Wildenthal, 'Race, Gender and Citizenship in the German Colonial Empire', in *Tensions of Empire. Colonial Cultures in a Bourgeois World*, edited by Frederick Cooper, Ann Laura Stoler (Berkeley and Los Angeles: University of California Press, 1997), pp. 263-283.

Naturalisation as an administrative procedure for the integration of in-migrants was taken to be possible but a rare exception, usually conditioned by marriage relations.<sup>26</sup> The likening of membership in a nation to membership in kin groups conferred the image of unchangeability upon nationality, even under circumstances of long-distance migration. This image has informed the making and enforcement of migration policy throughout the nineteenth and much of the twentieth centuries. But the image should not be taken for granted. During the *Ancien Régime*, when ‘national characters’ were derived from climate or from contractual agreements on human made political order,<sup>27</sup> change of nationality through migration or political reform and revolution was considered to be perfectly normal. Yet the subsequent conceptualisation of the nation as a geno group has promoted political strategies and administrative tactics designed to widen the difference between nations and to raise the hurdles for changes of nationality. Lawmakers and administrators strove to restrict cross-border mobility through the use of political instruments and obstructed naturalization through legal constraints. When debating migration and nationality legislation issues they used the language of disaster to mobilise political support for migration restriction measures.<sup>28</sup> The language helped construct migrants as an anonymous threatening mass against which the nationals or citizens as inhabitants of a state were to be guarded. Closing the doors was the simplest measure at hand.

Since the nineteenth century, much of theorising about cross-border mobility has thus helped promote ideologies of nationalism.<sup>29</sup> Theories have been biased by the legacy of residentialism and have induced their promoters to disseminate negative images about migrants and migration. This habit has not only prevented theorists from gaining insight into the doings of migrants but has also reduced the analytical quality and predictive value of their theories. Among the many detriments that have resulted from this habit, the widely held assumption that migration movements should represent unpredictable ‘sudden

<sup>26</sup> See Gustav von Schmoller, ‘Über Wesen und Verfassung großer Unternehmungen’, in Schmoller, *Zur Social- und Gewerbepolitik der Gegenwart* (Leipzig: Duncker & Humblot, 1890), p. 397. Already in his address to the French National Assembly of 7 April 1832 [*Archives parlementaires* (1832), p. 324], François Guizot demanded legal measures against the immigration of ‘vagabonds, persons with a criminal record or simply hapless characters’ as a safeguard for the nation.

<sup>27</sup> David Hume, ‘Of National Characters’, in Hume, *Essays Moral, Political, and Literary* [1741], edited by Thomas Hill Green and Thomas Hodge Grose, vol. 1 (London: Longman, Green & Co, 1882), pp. 244-58 [reprint (Aalen: Scientia, 1964)]. On the concept of ‘national character’ in the eighteenth century see Franz Karl Stanzel, ‘Schemata und Klischees der Völkerbeschreibung in David Hume’s Essay „Of National Characters“’, in *Studien zur englischen und amerikanischen Literatur. Festschrift für Helmut Papajewski*, edited by Pau Gerhard Buchloh, Inge Leimberg and Herbert Rauter (Neumünster: Wachholtz, 1974), pp. 363-83. Stanzel, *Europäer* (Heidelberg: Winter, 1997), pp. 28-32 [second edn (ibid., 1998)]. Stanzel, ‘Zur literarischen Imagologie’, in *Europäischer Völkerspiegel*, edited by Franz Karl Stanzel (Heidelberg: Winter, 1999), pp. 22-33.

<sup>28</sup> For example the debate on the new German nationality bill in 1912 and 1913. See *Stenographische Berichte über die Verhandlungen des Reichstages*, 13. Legislaturperiode, 153. Sitzung (28. Mai 1913), pp. 5271, 5282. *Reichs- und Staatsangehörigkeitsgesetz* (Berlin: Guttentag, 1913), § 66, p. 13.

<sup>29</sup> For a discussion see *The Politics of Migration*, edited by Robin Cohen and Zig Layton-Henry (Cheltenham and Brookfield, VT: Elgar, 1997). *The Politics of Migration Policies*, edited by Daniel Kubat, second edn (New York: Center for Migration Studies of New York, 1993) [first published (ibid., 1979)]. Zig Layton-Henry, *The Politics of Immigration. ‘Race’ and ‘Race’ Relations in Post-War Britain* (Oxford: Blackwell, 1992).

flows' with allegedly disastrous consequences has been most thoroughly damaging because it has triggered the unattainable demand that not only should migration policy be transparent and consistent but that also migration itself ought be made 'orderly and predictable'.<sup>30</sup> Against this legacy of residentialism and nationalism, theorists of cross-border mobility wanting to enhance their analytical and predictive capacity may have to conceive migration as a normal, not deviant, pattern of behaviour.

This requirement is underpinned by newly recognised attitudes and perception among migrants who take the liberty of pursuing their livelihood strategies irrespective of the perceptions and attitudes that lawmakers and administrators may cherish about them.<sup>31</sup> The image of uprootedness was unfounded already in the nineteenth century, as the hundreds of millions of letters show that were exchanged among migrants and people remaining at home.<sup>32</sup> Yet the residentialist approach to migration has remained a powerful intellectual tool compelling scholars, lawmakers and administrators alike to perceive cross-border mobility as a unidirectional finite process that must result from specifiable 'factors'. Since the end of the twentieth century, social scientists, looking at migrants more carefully, have called into question most of these assumptions,<sup>33</sup> while lawmakers and administrators have remained largely unaffected.<sup>34</sup>

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<sup>30</sup> Commission on Human Security, *Human Security Now* (New York, 2003), p. 52. Much of the recent human security debate touches on migration without carefully looking into it. See Ken Booth, 'Security and Emancipation', in *Review of International Studies*, 17 (1991), pp. 313-26. Booth, 'Security in Anarchy', in *International Affairs*, 63 (1991), pp. 527-45. *Statecraft and Security*, edited by Ken Booth (Cambridge: Cambridge University Press, 1998). Barry Buzan, 'Societal Security', in *Identity, Migration and the New Security Agenda in Europe*, edited by Ole Waever, Barry Buzan, M. Kelstrup and P. Lemaitre (London: Pinter, 1993). Buzan, 'Rethinking Security After the Cold War', in *Cooperation and Conflict*, 32 (1997), pp. 5-28. Buzan, 'The Logic of Regional Security in the Post-Cold War World', in *The New Regionalism and the Future of Security and Development*, edited by Björn Hettne, András Inotai and Osvaldo Sunkel (New York: St. Martin's Press, 2000), pp. 1-25. Sören Jesse-Petersen, 'International Migration and Security. A Pragmatic Response', in *Migration and the New Europe*, edited by Kimberly A. Hamilton (Washington, DC: Center for Strategic and International Studies, 1994), pp. 1-11. Mahbub ul-Haq, 'Global Governance for Human Security', in *Worlds Apart. Human Security and Global Governance*, edited by Majid Tehranian (London and New York: Tauris, 1999), pp. 79-94. But see the exceptional studies by Mark J. Miller, 'International Migration and Global Security', in *Redefining Security. Population Movements and National Security*, edited by Nana K. Poku and David T. Graham (Westport, CT: Greenwood Press, 1998), pp. 15-49. Nana K. Poku, Neil Renwick and John Glenn, 'Human Security in a Globalising World', in *Migration, Globalisation and Human Security*, edited by David T. Graham and Nana K. Poku (London and New York: Routledge, 2000), pp. 9-22., *International Migration and Security*, edited by Myron Weiner (Boulder: Westview Press, 1993).

<sup>31</sup> See Anthony Fielding, 'Migration and Culture', in *Migration Processes and Patterns*, edited by Tony Champion Fielding (2 vols, London: Belhaven Press, 1992), vol. 1, pp. 201-14. Fielding, 'Migrations, Institutions and Politics. The Evolution of European Migration Policies', in *Mass Migrations in Europe. The Legacy and the Future*, edited by Russell King (London: Belhaven Press, 1993), pp. 40-62. Aristide R. Zolberg, 'International Migration in Political Perspective', in *Global Trends in Migration*, edited by Mary M. Kritz, Charles B. Keely and Silvano M. Tomasi (Staten Island: Center for Migration Research of New York, 1981), pp. 3-27.

<sup>32</sup> *Briefe aus Amerika. Deutsche Auswanderer schreiben aus der Neuen Welt. 1830 – 1930*, edited by Wolfgang Helbich, Walter D. Kamphoefner and Ulrike Sommer (Munich: Beck, 1988). *German-American Immigration and Ethnicity in Comparative Perspective*, edited by Wolfgang Helbich and Walter D. Kamphoefner (Madison, WI: Max Kade Institute for German-American Relations, University of Wisconsin, 2004).

<sup>33</sup> For the debate on 'New Migration' see Pieter Boeles, *Fair Immigration Proceedings in Europe* (The Hague, Boston and London: Nijhoff, 1997). *Migration Theory. Talking across Disciplines*, edited by Caroline B. Bretell and James F. Hollifield (London and New York: Routledge, 2000). Robin Cohen, *Global Diasporas*

Empirical data show that cross-border mobility is frequently a recurrent or even continuous activity engaging individuals over a long period of time of their lifetimes. It may even connect life experiences across generations. These experiences may range from continuing migration without specific concern for destinations and return to place or area of origin to the purposeful movement to a specific destination, usually at the advice of friends or relatives. Frequently, migrants establish networks among themselves as well as with people at places of their origin and communicate their experiences. In areas where migration has been frequent over long periods, such as across the Pacific or across the Atlantic, special relationships have come into existence creating systems within which migration takes place without specific identifiable push-and pull-factors and often in defiance of border control measures. Thus the image of the poor, lonely, passive and 'uprooted' migrant has given way to the picture of well-informed, active, well-to-do and thoroughly persons who consciously rank their motives to move above their motives to stay. This new picture of cross-border mobility suggests that it is of the same importance to ask the question why people move, as it is to ask the opposite question why people stay. The critical situation, in which individuals or groups opt against staying, needs to be analysed at the level of individual behaviour and cannot be reconstructed or hypothesised on the basis of aggregate statistical data.

Migration historical research has shown that the emergence of the new picture of the migrant is not a consequence of recent changes of migratory behaviour but represents a change of perception on cross-

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(London: UCL Press, 1997). *Theories of Migration*, edited by Robin Cohen (Cheltenham and Brookfields, VT: Elgar, 1997). *Controlling Immigration. A Global Perspective*, edited by Wayne A. Cornelius, Philip L. Martin and James F. Hollifield (Stanford: Stanford University Press, 1994). *Immigration Research for a New Century*, edited by Nancy Foner, Ruben G. Rumbaut and Steven J. Gold (New York: Russell Sage Foundation, 2000). *Population Migration and the Changing World Order*, edited by W. T. S. Gould and A. M. Finlay (Chichester and New York: Wiley, 1994). Kay Hailbronner, David Martin and Hiroshi Motomura, *Immigration Control. The Search for Workable Policies in Germany and the United States* (Providence, RI, and Oxford: Berghahn, 1998). *Le droit des étrangers. Statut, évolution européenne, droits économiques et sociaux*, edited by P. Jadoul and E. Mignon (Brussels: Facultés universitaires Saint-Louis, 1993). *Mass Migrations in Europe. The Legacy and the Future*, edited by Russell King (London: Belhaven Press, 1993). Daniel Kubat and Hans-Joachim Hoffmann-Nowotny, 'Migrations. Vers un nouveau paradigme', in *Revue internationale des sciences sociales*, 33 (1981), pp. 335-59. James Mittelman, 'Production and Migration', in *Global Transformation. Challenges to the State System*, edited by Y. Sakamoto (Tokyo: United Nations University, 1994), pp. 34-62. *Paths to Inclusion. The Integration of Migrants in the United States and Germany*, edited by Peter H. Schuck and Rainer Münz (New York and Oxford: Berghahn, 1998). Muhammed Abu B. Siddique and Reginald Appleyard, 'International Migration into the 21<sup>st</sup> Century', in *International Migration into the 21<sup>st</sup> Century. Essays in Honour of Reginald Appleyard*, edited by Muhammed Abu B. Siddique (Cheltenham and Northampton, MA: Elgar, 2001), pp. 1-13. Myron Weiner, *The Global Migration Crisis. Challenge to States and to Human Rights* (New York: HarperCollins, 1995). *Immigration Reconsidered. History, Sociology, and Politics*, edited by Virginia Yans-MacLaughlin (Oxford: Oxford University Press, 1990). Aristide R. Zolberg, 'The Next Waves. Migration Theory for a Changing World', in *International Migration Review*, 23 (1989), pp. 403-30. On migration networks see James F. Fawcett, 'Networks, Linkages and Migration Systems', in *International Migration Review*, 23 (1989), pp. 671-80. *Global Trends in Migration*, edited by Mary M. Kritz, Charles B. Keely and Silvano M. Tomasi (Staten Island, NY: Center for Migration Research of New York, 1981).

<sup>34</sup> For a recent case see the report of the Global Commission on International Migration, *Migration in an Interconnected World. New Direction for Action* (New York: The Global Commission on International Migration, 2005). The report that seeks to provoke thoughts among lawmakers and administrators in sovereign states, migrants feature only as an amorphous statistical mass, not as individuals.

border mobility.<sup>35</sup> ‘New migration’ therefore is not merely an appropriate description of a recently recognised trend in migration but more fundamentally the outcome of changing social science attitudes towards migration. ‘New migration’ has proved that the residentialism inherent in nineteenth-century social and political theories is not merely obsolete now but was manifestly unfounded and ideological from its very beginning. Neither are the majority of migrants poor, lonely, passive and ‘uprooted’ individuals now nor were they ever so in the past.

‘New migration’ has important consequences for the formulation of theories of cross-border mobility and the implementation of migration policy. If theorists recognise migration as a normal, not a deviant pattern of behaviour, migration policies that impose constraints and hardships upon migrants in purported service to the sovereign state and the alleged security interests of its population, become violations of human rights. If theorists respect migrants as determined people, policies of migration restriction must be ranked as doomed to failure, sooner or later. The lack of success of restrictive migration policies is not unique to the present. Already in the nineteenth century, closing the doors was no more than a temporary deterrent. It boosted undocumented migration rather than reducing cross-border mobility. The deterrent proved ineffective the more often lawmakers and administrators eventually agreed to legalise the status of undocumented immigrants who had managed to stay on under awkward conditions for a while. If time would allow undocumented immigrants to acquire citizenship or a legal permission of stay, strict border control was both useless and unnecessary. More often than not, administrators were well aware of the weakness of their enforcement measures and lamented migrants’ capability to circumvent their measures.<sup>36</sup>

Theorists have responded by inventing the ‘liberal paradox’ of migration policy.<sup>37</sup> The formula suggests

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<sup>35</sup> For surveys on historical migration systems see Dirk Hoerder, *Cultures in Contact. World Migrations in the Second Millennium* (Durham, NC: Duke University Press, 2002). *Migration in der Feudalgesellschaft*, edited by Gerhard Jaritz and Albert Müller (Frankfurt and New York: Campus, 1988). Leslie Page Moch, *Moving Europeans* (Bloomington: Indiana University Press, 1992) [second edn (ibid., 2003)]. Moch, *European Migrants. Global and Local Perspectives* (Evanston: Northwestern University Press, 1996). Michael J. Piore, *Birds of Passage* (Cambridge: Cambridge University Press, 1979).

<sup>36</sup> For Germany see Theodor Bödiker ‘Die Einwanderung und Auswanderung des Preußischen Staates’, *Preußische Statistik*, 26 (1874): I-IX. Fritz Josephy, *Die deutsche überseeische Auswanderung seit 1871 unter besonderer Berücksichtigung der Auswanderung nach den Vereinigten Staaten von Amerika* (Berlin: Welt-Verlag, 1912). Wilhelm Mönckmeier, *Die deutsche überseeische Auswanderung* (Jena: Fischer, 1912). *Auswanderung und Auswanderungspolitik in Deutschland*, edited by Eugen von Philippovich (Leipzig: Duncker & Humblot, 1892). For the UK see Myer Jack Landa, *The Alien Problem and Its Remedy* (London: P.S. King, 1911).

<sup>37</sup> For a review of immigration restriction policies see Gary P. Freeman, ‘Can Liberal States Control Unwanted Migration?’, in *Strategies for Immigration Control*, edited by Mark J. Miller (Thousand Oaks, London and New Delhi: Sage, 1994), pp. 17-30. James F. Hollifield, *Immigrants, Markets and States* (Cambridge, MA: Harvard University Press, 1992), pp. 214-32. Mark J. Miller, ‘Towards Understanding State Capacity to Prevent Unwanted Migration. Employer Sanctions Enforcement in France, 1975 – 1990’, in *The Politics of Immigration in Western Europe*, edited by Martin Baldwin-Edwards and Martin A. Schain (London: Cass, 1994), pp. 140-67. Christian Joppke, ‘Why Liberal States Accept Unwanted Immigration’, in *World Politics*, 50 (1998), pp. 266-

that there is a clash of the interests between individual migrants and groups of residents in states whose constitution is democratic and prescribes liberal values. The interests of migrants acting in pursuit of legitimate livelihood strategies appear to be irreconcilable with the equally legitimate security interests of residents. But the simple formula pastes over the difficult problem of defining when a person crossing an international border ceases to be a migrant.<sup>38</sup> More often than not, the formula has made explicit nativist sentiments among migrants demanding that the doors should be closed to people following them.<sup>39</sup> Reducing the willingness to move can be a legitimate political goal. But it needs to be accomplished at the level of individual migrant decision-making rather than through the use of aggregate statistical data apparently justifying restriction measures.

Demanding that individuals should become the focus of theorists on cross-border mobility means imposing a difficult task for theorists as well as empirical researchers. Many social scientists rely on statistical data compiled from state-centred sources. That may be a necessary practice as long as sovereign states continue to be the sole legitimate institutions for data collection on demographic issues. But social scientists are not always aware of the impact that their choice of data may have on their work and its results. As a legacy of the nineteenth century, official demographic statistics end where state borders are

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93. Myron Weiner, 'Ethics, National Sovereignty and the Control of Immigration', in *International Migration Review*, 30 (1996), pp. 171-97. There was a similar debate in the USA early in the twentieth century. See Henry Pratt Fairchild, 'The Restriction of Immigration', in *American Journal of Sociology*, 17 (1912), pp. 637-46 [newly edited by John J. Appel, *The New Immigration* (New York: Pitman, 1971), pp. 184-93]. Fairchild, *The Melting Pot Mistake* (Boston: Little, Brown & Co, 1926) [reprint (New York: Arno Press, 1977)]. On the evolution of immigration restriction policy in the USA see Edward Prince Hutchinson, *Legislative History of American Immigration Policy. 1798 – 1965* (Philadelphia: University of Pennsylvania Press, 1981), pp. 92-7, 109-110, 134, 434-41.

<sup>38</sup> For social science migration definitions see Marianne Amar and Pierre Milza, *L'immigration en France au XXe siècle* (Paris: Colin, 1990). Jochen Blaschke, 'Internationale Migration. Ein Problemaufriss', in (ed.), *Migration im neuen Europa*, edited by Manfred Knapp (Stuttgart: Steiner, 1994), pp. 23-50. Andreas Bös, 'Weltweite Migration und Schließungstendenzen westlicher Industriegesellschaften', in *Gesellschaften im Umbruch. Verhandlungen des 27. Kongresses der Deutschen Gesellschaft für Soziologie in Halle an der Saale 1995*, edited by Lars Clausen (Frankfurt and New York: Campus, 1996), pp. 395-412. Joseph H. Carens, 'Migration and Morality. A Liberal Egalitarian Perspective', in *Free Movement. Ethical Issues in the Transnational Migration of People and of Money*, edited by Brian Barry and Robert E. Goodni (New York: Harvester, 1992), pp. 25-47. Adrian Favell, *Philosophies of Integration. Immigration and the Idea of Citizenship in France and Britain* (Basingstoke: Macmillan; and New York: St. Martin's Press, 1998). Guy S. Goodwin-Gill, 'Immigration, Nationality and the Standards of International Law', in *Towards a Just Immigration Policy*, edited by Ann Dummett (London: Cobden Trust, 1986), pp. 3-32. Peter Marschalck, 'Aktuelle Probleme der Migrationsforschung', in *Landesgeschichte und Historische Demographie*, edited by Michael Matheus and Walter G. Rödel (Stuttgart: Steiner, 2000), pp. 177-89. Michael C. May, *Anatomy of a Public Policy. The Reform of Contemporary American Immigration Law* (Westport, CT, and London: Praeger, 1994). Aaron Segal, *An Atlas of International Migration* (London, Melbourne and Munich: Zell, 1993). Raphael-Emmanuel Verhaeren, *Partir? Une théorie économique des migrations internationales* (Grenoble: Presses Universitaires, 1990). Myron Weiner, 'On International Migration and International Relations', in *Population and Development*, 11 (1985), pp. 441-55. Hania Zlotnik, 'The Concept of International Migration as Reflected in Data Collection Systems', in *International Migration Review*, 21 (1987), pp. 925-45.

<sup>39</sup> On nativism see John Higham, *Strangers in the Land. Patterns of American Nativism. 1860 – 1925* (New York: Atheneum, 1963). Eldon R. Penrose, *California Nativism. Organized Opposition to the Japanese. 1890 – 1913* (San Francisco: R and E Research Associates, 1973).

and, by consequence, are inept as sources on cross-border mobility. Hence migration obfuscates state-centred statistics. Migration as a factor of change of state populations renders official demographic data inadequate where they exist at all. Thus essential data for any social science inquiry become of limited value. Moreover, official demographic statistics have been available for no more than 200 years. Consequently, long-term statistical surveys as impossible and so are qualified statements on trends of numerical increase or decrease of cross-border mobility. The frequent claim is unascertainable that migration should have increased exponentially worldwide during the nineteenth and twentieth centuries<sup>40</sup>. The strongest limitation of theorising on cross-border mobility is not set by the doings of people on the move but by the continuing legacy of nineteenth-century social and political theory.

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<sup>40</sup> E. g. Stephen Castles, 'Globalization and the Ambiguities of National Citizenship', in *Blurred Boundaries. Migration, Ethnicity, Citizenship*, edited by Rainer Bauböck and John Rundell (Aldershot, Brookfield, Singapore and Sydney: Ashgate, 1998), p. 226. Castles and Mark J. Miller, *The Age of Migration* (Basingstoke and London: Macmillan, 1993) [second edn (ibid., 1998)].