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***Is New Zealand's Migration System a Feasible Option for Germany?***

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## **Authentizitätserklärung**

Hiermit versichere ich, Mathias Bug, dass die vorliegende Diplomarbeit von mir selbständig verfasst wurde und keine anderen als die angegebenen Hilfsmittel verwendet wurden

Christchurch, den 27.10.2006

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## List of Abbreviations

**AufenthG:** Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet (Residence, Employment and Integration for Foreigners Act)

**BeschV:** Verordnung über die Zulassung von neueinreisenden Ausländern zur Ausübung einer Beschäftigung (Beschäftigungsverordnung – BeschV) (Employment for Immigrating Foreigners Ordinance )

**BAföG:** Bundesausbildungsförderungsgesetz (Federal Education Support Act)

**BfA:** Bundesagentur für Arbeit Federal Agency for Employment)

**CER:** Closer Economic Relations

**CDU:** Christlich Demokratische Union (Christian Democratic Union)

**CSU:** Christlich Soziale Union (Christian Social Union)

**EEC:** European Economic Community

**ESOL:** English for speakers of other languages

**EU:** European Union

**FreizügG/EU:** Gesetz über die allgemeine Freizügigkeit von Unionsbürgern (EU Citizens Free Travel Act)

**FDP:** Freie Demokratische Partei Deutschlands (Free Democratic Party of Germany)

**LTBV:** Long Term Business Visa

**MMP:** Mixed Member Proportional

**NMFS:** New Migrant Follow-up Survey

**OECD:** Organisation for Economic Cooperation and Development

**PAC:** Pacific Access Category

**PISA:** Programme for International Student Assessment

**SGB I:** Sozialgesetzbuch I: Allgemeiner Teil

**SGB XII:** Sozialgesetzbuch XII: Sozialhilfe

**SMC:** Skilled Migrant Category

**SPD:** Sozialdemokratische Partei Deutschlands (Social Democratic Party of Germany)

**StAG:** Staatsangehörigkeitsgesetz (Citizenship Act)

**TTTA:** Trans Tasman Travel Agreement

**UNHCR:** United Nations High Commissioner for Refugees

**USA:** United States of America

## *Is New Zealand's Migration System a Feasible Option for Germany?*

"New Zealand is a laboratory in which political and social experiments are every day made for the information and instruction of the older countries of the world."

-Herbert Henry Asquith<sup>1</sup>, ca. 1900

### *Introduction: Managing Migration - the German Way*

During the March 2000 European Council summit, the Lisbon Strategy, which intends to make the European Union (EU) the world's largest knowledge-based economy, was set on track. There were various policy initiatives given to each member state regarding social, economic and environmental renewal and sustainability. Undoubtedly, the accumulation of knowledge in the whole population plays a large part in social renewal and sustainability. More than five years after the inception of the EU's innovative programme, there are increasing concerns about meeting the targets set by the Lisbon Strategy. In Germany, the EU's largest economy, there is a high unemployment rate, which means the knowledge of some five million people is not being utilised. There is a remarkable social stagnation within German society, creating a so-called impoverished underclass, which comprises between 6.5% and 10% of Germany's population.<sup>2</sup> Migrants<sup>3</sup> are especially affected by this stagnation. Many of them are facing under-employment, under-education, and consequently difficulties in integration. Channelling future migration in the direction of attracting high-skilled migrants could solve some problems and might have positive repercussions for poorly integrated migrants as well. In contrast, Germany's governmental conservative parties uphold the position that Germany is not to be a country of migration. This approach reinforces the exclusion of many migrants and denies them the chance to take part in society. It also

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<sup>1</sup> Asquith was British Prime Minister from 1908-1916. There is a peculiar relationship between Asquith and Germany/New Zealand. He led the UK into a naval arms race with Germany which was one of the factors leading to World War One, and under his prime ministership, New Zealand's troops were led into the Battle of Gallipoli, which ended in a massacre of mentioned troops.

<sup>2</sup> Reimann, Seith in: Spiegel online, 17.10.2006; Spiegel Online, 18.10.2006

<sup>3</sup> Since the word "Immigrant" suffers in both German and English from negative connotations, this thesis tries to use the word migrants. However, where migration ties into or out of a country is explained it is just clearer to use the terms Im- and Emigrants.



prevents any high-skilled migrants from helping to accumulate specialist knowledge in Germany.

As a result, German society is becoming increasingly fragmented, especially where migrants are concerned. As Schierup, Hansen and Castles argue, "In the long run, it is likely to be a threat to social peace and stability for the whole society and polity."<sup>4</sup> *Die Zeit*, one of Germany's leading weekly newspapers, published a special report about migration in September 2006,<sup>5</sup> which focused on several issues which prevent migrants from being fully integrated into German society. In some cases, these issues prevent potential migrants from coming to Germany at all. This problem is aggravated by concerns about an exodus of high-skilled Germans.

These concerns suggest that a new policy approach for future migration to Germany is crucial, and broad reassessment of policies affecting migration needs to be made. This study will attempt to introduce new ideas into the German discourse on migration. Therefore, a broad comparison between the New Zealand and German migration system is taken into account. This comparison leads to a feasibility test where aspects of New Zealand's system could be adopted in order to improve the situation in Germany. The political discussion about migration, restricted and unrestricted migration channels, and aspects of migrants' integration into civic life will be given the most importance in this thesis. A new approach for Germany could come from New Zealand, given that this nation seems to have successfully shown that it is possible to accumulate knowledge in society through migration, and to use this knowledge to help with successful integration of migrants into the economy and social life. New Zealand's approach appears to have paid off. It is argued in the concluding discussion that such an approach to migration could equally benefit Germany.

### *New Zealand – Germany, Feasibility of Policy Adoption*

In many respects, New Zealand and Germany are countries that could not differ more from each other. However, they have one common feature in that a large proportion of both countries' population reflects a history of migration. Migration has been an important factor for generations in each country, but the two nations have found different strategies for managing with the issue. Whereas New Zealand dealt with its influx of migrants by seeing itself as a multicultural nation, Germany is still struggling with the issue, and is yet to establish a transparent and coherent migration system. Whenever the Organisation for

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<sup>4</sup> Schierup/Hansen/Castles, 2006: p. 162

<sup>5</sup> *Die Zeit*, 28.09.2006, p. 25-30

Economic Cooperation and Development (OECD) publishes new figures concerning the wellbeing of migrants in their host countries<sup>6</sup>, Germany does not compare favourably, whereas New Zealand, along with Australia and Canada, is one of the frontrunners of these statistics.

The situation in Germany is becoming increasingly problematic and controversial. On the one hand, Germany is facing problems to successfully integrate migrants into its changing labour market<sup>7</sup> and educational system<sup>8</sup>. On the other hand, Germany needs migrants to take pressure off from the influence that its ageing population has on the labour market and welfare system. This trend is common in most EU countries, but at present there is no cohesive, transparent, EU-wide migration policy. It is crucial to find out whether Germany could learn from the leaders in the area of migrant integration<sup>9</sup> and could play a lead role on an EU level by adopting a migration system like the New Zealand model.<sup>10</sup>

This thesis intends to examine in how far New Zealand's migration regulation could be transposed for the German case. Therefore the characteristics of the regulation of migration in New Zealand and Germany and its outcomes shall be compared. Of interest, first of all, are the numbers and types of migrants arriving in each country, as well as the preconditions migrants need to prove in order to be allowed entry. Secondly, the success of the two countries to integrate its migrants shall also be researched. As indicators of integration the settlement outcomes, especially the labour market and education system performance (of the first and second generation migrants), moreover the incorporation into each welfare system and the role and accessibility of citizenship shall be used. For the first two aspects, the literature is very broad; hence I plan to set a limit here. Furthermore I aim to discover how each of the countries expects to be affected by migration and how they plan migration policy. This comparison shall help determine in how far New Zealand's regulations are feasible for Germany.

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<sup>6</sup> E.g. OECD, 2006 b

<sup>7</sup> Loeffelholz, 2002: p. 628

<sup>8</sup> Loeffelholz, 2002: p. 640

<sup>9</sup> Integration shall not be understood as assimilation to the host population. Integration is strongly dependent on the chances migrants have in their host country, which is why education and labour market performance of migrants shall work as indicators for integration.

<sup>10</sup> In the area of migration policies, adopting another country's legislation is more or less a common behaviour as the trends of the recruitment programs in the 1970s show (Birsl, p. 105) or the similarity of German Integration courses with those in Sweden. So wrote the „Süßmuth-Kommission“ already about these courses (Independent Commission Migration to Germany, p. 250).

## *I. Choice of Cases*

Comparing the migration systems of Germany and New Zealand may seem arbitrary at first. Geographically they are very different nations – New Zealand consists of two main islands in the Pacific Ocean with a population of about 4.1 million people, whereas Germany is a continental European country with eight direct neighbours and a population of over 80 million people. Also in political and economic aspects the two countries seem to differ dramatically. However, these differences are just as large if not larger if one of the other three "classical" countries of migration were chosen.<sup>11</sup> In short, it seems rather improbable to fulfill the criteria of a Most Similar Systems Design, if the intention was to compare Germany with a "classical" migration country. This intention however does make sense, since a comparison with a classical migration country may enrich the discussion about migration in "non-classical" migration countries such as Germany. In relation to the integration of migrants into labour market and educational system, large differences are evident between classical and non-classical migration countries. This is undoubtedly the case for New Zealand and Germany. A comparison between the two will therefore hopefully yield some interesting results.

While New Zealand is one of the classical migration countries with a population which began to settle six generations ago (excluding of course the Maori who began settling centuries ago), Germany is a country characterised by a reluctance to being described as a country of migration. The welfare states of the respective countries also rather differ. Esping-Andersen has categorised New Zealand's as one of a liberal nature<sup>12</sup>, or a worker's welfare state<sup>13</sup> on its way to the liberal model<sup>14</sup>. However, Germany from his point of view is the epitome of the conservative welfare state<sup>15</sup>. The welfare system is one of the policy areas strongly interrelated to migration. In so far, it is problematic to compare New Zealand and Germany with a Most Similar Systems Design. This design requires the comparison of cases which are identical except for one aspect, which is the one that needs explanation. Nevertheless, accepting the imperfect consideration of a Most Similar Systems Design, there are important points where the both countries show the same peculiarities.

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<sup>11</sup> Under classical migration countries are counted Australia, Canada, New Zealand and the USA. OECD 2005: p. 12

<sup>12</sup> Esping-Andersen, 1990: p. 75

<sup>13</sup> Castles in: Esping-Andersen, 1996: p. 88-115

<sup>14</sup> Esping-Andersen, 1999: p. 75-77

<sup>15</sup> Esping-Andersen, 1990

One of the most important similarities is the proportion of the population with a migrant background. While New Zealand's foreign born population makes up about 19% of the entire permanent population<sup>16</sup>, Germany's population with a migrant background accounts for around 19% of the entire population<sup>17</sup>. These similar preconditions lead to two different outcomes as far as the performance of migrants in the education system and on the labour market goes, which is the aspect that needs to be elucidated by the comparison of the German and the New Zealand cases. The comparison will evaluate the feasibility of Germany adopting certain aspects of the New Zealand system. Since Germany is my home country, it is important to diminish the possibility of false judgements from a "German perspective". This is why this research was conducted in New Zealand, where it was supervised by two New Zealand lecturers, Dr. Natalia Chaban and Prof. Dr. Martin Holland, alongside the German supervision by Prof. Dr. Ursula Birsl. Moreover the concept of compared fields is very broad<sup>18</sup>, which could help to diminish possible preconceptions as well.

In the following section, general aspects about the suitability for comparison between the two countries shall be outlined.

## 1. Electoral System and International Engagement

The political life of Germany and New Zealand is structured by their multiparty parliamentary systems. This is guaranteed by the same Mixed Member Proportional electoral system (MMP). Since New Zealand first used the system in the general election in 1996, it is governed - like Germany - by a multiparty coalition. There are in both countries two main parties; one is centre-left one and one centre right. In New Zealand there is Labour and National, while Germany has the SPD (*Sozialdemokratische Partei Deutschlands*) and the CDU/CSU (*Christlich Demokratische Union / Christlich Soziale Union*). In both parliaments there is a green party. Whereas Germany's parliament is bolstered by a left party *Die Linkspartei* and by a liberal party FDP (*Freie Demokratische Partei*), New Zealand's parliament has at least six seats reserved for Maori members of parliament and two further conservative parties. The parliamentary work and also the whole political culture, where even small parties can be governing, is strongly influenced by the interdependence between coalition partners and the opposition. However, it must be noted that the German political culture is further influenced by its federal character. Federalism plays a far less significant

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<sup>16</sup> Immigration Research Programme, 2003: p. 7

<sup>17</sup> Migration und Bevölkerung Newsletter, 07/2006

<sup>18</sup> See B. II.

role in New Zealand. Nevertheless, the influence of a multiparty system is important for migration policies, because they are designed based on a compromise between coalition partners. One could argue that even the opposition parties need to be included in the process, because many migration policies require long-term planning and maintenance.

## 2. Comparable Trends in Demographic Development Including Migration in Both Countries

New Zealand and Germany both face the looming problem of an ageing population<sup>19</sup>. This has a crucial impact on migration policies, since an increasing proportion of the population is entering into the over 65 year age bracket. This age bracket is no longer active on the labour market, and it also requires more labour intensive services because of a tendency to worse health compared to younger generations. In these sectors especially, an ageing society is in danger of skill shortages, and in other sectors, a lack of workers can lead to economic problems and slower economic growth. An ageing population phenomenon is caused by three main factors: The sum between the birth and death rate (natural increase), growing life expectancy and net migration.

While New Zealand's birth rate per woman is 1.8<sup>20</sup> children or about 57,000 births per year (this number was more or less stable since 2000), the number for Germany is lower at 1.4 children per woman or translated into approximately 700,000 births annually. A rate just over 2.0 would imply that the generation is biologically regenerated. In the OECD, such a birth rate only exists in the USA. Neither of the two countries considered here meet such a rate, even if New Zealand's birth rate ranks among the higher rates in the OECD. As much as the birth rate, the death rate influences the development of the population. For New Zealand there were around 27,000 deaths per year in the last 4 years. In Germany there were about 830,000 deaths per year. For New Zealand, the biological population growth was about 30,000 people per year in the years before 2005 which is a biological population growth of about some 0.75%. As Table 1 shows (turn page), in Germany there is an excess of deaths over births, saying there is a natural decrease of the population. In absolute numbers there are annually around 140,000 more deaths than births. However, to suggest that the German

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<sup>19</sup> For this chapter: German data is from *Statistisches Bundesamt* (2006 a), New Zealand data from Statistics New Zealand (2006 a), numbers are rounded to the nearest thousand

<sup>20</sup> Of course, this number does not indicate that each woman gives birth to 1.8 children in her lifetime, which would barely be imaginable.

population was getting younger because of the higher number of deaths than births might be misleading, since more people are reaching the older age brackets.

The second factor is the growth of life expectancy, which will influence the aforementioned natural increase/decrease of the population in the next years. A growing life expectancy is caused by better standards of hygiene, changes in lifestyle, better ways to fight

illnesses and to make these accessible for wider parts of the population. The life expectancy for newborn children is quite similar in Germany and New Zealand. Females can look forward to have a gross life expectancy of about 81.5 years in both countries in 2004 and men of about 76 years in Germany and 77 years in New Zealand. Since New Zealand's birth rate is higher than the German one, there is expected to be less decline of the population. In fact, by 2051 demographers predict a population growth up to 5.05 million inhabitants for New Zealand including migration patterns<sup>21</sup>. In Germany, the decline of the population will account for 10 million people by 2050<sup>22</sup> (and this is a relatively optimistic assumption since it counts on a yearly net migration of 200,000, as will be described in more detail below).

The third factor that influences population growth is the net migration. As Table 2 indicates, this consists of arrivals and departures. Both New Zealand and Germany are characterised as countries with high migration. In 2004 approximately 1% of the population was "on the move"<sup>23</sup> in Germany, which means that 1% of the population was "exchanged" by migration, whereas in New Zealand just under 2% of the population were "on the move" in the same year. The absolute numbers for Germany are 780,000 migrants to Germany and 697,000 from Germany which caused a positive net migration of 83,000 people. This is the equivalent of 0.1% of the entire German population. The numbers for

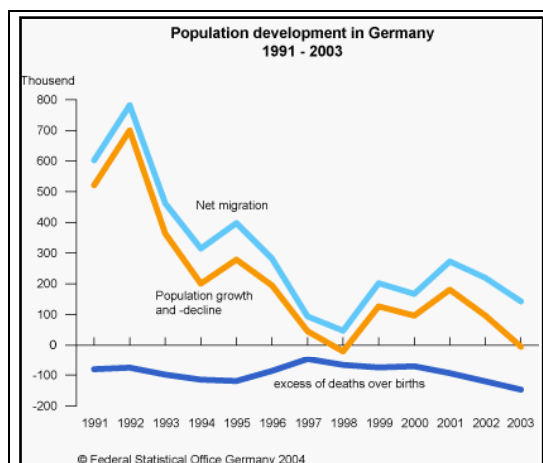


Table 1: Population development in Germany 1991–2004, Statistisches Bundesamt (2006 a)

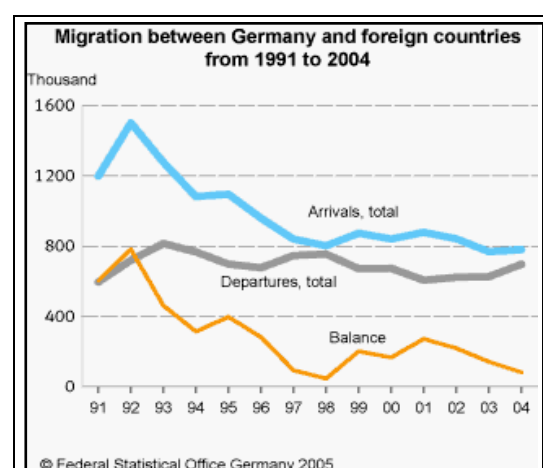


Table 2: Migration between Germany and foreign countries from 1991 – 2004, Statistisches Bundesamt (1006 a)

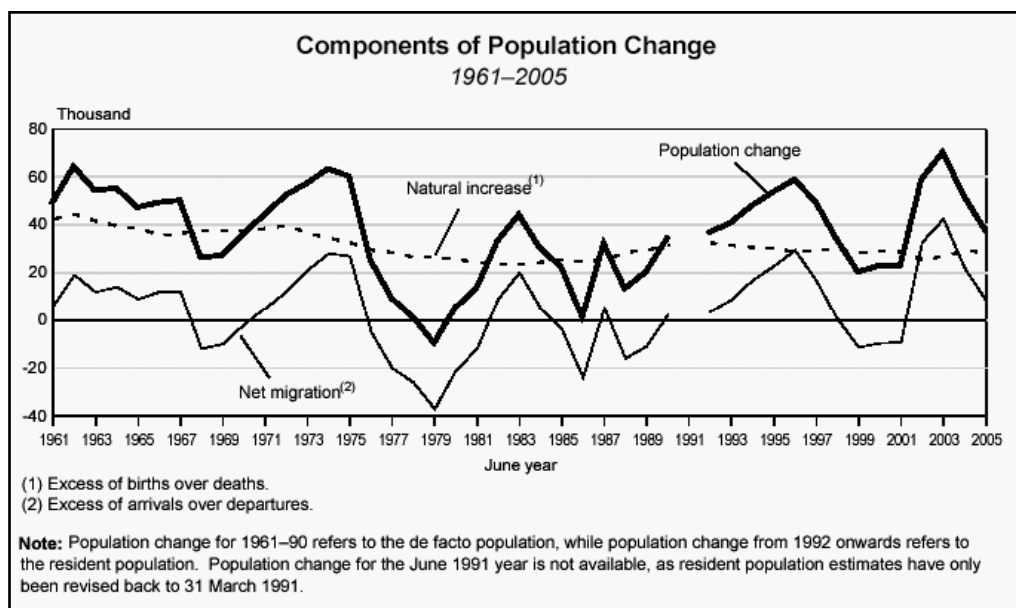
<sup>21</sup> Statistics New Zealand, 2006: p. 137

<sup>22</sup> Statistisches Bundesamt, 2005

<sup>23</sup> Statistisches Bundesamt (2006b)

New Zealand show: Migration to New Zealand 79,000 people and from New Zealand 72,000 people, causing a net migration of 7,000 people or just under 0.2% of the population. However, in both cases, recent numbers may be misleading. As Table 2 shows for Germany and Table 3 for New Zealand, the net migration has changed quite drastically during the last 15 years. In New Zealand, for example, the balance was over 30,000 migrants in 2002 and 2003.

Table 3: Components of Population Change 1961 – 2005 New Zealand, Statistics New Zealand (2006 b)



As can be seen, both countries' populations are ageing and will therefore exhibit specific labour needs, such as a higher demand for nurses. Nevertheless changes in an ageing population are more evident in Germany than in New Zealand, where the population in the latter is not yet biologically declining. Furthermore the migration in both countries is characterized by both migration to and from the countries of interest. The whole population growth, as Table 2 and Table 3 show, is highly dependent on the net migration, which is not stable in either of the case countries.

### 3. New Zealand's Uncontrolled Migration Ties with Australia Comparable with Germany's Migration Ties with the EU

This fluctuating net migration leads to the argument that these relatively mobile migration rates are strongly influenced by bigger labour markets that both countries are part of. For Germany, the biggest influence in this respect is the EU. The EU is a supranational organisation with its own legislative competencies, under which the freedom of travel for EU member state citizens is guaranteed. New Zealand and Australia, however, have the Trans

Tasman Travel Agreement (TTTA), which is part of the Closer Economic Relations (CER) between the two countries. This secures the travel between and settlement in both countries for permanent residents without restrictions.

Of course, the EU cannot be compared with the partnership between Australia and New Zealand. Nonetheless, both cases show the peculiarity I wish to focus on, namely restrictionless travel and settlement opportunities between the permanent populations of member countries<sup>24</sup>, which leads to large migration flows. Consequently, Australia is the most important destination for migrants originating from New Zealand. Between June 2004 and June 2005, 33,000 people left New Zealand to live in Australia (45% of all migrants leaving New Zealand). In the same period, about 14,000 migrants came from Australia (19% of overall migration to New Zealand) resulting in a net outflow to Australia of about 19,000 people<sup>25</sup> - about 0.5% of New Zealand's population. Similarly, EU member countries are the most important source and destination of migration to and from Germany. 40% of all migrants to Germany were citizens of an EU member state, and the EU was the destination for 45% of migrants from Germany.

These raw numbers – even if they do not account for nationalities, age structures, and other important social indicators the migrants have – is enough to make out their importance. Both New Zealand's and Germany's migration flows take place to a large degree within a legal framework which is more or less free of restrictions, and therefore can barely be influenced by the respective governments.

#### 4. Migration and High Rates of Unemployment and Welfare Reforms

Aside from the TTTA, a large number of the migrant labour force attracted to New Zealand gains entry into the country through a points system. This system was introduced in 1991 after the New Zealand Labour government adjusted its migration policy in 1987 in a non-racially oriented direction, which was taken over by a National government in 1990. In previous years, the government began welfare state reforms which concentrated on liberalisation of the economy, especially through privatisation. After National took over the government in 1990, social reforms focussed on rearranging and cutting benefits. Nonetheless the unemployment rate was over 10% in 1991, when the points system was introduced. Until 2001 it remained over 5%. Since then, it has decreased to below 5%. The labour force

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<sup>24</sup> In the case of the EU, free movement is only guaranteed for the EU-15 member states and Cyprus and Malta

<sup>25</sup> Statistics New Zealand (2006 b), p. 102



participation rate has grown steadily since 1992 from 63% of the population of working age to 68.5% in 2005<sup>26</sup>. This makes New Zealand, in comparison to other OECD countries, very successful in terms of combating unemployment. In the same period, the annual net migration was positive, with the exception of the three-year period between 1999 and 2001.

Arguably, Germany is in a similar economic and social political situation that New Zealand faced when it implemented its point system. The New Zealand's success in improving the unemployment and labour force participation rate contradicts German fears of introducing a labour market migration scheme in the context of high unemployment rates. This development makes it especially interesting to research New Zealand's migration system and to prove its feasibility for Germany.

## 5. New Zealand's Case as the Least Researched "Classical" Country of Migration

Finally, but of no less importance, is the academic interest in comparing the two cases. Viewing the existing literature about migration and how to control migration, there is a strong habit of comparing different migration policies. In the European context, comparisons between different European countries are often made, thus a Most Dissimilar Systems Design model is preferred. In general, the countries which are compared in European literature on migration tend to represent completely different ways to deal with migration, rather than comparing countries with similar strategies. Three examples of recent research are: Birsl's *"Migration und Migrationspolitik im Prozess der europäischen Integration?"* (Migration and Migration Policies in Process of European Integration?) , Schierup/Hansen/Castles' *"Migration, Citizenship, and the European Welfare State"* and Boswell's *"European Migration Policies in Flux Changing Patterns of Inclusion and Exclusion"* or with an identical choice of cases: Morris' *"Managing Migration"*. All four studies compare Great Britain and Germany with either Spain or Italy. Interestingly, the first two examples, in spite of their eurocentric approach, also work in some parts with non-European cases – especially in North America. The more labour market oriented the research becomes, the less concentration is paid to European countries. Two examples of recent research are Werner's *"Die Zuwanderung unter Arbeitsmarktgesichtspunkten in Australien, Kanada, USA, Schweiz"* (Immigration under labourmarket aspects in Australia, Canada, the USA, Switzerland) and Cobb-Clark's *"Selective Immigration Policy in Australia, Canada, and the United States"*. Even under these

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<sup>26</sup> Statistics New Zealand (2006 c)

conditions the New Zealand case is barely discussed, despite in being one of the four "classical" countries of migration. Also, the "Independent Commission on Migration to Germany" ignores the New Zealand migration model, even if the Vice-Chairman of the Refugee Status Appeal Authority in New Zealand, Rodger Haines, was advisor to the commission back then<sup>27</sup>. Canada, the USA and Australia are mentioned reasonably often, but the New Zealand model is barely mentioned. This lack of information would suggest to compare Germany's and New Zealand's migration systems, which may enrich the academic discussion on migration.

## *II. Migration system – Definition of Policies of Interest*

As stated above, many different disciplines research the phenomenon of migration. The borders between the social sciences in a narrow sense can be drawn, as Birsl does, between political, sociological, and anthropological approaches<sup>28</sup>. Each approach focuses on different facets of migration policies. Whereas the political approach focuses on controlling and channeling migration, with specific focus on national borders, the sociological approach tries to describe to what extent migrants can take part in economic, civic and cultural life in their host country, consequently the discussion about a segmentation of citizenship is first of all a sociological one. The discourse about multiculturalism is more of sociological/anthropological nature. Focus is on social and cultural relations in migration societies. It is aiming to find ways to incorporate migrants socially, legally, politically and culturally in host societies. The three approaches naturally influence and overlap with each other. Also of importance is the economic perspective. Standing on its own, it carries the danger of overlooking the arrival of human beings and seeing simply a compliant labour-force. Therefore, a combination of various perspectives seems to be the most fruitful way to approach migration. For example, the Independent Commission on Migration to Germany took a multidisciplinary approach. Based on Germany's migration history, demographic development and economic need of labour, it designed a new labour market oriented migration category and adjusted the categories within a humanitarian framework. Furthermore, the Commission recognised the need for a further concentration on aspects of integration. The Commission's report was very important for creating the *Zuwanderungsgesetz* (Immigration Law) in 2001 and 2004. Since a migration system consists

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<sup>27</sup> Süßmuth-Kommission, 2001: p. 292

<sup>28</sup> Birsl, 2005: p.72-76

of integrating and interrelating policies, it seems vital to take such a broad approach in order to guarantee the quality of the intended comparison between New Zealand and Germany.

Therefore the design of this thesis focusses on similar aspects as the report of the *Süßmuth-Kommission*. It is worth noting that there is one big digression: The strict separation between humanitarian and economic categories of migration – as criticised by Boswell<sup>29</sup> - is not held up strictly in this work. This also takes into consideration recent research which holds the differentiation between forced and unforced migration as unhelpful<sup>30</sup>. Consequently, work on migration within a humanitarian framework is part of the chapter about long-term migration, as family reunification policies and labour market based policies are. It will also play a role in the chapter about integration. In the following section, I will introduce the three fields of comparison: Starting with the definition of "necessary migration", which especially reflects the public discourse about migration in both countries, I will continue with the regulations of migration and their outcomes. The third aspect of the comparison will be to describe the effort of integrating migrants in both countries and the outcomes of these efforts.

## 1. Definition of "Necessary Migration"

The headline above indicates that there is something akin to a legal definition on which a country's migration laws are oriented. However, such a definition does not exist. Neither a country with a more diffuse migration policy as Germany, nor a country with a more transparent policy as New Zealand, has such a thing. In both countries, definitions of necessary migration are fluid and changing, as well as very much dependent on the ruling political party-coalition. Furthermore, these definitions follow different logics for specific streams of migration, as I will show in section III. 1. The different definitions of necessary migration during the migration history of each country and the migration that took place are not seldom contradictory, as will be shown.

Nonetheless, it is important to find out the migration targets that each country follows. This directly impacts possible source countries of migrants and how migration networks can develop; it also predetermines public discussion about migration and expectations the host society has about migrants.

Public discussion and ideas about migration are to a large degree shaped by political rhetoric. Therefore, information publicised by the major political parties about migration is of

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<sup>29</sup> Boswell, 2003: p.67-69

<sup>30</sup> Birsl, 2005: p. 42

importance for the comparison. The intentions of recent legislation shall be compared by using recently published information from Germany's *Bundesministerium des Innern* (Federal Ministry of Internal Affairs) and New Zealand's Department of Labour.

## 2. Policies of Attracting Migrants – Migration Regulation

In a perfect political scheme, policies to attract migrants are the result of the definition of 'necessary migration'. However, since there is no universally valid definition, there cannot be policies to serve such a definition in a perfect way. Moreover, there are other influences shaping the policies such as historical ties, language ties, and also - more indirectly - migration networks and other groups with a vested interest in migration such as employers.

Already the phrase of 'attracting migrants' may be misleading, since behind the rhetoric stands – in most cases – simply opening national borders, and perhaps also the national labour market. This is why I include under the headline 'attracting migration' all the different reasons to offer access to the country. This includes flows of tourists as well, which play an important role for migration. Tourism is suspected to be an important category in both countries, through which migrants gain access to the country – first as tourists, and if they can not change their status, as undocumented labour market based defined migrants later on. Specific numbers are difficult to uncover and can only be based upon assumptions. As a result, this thesis will not focus on tourism as a source for migration.

In this thesis, the focus is set on the regulations of each country which grant entry for purposes other than tourism. In order to assess the outcomes of these regulations, migrants whose stay in one of the comparison countries are not for reason of tourism and visits are taken into account. They appear either in the German *Melderegister* statistics, a on communal level updated statistic covering all inhabitants of German authorities, or in statistics concerning issued visa and/or permits for purposes other than tourism.

## 3. Policies of Integrating Migrants

Policies which aim to integrate migrants into their host societies are broad, highly interrelated with the two chapters above, and the intention to integrate migrants is not always attached to laws which, nonetheless, have an effect on integration. The term 'integration' is already problematic in itself and needs some definition. This term is often used with different intentions, and not necessarily in the context of migration. For this reason, some researchers

do not use the term anymore but instead use the expression ,incorporation'<sup>31</sup>. However, this study will use the term integration despite its various connotations. In this thesis, I understand the phrase ,integrating policies' as those policies which make it possible for migrants to take part in economic and civic life in the host country regardless of gender, race, ethnicity, or social background. The term integration is differs from the concept of assimilation. Assimilation means adopting the behaviours of the host country's population. Assimilation focuses on the behaviour of the migrant, whereas integration depends on both sides: migrant and host community. In other words, integration can only occur if migrants are offered fair chances and in turn, utilise these chances. Integration is crucial for a society that fights the consequences of an ageing and declining society through migration. Without integration, neither social cohesion nor economic development can be achieved.

The broadness of policies which overlap with integration issues requires limitations for a thesis of this scope. I want to touch upon the welfare and education systems in so far as these systems are able to integrate migrants. Lasting social cohesion can only take place if migrants – especially second generation migrants – are integrated into these systems, because education is the precondition for good performance within the labour market. The chances for migrants within the host labour market are very important for achieving equality between migrants and the host population. Therefore, the regulation of labour market migrants are confronted, and the outcomes of migrants' performance within the labour market shall be compared. I see the performance on the labour market as an important indicator of the wellbeing of migrants. For example, a recent study<sup>32</sup> shows a strong relationship between low income and negative subjective well-being. Consequently, if migrants are unable to access well paid jobs, not only will their knowledge go unutilized, their subjective well-being is negatively impacted also. A fourth aspect in regards of integrating migrants is the political significance they are granted. In this context the design of political citizenship is central.

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<sup>31</sup> Schierup/Hansen/Castles, 2006: p. 40

<sup>32</sup> Boes, Winkelmann, 2006

### *III. Comparison of Three Areas – Migration Development Overview*

The following chapter compares the described fields of interest. However, first of all, a short overview over migration that took place in the last 20 years is necessary, because some background information is important to understand the comments given on the different interrelated fields of interest.

In 2001, people born overseas made up nearly 20% of the entire population of 4.1 million people in New Zealand<sup>33</sup>. New Zealand provides several entry categories for migrants regardless of their nationality or ethnic origins<sup>34</sup>. Until the early 1980s there was a clear preference for British migrants, but nowadays the migration makeup is much more diverse. Every year, a minimum number of applications for residency are approved that makes up just over 1% of the entire population (45,000), yet this inflow is diminished by a strong culture of (r)emigration from New Zealand<sup>35</sup>, and low birth rates which lead to only a slight population growth. There are three main entry categories on which an application for a residence-type visa can be based: the Skilled/Business Stream (60%), the Family-Sponsored Stream (30%), and the International/Humanitarian Stream (10%). Under the latter, New Zealand accepts a maximum number of 750 United Nations refugees annually. Furthermore, there are possibilities to enter New Zealand on temporary visas, student visas, and several different work and travel visas.

The Skilled Stream is evaluated by a points system, where the applicants can gain points for age, qualifications, work experience, employment status, an employment offer (including the demand for workers in this field and the employment's location<sup>36</sup>), good health, being under 56 years old, having a clean criminal record, and speaking English to a reasonable standard. The aspiring migrants who meet these criteria are collected in a pool out of which the 'most desirable ones'<sup>37</sup> are invited to apply for permanent residence. The system is relatively transparent and favours skilled migrants in areas where there is a lack of workers in New Zealand. This applies to a broad range of jobs – where an academic background is not necessarily required. There are no preferences regarding migrants' nationalities. Nevertheless, the tightening rules regarding English proficiency indirectly diminished the number of eligible applicants from Asian countries.

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<sup>33</sup> Immigration Research Programme: 2003, p. 7

<sup>34</sup> Immigration Act, 1987

<sup>35</sup> OECD, 2004: p. 87

<sup>36</sup> Te Ara, 2006

<sup>37</sup> OECD, 2004: p. 90, with a comment on p. 96

People who were born in New Zealand used to be granted New Zealand citizenship automatically, but this changed on January 1 2006. Now a child's status is dependent on 'the most favourable one of the parents'<sup>38</sup>. Furthermore, the requested minimum time spent in New Zealand before being entitled to citizenship has increased from three to five years<sup>39</sup>. Here one can observe a weakening of the *ius soli* principle. This development does not indicate much of an inner closure of the population since, for example, the right to vote is not dependent on citizenship. Moreover, migrants who are permanent residents are generally well integrated in the welfare system and can access more or less the whole range of benefits offered to New Zealanders. Also of particular interest is one special group of migrants that could be seen as the equivalent of EU (-15 plus Cyprus and Malta) migrants to Germany: Australians are entitled to work and reside in New Zealand without any visa or restriction. 19% of all migrants arriving in New Zealand came from Australia in 2000 whereas around 45% of all emigrants from New Zealand left for Australia in the same year<sup>40</sup>.

During the last 15 years, migrants to New Zealand from Asian countries counted for over 50 percent of total immigrant numbers. Nevertheless, for the years 2004-2006 the most substantial flow of migrants to New Zealand came once again from the United Kingdom<sup>41</sup>. The impact of the points system is ambiguous. New Zealand's labour market does not utilise every migrants' qualifications to an appropriate extend. In this context it is noteworthy that there are signs of a slight discrimination by employers against migrants<sup>42</sup>, especially against these who do not speak English as a native language. The education sector does not show very big differences between children with or without a migrant background. The fault lines seem to be more of an ethnic nature, in other words many Maori and people from the Pacific Islands tend to leave school at an earlier stage and tend to perform worse on the labour market compared with other ethnic groups.

In an effort to improve the migration system, Immigration New Zealand recently released an Immigration Act Review<sup>43</sup>. However, at this stage it is still not clear which proposals will be implemented. Nevertheless it is one of the aims of this thesis to show the direction in which the changes may lead to.

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<sup>38</sup> Immigration Act, §4 A

<sup>39</sup> Migration Bureau Consulting Group, 2006; p. 10; Moses, Peter, 2005; p. 1

<sup>40</sup> Statistics New Zealand, Permanent and long-term migration, 2006

<sup>41</sup> In 2002 and 2003, there was a peak of permanent immigration from Asian countries, arguably this might have been the reaction to the adumbrated reforms that went into force in 2004.

<sup>42</sup> Poot, Cochrane; 2005: p. 31 f.

<sup>43</sup> Immigration Act Review, April 2006

The German migration system developed in an absolutely different way to New Zealand, even if its inhabitants with a migrant background make up about 19% (15 million) of the population<sup>44</sup>, which is nearly as large as New Zealand's foreign born population. Certain demographic developments (high life expectancy and low birth-rate) suggest that there will be a lack of both skilled and unskilled workers in Germany, which is also a concern to New Zealand. The two Commissions, '*Soziale Sicherheit*' (also called the *Herzog Kommission*) and '*Nachhaltigkeit in der Sicherung der Sozialsysteme*' (the *Rürup-Kommission*), whose aim is to seek solutions for the expensive and increasingly burdensome German welfare state, based their accounts on an annual migration plus to Germany of 100,000<sup>45</sup> and 200,000<sup>46</sup> people respectively. These numbers show how important it is for Germany not only to successfully attract migrants but also to integrate migrants, since they are meant to contribute into the social system, and that is only possible if they are fully integrated in the labour market. However, the discrepancy between these numbers shows the difference between more and less conservative points of view of these commissions (the *Herzog Kommission* was the 'answer' by the *CDU* to the *Rürup Kommission*).

Migration has been an important issue for Germany since the end of the Second World War, although it is rarely acknowledged as such. Not until 1999 did the German government, then led by the SPD-Green coalition, reluctantly declares Germany to be an 'official country of migration'<sup>47</sup>. By 1950, about 10 million German refugees had migrated to Germany from Central and Eastern European countries. This number was bolstered by another 4.5 million German 'refugees'<sup>48</sup> (the so called „Spätaussiedler“) arriving still today. This flow originated mainly from Russia and Kazakhstan. The refugees have German ancestry and were treated poorly because of their German roots. After the fall of the Soviet regime, large numbers of these refugees began arriving in Germany.

At the same time there was also (largely caused by the Balkan wars in the 1990s) a relatively high number of asylum seekers in Germany. Nowadays there are some 1.1 million asylum seekers living in Germany. Their status is often quite underprivileged and they have rather restricted entry to the labour market<sup>49</sup>. The countries of asylum seekers' origin have moved to the east in direction Iran and Iraq.

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<sup>44</sup> Migration und Bevölkerung Newsletter, 07/2006

<sup>45</sup> Soziale Sicherheit, 2004: p. 65

<sup>46</sup> Nachhaltigkeit in der Finanzierung der sozialen Sicherungssysteme, 2004; p. 54

<sup>47</sup> Birsl, 2005: p. 210

<sup>48</sup> Sozialministerium Bayern, 2006: p. 6

<sup>49</sup> Bundesamt für Migration und Flüchtlinge, 2005: p. 29



The third group of migrants came to Germany during the late 1950s until the early 1970s as guest workers. After the oil price shocks in the early 1970's Germany stopped its recruitment programs, but nonetheless the numbers of arriving migrants were maintained by the category of family reunification as a possibility of entry. These migrants, living in Germany in some cases in the third generation, make up the biggest proportion of the 7.9 million foreigners living in Germany<sup>50</sup>. In the case of these guest workers, an interesting effect of migration regulation is observed. Guest workers from Turkey feared being denied re-entry into Germany after returning to Turkey. The guest workers from Italy and Greece, who did not fear such restrictions because of their nations' status within the European Community, went back to their country of origin in a higher proportion than their Turkish counterparts.

The fourth origin of migrants to Germany is the EU-15 countries. They make up in total some 25%<sup>51</sup>. Overall, since 1950, 30 million migrants came to Germany, while 21 million emigrated from Germany<sup>52</sup>.

In contrast to New Zealand, migrants' labour market performance in Germany is worse than that of their German counterparts<sup>53</sup>. This might be caused by the relatively poor level of qualifications held by many migrants to Germany. It is argued that Germany is 'the least successful in attracting highly skilled labour force'<sup>54</sup> compared to the other EU countries. Surprisingly, even migrants in the second and third generation still show a comparatively underqualified status<sup>55</sup>. This leads to a higher unemployment rate among migrants which is worsened through the predominantly secondary sector employment of many migrant groups<sup>56</sup>. Another fact that might work against integration is the lack of internal openness, expressed through rigid citizenship rules. For instance it is not possible for migrants to take part in any elections in Germany (except for EU- citizens taking part in communal elections). In other words: In accordance with Marshall's<sup>57</sup> division of citizenships, German citizenship appears to be much more divided into political, legal and social components than it is the case in New Zealand<sup>58</sup>.

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<sup>50</sup> Birsl, 2005: p. 208

<sup>51</sup> Commission on Migration to Germany, 2001: p 15

<sup>52</sup> Bundesamt fuer Migration und Fluechtlinge, 2005: p. 21

<sup>53</sup> This information is often used as proof of seeing migrant groups originating from the guestworker era as welfare net benefitters, however, in reality these groups are contributing more than benefitting, as von Loeffelholz argues (von Loeffelholz, 2002, p: 631)

<sup>54</sup> Brückner, Epstein, McCormick, Saint-Paul, Venturini, Zimmermann, 2001: p. 75

<sup>55</sup> OECD, 2006: p. 4

<sup>56</sup> Loeffelholz, 2002: p. 632 - 637

<sup>57</sup> Marshall, in: Woodward, 2003: p. 55

<sup>58</sup> Birsl, 2005; p. 327

## 1. "Migration in the Countries' Interest"

As described above, it is not easily possible to define phrases like "migration in the country's interest". A definition is highly dependent on its source. Since Germany and New Zealand both are multiparty democracies, there are many opinions regarding migration, integration, and fields that are tied to the phenomenon of migration.

Arguably, since 2000, the overall perception of migration has been changing in Germany. Several measures such as the reforms of the Citizenship Law in 2000 (*Staatsangehörigkeitsgesetz*), the Commission on 'Structuring Immigration – Fostering Integration' (*Süßmuth-Kommission*), and the reforms leading to an Immigration Law (*Zuwanderungsgesetz*, 2002, later stopped by the Supreme Court and renegotiated in 2004) are indicative of an open country, both externally by making some labour migration possible and internally by offering services such as language courses to recent migrants. Although the conservative CDU (*Christlich Demokratische Union*) and CSU (*Christlich Soziale Union*) parties are still struggling to face the challenges of a population characterised by migration, there seem to be new suggestions as well. In fact, in March 2006 Edmund Stoiber, the Bavarian Prime minister, proposed to adopt aspects of New Zealand's immigration system<sup>59</sup>, which would lead to a more external openness. However, in all other respects, Stoiber maintains a hardline conservative stance towards migration, and still tries to prevent an internal opening of the country. Furthermore, important interest groups such as trade unions and employer unions call for the introduction of a point system based attraction of skilled migrants.<sup>60</sup>

In New Zealand, in contrast, migration itself is not questioned to a large extent. The differences are just in the expectations, to what extent migrants need to solve the country's economic issues. Multiculturalism in New Zealand dates back to the 1840s, when the Treaty of Waitangi was signed, which sought to provide both Maori and European settlers with specific rights and duties. Nonetheless, today, the migrants' knowledge of English is crucial. By making it a precondition for applications for residency and most of the restricted visas and permits, it is arguable whether English language skills are instrumentalized to control the mix-up of migrants' countries of origin. To what extent this is a topic in the public debate shall be shown in the following.

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<sup>59</sup> Deutsche Presseagentur; 2006

<sup>60</sup> Bundesministerium des Innern (2006 b): p. 44-46

In both countries, general elections took place in September 2005. General elections, and especially their campaigns, can both cope with existing issues and create new ones. Migration especially is one such 'issue' where political parties have different perceptions and where the political discourse can end on a populist level. Election campaigns do not only influence the outcome, but also the daily governmental decisions and the public discussion and perception of migration. This is the reason why I have chosen to compare the perceptions of migration of each country's parliamentary factions. This perception of migration is deducted from the election programmes or statements each party published during the last general election campaign.

### *1.1 Germany's Approach in Public Discussion*

Migration is a topic which appears in very different contexts in the election programmes of each party. In none of the parties' programs was it a top priority in the 2005 campaign. What the German parties have in common is the topic of multiculturalism and how it is perceived. Nonetheless each party sets the main focus differently. The concentration on different fields stems from changes in refugee law to language courses for migrants and migration specific gender issues.

*Bündnis 90' / Die Grünen* (the green party) publish the most information about their aims regarding migration compared to the other programs. Under the headline "*Zukunftsaufgabe Integration*"<sup>61</sup> (future task integration) the party wanted to readjust the whole migration policy by taking it out of foreigner-law based legislation. A points system policy of attracting migrants, fortifying teaching in German language for migrants and their children, political rights for migrants and a more secure status for refugees were some of the aims the party wanted to achieve. The election programme proposed a broad action programme to redesign migration channels into Germany and enhance integration patterns.

Similarly broad is the perception of migration for *Die Linke* (the Left Party). The party strives for a more flexible system for granting political asylum, by enhancing the social situation of migrants in Germany, and wants to make citizenship more accessible for migrants. The migration related policies are put under the headline "*Die Bundesrepublik Deutschland ist ein Einwanderungsland – Gleichstellung verwirklichen*"<sup>62</sup> (the federal republic of Germany is a country of migration – realize equality). The Green Party and the

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<sup>61</sup> Bündnis 90 / Die Grünen, 2005: p. 92

<sup>62</sup> Die Linke, 2005: p. 27

Left Party have these points in common. Interestingly, the Left Party emphasises the role of non-German speaking German minorities in the context of integration.

The SPD (*Sozialdemokratische Partei Deutschlands*, social democratic party of Germany) sums up its stance on migration with the following headline: "*Wir wollen alle integrieren, die legal und dauerhaft in Deutschland leben*"<sup>63</sup> (we want to integrate all these who live legally and permanently in Germany). The SPD focusses on enhancing the situation for, as the headline indicates, legal and permanent migrants. Especially mentioned are school age youths and female migrants. For both groups, more support in the form of language courses, for example, are promised. The legislation at the moment is seen as a starting point, although, topics like migration in the future and precarious status for refugees is not mentioned in the programme.

The migration policies of the liberal party FDP (*Freie Demokratische Partei*) can be found under the headline "*Für ein offenes und tolerantes Miteinander*"<sup>64</sup> (for an open and tolerant co-habitation) next to various anti-discrimination calls. The FDP criticises the recent discussion about migration as being too focussed on new migration. As a consequence, no information is given about how the FDP aims to regulate new migration. The FDP calls for *Altfallregelungen* (as do the green and the left party), which means youths that have attended schools in Germany should be granted permanent residency independent of their parents. In addition, the FDP is the only party on the German political landscape to call for opening the integration courses also to EU migrants. Like the CDU/CSU and SPD, the FDP criticises forced weddings, which reflects numerous newspaper front page headlines published in the spring/summer of 2005.

Finally, the CDU/CSU is the party with the most limiting stance against migration, which is aptly indicated by their headline "*Zuwanderung begrenzen, Integration stärken*"<sup>65</sup> (Restricting Immigration, fortifying integration). Their aims seem to follow an assimilationist philosophy – in other words, the conservative parties give information which they want migrants to fulfill, how migrants need to join into German culture and rules. Like the SPD, the conservatives write about the integration of exclusively these migrants who are permanent and on a legal basis in Germany. Furthermore, they believe that new migration to Germany should be limited for highest skilled people.

In all cases, the topics of migration and integration belong together. The state plays, from the perspective of all parliamentary parties, a crucial role by offering language and

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<sup>63</sup> SPD, 2005: p. 50

<sup>64</sup> FDP, 2005: p. 37

<sup>65</sup> CDU/CSU, 2005: p. 35

integration courses. Nevertheless, the parties differ from each other in their perception of whether integration is something expected solely from migrants, or whether it is a process involving both sides.

## *1.2 New Zealand's Approach in Public Discussion*

New Zealand's political rhetoric during election campaigns regarding migration is often controversial<sup>66</sup>. On the one hand, there is the Green Party and the Maori Party, who both emphasise New Zealand's diversity, multiculturalism and tolerance when writing about migration. On the other hand there is Labour, National, and New Zealand First. In these cases, at least during election campaigns, the words 'diversity' or 'multiculturalism' were absent. In each of the last cases migration is, to a different extent, exclusively justified by economic needs.

The Green Party claims that "the approach to accepting migrants is governed by our global social and environmental responsibilities. This includes our humanitarian responsibility to those who have suffered in their home country, and the need to achieve our own social, economic, and environmental sustainability."<sup>67</sup> Furthermore, by quoting the Treaty of Waitangi, a right of consultation in migration matters is conceded to Maori representatives. The Green Party opposes recent policy movements that raised the expected English language proficiency of migrants because they believe it sent the message that only migrants with English-speaking background might be welcome.

Similarly, the Maori Party consults the Treaty of Waitangi when dealing with migration. For the Maori Party it is crucial to accept the need of social groups to "stay together and keep warm".<sup>68</sup> The Maori Party is against any further sale of land to overseas investors, but welcomes migrants. It sees the host society as being in charge of "assist[ing] people in making a smooth transition to their new home country. We must invest in these people and our relationship with them."<sup>69</sup> With the information given, the Maori party's stance is the least economy driven and concentrates on the migrants social well-being.

Labour's migration profile has a governmental perspective. Paul Swain, the former Minister of Immigration, writes: "The government's immigration policy is about balancing

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<sup>66</sup> The following information about parties stems from the 2005 election campaign and was published in: Haines, 2005: p. 11-16

<sup>67</sup> Metiria in Haines, 2005, p. 11

<sup>68</sup> Turia in Haines, 2005, p. 13

<sup>69</sup> Turia in Haines, 2005, p. 13

New Zealand's need for skilled migrants, tourists and students with our border security interests. ... We want firm, fast and fair immigration processes that protect New Zealand's interests while also recognising that we want and need visitors and immigrants."<sup>70</sup> Concerns about security and optimising the immigration law play the most important role. In contrast, the recent Labour Minister of Immigration David Cunliffe shares concerns about (border) security, but for him "Immigration helps build New Zealand – contributing to the diversity, the shape of our work force and the growth of our economy."<sup>71</sup>

United Future informs its electorate in detail about its immigration policies. They range very broad and can be characterised as optimising all aspects of New Zealand's migration regulation. A special focus is set on skills attraction and supporting specific groups such as refugees.<sup>72</sup> In case of United Future, the information given during the election campaign could not be separated from the general information.

For the National Party, immigration is needed to solve crucial skill shortages, and that is the expectation migration is measured by. This is revealed in the party rhetoric: "National stands for managed immigration. This means we welcome skilled people who will contribute to our economy, fit in with our community and be independent of the state"<sup>73</sup> This quote illustrates the National party's expectation of migrants: A high economic value and a low cultural difference from the community. This reveals a tacit assumption that there is only one prevalent community.

New Zealand First has the strictest view in questioning the annual number of migrants. For New Zealand First, skill shortages are proof of the failure of the national education system. Consequently, migration needs to fill these shortages in the short run, in the long run, however, it should be diminished. New Zealand First explicitly mentions necessary restrictions in the humanitarian category<sup>74</sup> such as a separate category for 'undesirables', and restrictions on family reunification for refugees. The election campaign contribution mentioned above is written by Winston Peters, current minister for external affairs and leader of New Zealand First.

The message of almost all New Zealand parties is that the chief purpose of immigration is to solve economic issues. Questions of migrant integration are barely mentioned, and if they are, it is usually in relation to choosing the 'right' kind of migrants; that is, those who are able

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<sup>70</sup> Swain in Haines, 2005, p12

<sup>71</sup> Cunliffe in Departement of Labour, 2006: p. 1

<sup>72</sup> United Future, 2006

<sup>73</sup> Ryall in Haines, 2005, p. 14

<sup>74</sup> Peters in Haines, 2005, p.15

to assimilate the easiest. This can be said for all the parliamentary parties with the exception of the Green and Maori parties.

### *1.3 Comparison of New Zealand's and Germany's Approaches*

At first glance, New Zealand's and Germany's party-political landscape seems fairly similar. Conservative parties generally focus on restriction of migration. The Labour party (the SPD is the equivalent of New Zealand Labour) have a middle stance in between more left and liberal parties (Greens and Maori in New Zealand, Greens and Die Linke and – in parts – FDP in the German case).

However, the level of the discussion is quite different. In New Zealand none of the parties questions the need for future migration (even New Zealand First can see the necessity of future migration). Questioned is by the different parties the right amount of grants of residence and whether there are substreams which need to be reassessed because they are leading to 'unintended' outcomes. The need for migration in the German case is either described as rather limited (CDU/CSU) or avoided as a topic for a election campaign. An exception are the Greens, who request the establishment of a points based migration system.

Another difference is the role of the state. New Zealand parties do not mention if they see the state as in charge of supporting integration, more focus is put on the role of communities. In Germany, all parties mention and appreciate language and integration courses organised by the state.

A fourth point is the tendency to scandalise the topic of migration. In New Zealand, an indicator is how often abuse of asylum is mentioned. The German equivalent is probably the mentioning of *Zwangsheiraten* (arranged marriages), which suggests that this is a behaviour all (muslim) migrants show. It might be oversimplifying to describe this scandalisation as correlating with the degree of conservatism, however, in both countries, left parties do not join any scandalisation of migration topics in their election programmes.

## **2. Coping With Migration**

Apart from definitions of most desirable migration by politicians, a country's migration legislation is also strongly influenced by history (especially migratory history, since migration networks develop over many years), geographical surrounding and economic development, only to mention a few. In the following section, I want to focus on the

legislation of categories which entitle migrants to enter the country. The outcomes of this policy will play an important role, as well as to a certain extent, its historical development, since the legislation alone cannot give the information about how migrant flows are shaped. In this section, the regulation of restricted and unrestricted channels will be compared. It must be mentioned that the differences between these two categories are in reality fluctuating. Often migrants arrive through restricted channels and decide to stay longer. In most cases, these migrants try to gain unrestricted status in the host country.

However, if it is not possible to be granted such an unrestricted status, there are only two possibilities: to leave the country or to overstay on an irregular basis. In New Zealand, irregularity of migrants plays an important role. Because of the country's isolated position, irregular migrants might be quite often overstayers, since it is comparably hard to enter the country on an irregular basis. Immigration New Zealand assumes that there are presumably about 20,000 irregular migrants in New Zealand. Their situation is precarious, since they are – generally speaking - not entitled to benefits from the welfare system.<sup>75</sup> Unfortunately, there is very little publicly accessible data which specifies irregular migration in New Zealand. In Germany the situation of irregular migrants is comparably precarious. The ways that migrants get into Germany might be different in some cases compared to New Zealand, since Germany has large inland borders. However, it is hardly possible to be sure about the actual number of irregular migrants living in Germany. Numbers range between at least 100,000<sup>76</sup> and 1,000,000<sup>77</sup>. This is a similar proportional situation as in New Zealand, where around 0.5 % of the population live without a valid permit. Measures like deportations and regular permit controls by the police are answers on coping with irregular migrants, these measures reinforce something like the negative aspect of "wanted migration" and play an important role for migrants and the migratory regime. In spite of the largely unknown number of people who live on such an irregular basis in the two countries, furthermore they might be of some importance for both economies; however, their economic contribution is as hard to measure as their presence. Out of this difficult statistical situation, this study will focus on the regulated restricted and unrestricted channels and their migration flows. Consequently, the negative aspect of "wanted migration" is not dealt with.

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<sup>75</sup> Personal communication from Department of Labour Immigration Policy Group Senior Policy Analyst, email from 2.10.2006

<sup>76</sup> Bundesamt für Migration und Flüchtlinge, 2005: p. 56-59

<sup>77</sup> Stobbe, 2005: p. 90



## 2.1 *Patterns of Temporary Migration: New Zealand vs. Germany*<sup>78</sup>

In both countries, there are several possibilities provided for migrants to stay for a limited time in the host country, and tourism is a big factor for both the New Zealand and German economies. For New Zealand, tourism is the biggest economic sector. Consequently many foreigners enter the country as tourists. There is some evidence that a small number of these tourists stay in the country, either without any further contact with the immigration department or by applying for a permit. In New Zealand, more than 50% of the applications for residency are handed in onshore, which implies that a significant number of applicants might be tourists. However, it is hard to figure out to what extent migrants enter the country as tourists. Tourism itself is not defined as migration, because it is not characterised as a long-term change of home. Most definitions, like that of the United Nations, talk about migration when the change of home is for longer than twelve months<sup>79</sup>. With tourism this is not the case, since most tourist visas are only valid for three months. But the twelve month distinction also causes problems with other temporary regulations, such as working holiday programs and student programs. That is why I chose to take into consideration all the temporary options except tourism, since its influence is difficult to gauge and would not fit within the scope of this thesis. Furthermore, the decision to look at migration under a duration of twelve months was also influenced by the character of the German migration statistics. In Germany, the statistics are derived from the *Melderegister*. This means that everybody who takes a flat, independent for how long, is required to tell the authorities and is consequently included in the statistics. This leads to two problems; one is an underestimation of the number of migrants, because not everybody fulfills the duty of informing the authorities about living in the area. Secondly, an overestimation could appear in the statistics because not everybody tells the authorities that she or he is leaving. Furthermore, these statistics do not differentiate between reasons for the stay, but only between foreigner and German. That is why in Germany the number of foreigners was compared to the foreign born population of other countries up until 2005. However, in the latest *Mikrozensus*<sup>80</sup>, specific migrant background

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<sup>78</sup> To give an easier overview, numbers of migrants are rounded. For the German case, generally absolute numbers are rounded up or down to the next thousand, for New Zealand numbers to the next hundred.

<sup>79</sup> Sachverständigenrat für Zuwanderung und Integration, 2004: p. 8

<sup>80</sup> *Mikrozensus* is an obligatory yearly survey of 1% of the German population. It is a panel study and every year 25% of the participants are exchanged.

was asked<sup>81</sup>. Since then, German data can be compared internationally without the previous distortions.

#### a) Germany's Temporary Schemes

Germany has a complex history with temporary migration, especially labour market based migration. In fact, all labour market recruitment which took place before the mid 1970s were intended to be temporary. This plan did not work out because many guestworkers stayed and developed into knots of rich migration networks. This is most obvious in the case of the Turkish guestworkers, whose families are a part of most industrial German cities and brought the doner kebab culture to Germany. These ethnic enterprises have, all in all, a higher turnover than their competitors McDonalds or Burger King on the German fast food market<sup>82</sup>.

Moreover, because of its position in the middle of Europe, tucked between former communist countries and Western Europe, Germany is an especially popular destination for oscillating migration from neighbouring countries, especially the new EU countries. Since Germany has not opened its labour market to the former communist accession countries, migrants from there still need specific permits (mostly temporary ones) to be allowed to work there.

Since the termination of the guestworker scheme in 1973, Germany has been fairly firm with its stance against the attraction of further guestworkers. However, the German government nevertheless established several exceptions to this termination. Since 1 January 2005, these exceptions have been combined in the *Verordnung über die Zulassung von neuereisenden Ausländern zur Ausübung einer Beschäftigung (Beschäftigungsverordnung – BeschV)*<sup>83</sup> (Employment for Immigrating Foreigners Ordinance) and in the *Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet*<sup>84</sup> (Residence, Employment and Integration for Foreigners Act). The latter is the one that evolved after the *Süßmuth-kommission* finished its report. It was stopped by the supreme court and readjusted with important changes in 2004. It now defines preconditions for the employment of foreigners but is first of all the framework for any migration issues. The *Beschäftigungsverordnung* defines cases where a working contract can be the base for a visa. Consequently, in the following, the labour market based temporary categories for migration

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<sup>81</sup> Migration und Bevölkerung 2006

<sup>82</sup> Bundesamt für Migration und Flüchtlinge, 2005: p. 39

<sup>83</sup> Bundesministerium des Innern (2006a): BeschV

<sup>84</sup> Bundesministerium des Innern (2006a): AufenthG

can be found in the *Beschäftigungsverordnung*. For these categories, the migrants are granted an *Aufenthaltsgenehmigung*, which is a temporary permit. In most cases, married partners and dependent children can get an *Aufenthaltsgenehmigung* with equivalent conditions to the sponsor's one as well (*Abschnitt 6 AufenthG*).

#### i. Contract and Seasonal Workers

The German legislation provides many different types of working visas, especially for migrants originating in central European countries. They were established after the fall of communism, when the relaxed border controls (relaxed compared to the period before 1990) allowed residents of the neighbouring central European countries to enter Germany as tourists. However, many of these supposed tourists worked in the agricultural, building or hotel and tourism sector for several months each. In order to build a legal framework for this development, the seasonal and contract worker schemes were set into force.<sup>85</sup> Most of these schemes will become redundant in the near future, since the majority of the partner countries became part of the European Union and their citizens will be able to enjoy unrestricted travel rights within the EU.

In 1992, there were nearly 90,000 *contract workers* in Germany. Following the growing unemployment, the quotas based on bilateral contracts were lowered and the number of contract workers fell to some 40,000 in 2003<sup>86</sup> and down to 21,000 in 2005<sup>87</sup>. The official aim of the contract worker schemes is to help the former communist countries to get used to a European labour market. Nonetheless, there are some criticisms of the schemes: firstly, they contribute to the home welfare system and not to the German one. By doing so, their labour costs might be decidedly lower than the German ones. Second, even if they are meant to be paid equally, there is barely any protection against their exploitation. As Schierup/Castles/Hansen put it: "The workers engaged remain workers of the countries of the subcontracted firms – Polish, Hungarian, and so forth – and are employed under the conditions of their non-German employers, which entail a huge (indirect) reduction in labour costs and social benefits from the German firms."<sup>88</sup> Summarising the low social security and

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<sup>85</sup> Schierup/Hansen/Castles, 2006: p. 153

<sup>86</sup> Sachverständigenrat für Zuwanderung und Integration, 2005: p. 44, 45

<sup>87</sup> Bundesamt für Migration und Flüchtlinge, 2006, p. 80

<sup>88</sup> Schierup/Hansen/Castles, 2006: p. 152

the narrow and temporary entry to the labour market<sup>89</sup> led in many cases to a precarious living situation for contract workers.

The same is the case for seasonal workers. This scheme was set up in 1991 and is the largest. Seasonal workers are employed in the agriculture and forestry (making up about 90%) and the hotel and catering industry. Generally, the jobs in question need to be labour market tested, however there are some exceptions for returning workers<sup>90</sup>. Moreover, seasonal workers do contribute to the German social system. It is questionable, however, whether they are able to use the system as well, since the columns of the German welfare system, with exception for accidents on the job and health, require a minimum contribution duration before one is entitled to benefits. This minimum time is longer than the maximum duration of three months per seasonal worker. Furthermore, contributions into the social system might not be necessary often, since the income and duration of the work are not over a minimum amount from when on the social insurance becomes obligatory. In spite of the rather restricted labour market for seasonal workers, their number grew up to 333,000 in 2005 and has been over 300,000 since 2002<sup>91</sup>.

In both schemes, Poland is the main source country for the two schemes of temporary labour migration. Polish workers made up 47% of contract workers and around 90% of seasonal workers<sup>92</sup>.

## ii. Restricted Working Visa

The most important temporary working permits are contract and seasonal workers - as far as raw numbers of migrants go. The „*Beschäftigungsverordnung*“ provides several other categories for the employment of third country nationals without any labour market tests. Only a limited and somewhat obscure range of jobs is allowed to be given to third country nationals. These are either for specific jobs, for example teachers providing native speaking classes, for internships or for specific scientists, artists and models. The absolute number of migrants using one of these categories is relatively low. For example, there were about 4,300

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<sup>89</sup> Birsl, 2005: p. 210

<sup>90</sup> Whether the agreements will continue is not clear, since almost all agreement countries acceded the EU. However, it might continue until the free movement is guaranteed for these countries' nationals as well. This is also assumed by Schierup/Hansen/Castles, 2006, p. 152

<sup>91</sup> Bundesamt für Migration und Flüchtlinge, 2006: p. 83

<sup>92</sup> Sachverständigenrat für Zuwanderung und Integration, 2005: p. 44-47

visas issued for artists issued in 2004<sup>93</sup>. Furthermore, there is a list of jobs which can be accessible with such a labour market test.

In other than the stated jobs, only nationals of specific countries (in most cases OECD members) can be allowed to work. In these cases there is the need of a labour market test, which assures that no sufficiently qualified German worker can be found for the job. As a consequence, the number of actual work permits issued is rather low.

### iii. Green Card

Another exception with important historic relevance is the case of green cards issued to skilled information technology (IT) workers. This regulation, established in 2000, eases the visa application procedure. An approval from the BfA is still necessary, but comparatively easy to obtain because of the skill shortage in the IT-area. All in all, the number of green cards issued shrank from around 6,400 in 2001 to 2,300 in 2005<sup>94</sup>. The historic relevance is based on the discussion about this category. By some, it was perceived as a possible opening into a broader attraction for guestworkers<sup>95</sup>. However, others saw it in a different light. For instance, Jürgen Rüttgers of the CDU based his 2000 election campaign in Northrhine Westphalia on the populist slogan "*Kinder statt Inder*" (Children instead of Indians) which was meant to assure the electorate that his party would care for the future employment of German children instead of having the jobs them done by Indian citizens who were supposed to be the majority of incoming green card holders. As it stands, Indians make up about a third of all green card holders. The success of the green card scheme is highly contested. It is argued that for every green card holder, 2.5 new jobs were created<sup>96</sup>. However, German employers never used up the possible 20,000 green cards, and swift development in the IT-sector led to redundancies of some green card holders<sup>97</sup>, which made adjustments of the scheme necessary, since the green card was originally bound to the individual job. It is arguable that this contradicts the estimation of a still existing skill shortage in the IT sector.

What the aforementioned working visas have in common is that they are all bound to a specific job. That is, not only is the migrant bound to seek a job in the economic area the application is based on, but the migrant is even bound to the specific contract and the specific

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<sup>93</sup> Bundesamt für Migration und Flüchtlinge, 2006: p. 88

<sup>94</sup> Bundesamt für Migration und Flüchtlinge, 2006: p. 91 - 93

<sup>95</sup> Birsl, 2005: p. 210

<sup>96</sup> Bundesamt für Migration und Flüchtlinge, 2006: p. 94

<sup>97</sup> Bundesamt für Migration und Flüchtlinge, 2005: p. 36

employer. This influences the employer-employee power relationship drastically in favour of the employer.

#### iv. Working Holiday Schemes

Such a power relationship does not exist in case of working holiday schemes. Germany has working holiday schemes with three countries: Australia, New Zealand, and Japan. These schemes allow young people from each country to – as the title indicates – work and travel for a year in the partner country. The Australian and Japanese schemes restrict the young travellers between 18 years and 30 years old, to take only jobs with a maximum duration of 90 days. The New Zealand scheme is the only one that allows the migrants to work in a job lasting up to a year. In the New Zealand case, this scheme seems to be a one way system, with German youths utilising it far more than their New Zealand counterparts. For example, in 2005 about 5,000 Germans used this opportunity and stayed for under a year in New Zealand, whereas only around 120 German work-and-travel visas were issued to New Zealanders, as Tilman Enders from the German Embassy in Wellington stated.<sup>98</sup> Reasons for this could either be the language barrier, or the attractiveness of the British scheme for young New Zealanders, which allows a stay of two years. Similar proportions might show the scheme with Australia, relevant information could not be gained in time. Slightly different developed the German-Japanese scheme; between 500 and 600 Japanese working holidayers come to Germany annually and about 200 Germans go in the other direction<sup>99</sup>.

#### v. Regulations for Self Employed Migrants

Furthermore, there is the possibility for third country nationals to get a permit in order to be self employed in Germany. However, the preconditions under §21 *Aufenthaltsgesetz* sets for an enterprise to fulfil in order to be allowed usable as a base for a *Aufenthaltsgenehmigung* are rather broad. The investment needs to be of *übergeordnetem wirtschaftlichem Interesse* (priority economic interest). This is the case if over one million euros will be invested and if more than ten jobs are created by the investment. An investment plan needs to be affirmed as being positive for the economy, and the financial sources must be secured in advance. These

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<sup>98</sup> Interview conducted on 3.6.2006

<sup>99</sup> Peter Helm, German Embassy Tokyo, email from 09.10.2006

preconditions must be met by the day of application, which is normally not possible<sup>100</sup>. Unsurprisingly, the number of visa issued for the self employed is rather low. At this point it is not yet possible to make out what effects the regulation since 2005 will have. Also the evaluation of the 2005 legal changes of migration policies by the Ministry for Internal Affairs does not give any information about the numbers of self-employed migrants. On the contrary, the preconditions are described as much too high<sup>101</sup>. Moreover, there are possibilities for foreigners to become self-employed during their stay in Germany, but in most cases, their legal status was not originally based on self-employment.

#### vi. Foreign Students in Germany

During the last ten years, a growing number of foreign students do all or part of their studies in Germany. Their origins are quite diverse – the ten most important source countries account for just under half of all foreign students<sup>102</sup>. The 187,000 foreign students who had not lived in Germany before studying (*Bildungsausländer*) during the winter semester 2004/2005 exceeded the figure from 10 years ago by about 100,000. Most of these students need a visa before entering Germany, except for EU-citizens and citizens of several other countries (in most cases OECD countries - as in (ii), they can apply for the visa when they are already in Germany). This visa is limited for two years and can be extended for approximately another two years as long as the study is not completed and the student can prove having the financial resources to cover a longer stay<sup>103</sup> (§16 I *Aufenthaltsgesetz*). Furthermore, a student visa entitles the recipient to work, as long as the job does not exceed 90 days per year (§16, III *Aufenthaltsgesetz*). Since 2005, after graduating, the former students can stay for another year in Germany to look for a job in the area of the field of study (§16 IV *Aufenthaltsgesetz*). In 2005, 1,300 students could find a job in this way, however the former students are still faced with labour market tests of their job offer, which make it extremely difficult to find employment.<sup>104</sup>

Generally speaking, after living for five years in Germany (three years for family members of a German citizen § 28 II *Aufenthaltsgesetz*) with an *Aufenthaltserlaubnis*

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<sup>100</sup> Renner, 2005: p. 15-17

<sup>101</sup> Bundesministerium des Innern (2006 b), p. 31, 32

<sup>102</sup> Bundesamt für Migration und Flüchtlinge, 2006, p. 96-100

<sup>103</sup> Bundesamt für Migration und Flüchtlinge, 2006: p. 96

<sup>104</sup> Bundesministerium des Innern (2006 b), p. 24

(temporary permit), this can lead to an permanent permit (*Niederlassungserlaubnis*) (§9 *Aufenthaltsgesetz*). There are several preconditions to be met, which are at present rather controversial in Germany. The applicant must have held an *Aufenthaltsgenehmigung* for at least five years, they need to prove their financial independence, have a clear criminal record, a permit to work, sufficient German language skills, and knowledge about the host country. The definition of a clear criminal record and the definition of knowledge about the host country were much discussed in the first half of 2006. In part, this was also hinted in chapter III.1.1. about the 2005 general election campaign in Germany.

The discussion around knowledge about the host country was actually about the design of the *Integrationskurse* (integration courses), introduced on 1 May 2005. The completion of such a course can be obligatory in order to renew a permit, be granted a permanent permit or be granted German citizenship. The discussion was mainly about whether the knowledge should be proved in a test after having visited the courses, as the governments of Baden Württemberg and Hesse proposed, or whether it is enough if the course completion is confirmed.

The immediate grant of a permanent permit is not possible, except for highly-skilled migrants, such as scientists and professionals in leading positions (§19 *AufenthG*, led to 700-900 grants of permanent permits in 2005, which is considered to be rather low<sup>105</sup>).

#### b) New Zealand's Temporary Schemes

The New Zealand system provides three main categories of temporary visas for purposes other than family visits or for tourism. These are the work visa and permit, the student visa and permit, and the working holiday schemes. There is the possibility of a long-term business visa and permit which allows foreign entrepreneurs to stay for up to three years to set up a business. All of these schemes are evaluated yearly and reforms and changes happen relatively often, which makes it impossible to describe all the different ways to migrate to New Zealand for a limited time in this thesis. Rather, the schemes attracting the most people will be described briefly in the following subchapters. Out of the 2.2 million people entering New Zealand in 2004/2005, temporary working permits were issued to 82,500 of them. This is an increase compared to the previous year of about 12%, and 56,000 visas more than 1997/98.<sup>106</sup> The importance of temporary schemes for the permanent schemes is obvious. 88% of migrants who were granted residence via the points system had previously held a

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<sup>105</sup> Bundesministerium des Innern (2006 b), p. 26, 27

<sup>106</sup> Immigration New Zealand (2005 a), p. 1,21



temporary permit in 2004/2005, which is the system that recruits for the permanent skilled migration category<sup>107</sup>.

i. Working Visa and Permit

There are different pathways to being entitled to a limited working permit. First of all the preconditions of being in good health and of good character must be met by the migrant, plus the relevant experience and qualifications for the intended job need to be proved. Furthermore, one of the following preconditions as regards the proposed employment must be met.<sup>108</sup> Either:

- The job offer is in a high demand area. This is the case if the occupation is on the immediate or long term skill shortage list. The immediate skill shortage list is updated twice a year and gives information about which jobs can not be filled adequately by New Zealand residents in specific New Zealand regions. The long term skill shortage list is New Zealand-wide and is also used for the points system. Both lists include jobs in the primary, secondary and tertiary sectors, and all skill levels. The employer is also allowed to recruit staff from overseas. An employer is allowed to do this only if it can be proved that there is a job vacancy that can not suitably be filled by a New Zealander or if the employer has a current Approval in Principle to recruit a person from overseas. The current Approval in Principle can get an employer who meets several minimum standards as regards non-discriminatory, responsible and fair employment. In order to satisfy the labour market test, confirmations by the Ministry for Social Development, Work and Income New Zealand or by the specific industries might be suitable as well.
- Or, the applicant has a special skill occupation, for example Thai chefs, missionaries, or interpreters from Japan.
- Or, the applicant intends to work for a specific purpose or event for a particular period and is skilled especially for this event or purpose.
- Or, the applicant wishes to gain work experience to further and complete studies or training (1,800 students used this possibility in 2005/06<sup>109</sup>).

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<sup>107</sup> Immigration New Zealand (2005 a), p. 2

<sup>108</sup> Immigration New Zealand (2006 a, b)

<sup>109</sup> In a number of New Zealand statistics, reference are the financial years, which start in July and end with June in the following year.

- Or, the applicant plans to work temporarily in New Zealand while joining her or his partner. In this scenario, open access to the labour market is provided. In cases where the partner holds a work permit, 9,000 Visa and permits were issued, 800 to partners of international students<sup>110</sup>.

The issued permit<sup>111</sup> entitles the holder to work in the job specified by the permit for a duration specified in the permit as well. The entitlement of any publicly financed health services is only granted for holders of permits with a duration of over two years. The Health and Good Character Requests need to be proved more specifically the longer the intended duration is.

During the last ten years, the number of labour market tested work permits grew about 150%. In 1997/98, there were 11,300 of such permits issued, and in 2004/05 there were 28,317. The main source countries of workers attracted by these schemes are the United Kingdom (around 22%, or 6,300 in absolute numbers) and China (12% or 3,400 in absolute numbers)<sup>112</sup>. Altogether, in 2005/06 there were 134,900 work permits issued, which is a significant increase from the previous year's figure of 111,800<sup>113</sup>.

Regarding the qualifications held by migrants who were granted a labour market tested work permit in 2004/05, the following can be shown: Permit holders hold decidedly more often professional occupations than New Zealanders do proportionally – 26% of migrants hold professional occupations versus 16% of working New Zealanders. These are in most cases occupations where tertiary education is required in New Zealand. The situation is vice versa in lower-skilled occupational areas such as clerks and machinery operators (Work permit holders: 3% and 4% respectively, versus New Zealand's permanent population: 13% and 9%)<sup>114</sup>. This suggests that the labour market tested working permit holders are proportionally higher skilled than New Zealand workers.

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<sup>110</sup> Immigration New Zealand (2006 j), work applications decided

<sup>111</sup> The permit is issued at the border when entering New Zealand. A permit is only issued if the applicant has a visa (§14 D Immigration Act 1987). Migrants who apply onshore must apply directly for the permit.

<sup>112</sup> Immigration New Zealand (2005 a), p. 21

<sup>113</sup> Immigration New Zealand (2006 j), work applications decided.

<sup>114</sup> Immigration New Zealand (2005 a), p. 23-26

## ii. Work-to-Residence<sup>115</sup>

Alongside the genuine limited working permit, there is a scheme which is set between temporary and permanent schemes. Its target groups are migrants in high-demand occupations with a job offer or talented people in the arts, sports and culture. The scheme is basically a 30 months working permit, and is limited to the occupation under which the migrant applied. By working in skilled employment for more than 24 months, the applicant can prove his or her ability to integrate in New Zealand<sup>116</sup>, which entitles the migrant to obtain residence. Interestingly, after meeting the 24 months criteria, no English skills need to be proofed anymore. Nonetheless, this might not be the only reason to apply for this scheme, since more than 50% of the migrants originate from an English speaking background (especially from the UK).

There are preconditions concerning the employment offer that need to be met. Either the job will pay more than \$45,000<sup>117</sup> per annum or the applicant is sponsored by a New Zealand organization of national reputation in the specific area of talent. In 2004/05, there were 1,876 work to residence visa issued. In reality, this relatively young system does not appear to be entirely utilised. By the end of 2005, 916 people had gained residence under this scheme, but they did this by using other options such as applying simultaneously under the Skilled Migrant Category (assessed via the points system).

## iii. Student Schemes<sup>118</sup>

Generally, students intending to study in New Zealand need to include with their application a confirmation of an offer of a place with all relevant details, including what primary, secondary and tertiary education providers will offer as well as course fee information. Furthermore, the "classical" requirements of good health, good character, flight ticket out of New Zealand (or equivalent financial resources), and enough funds to cover living expenses must be met. The applicant's available funds must amount to approximately \$1,000 per month or \$10,000 per year.

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<sup>115</sup> Immigration New Zealand (2006 d)

<sup>116</sup> Immigration New Zealand (2005 a), p. 44

<sup>117</sup> The dollar sign in this thesis stands for New Zealand Dollar

<sup>118</sup> Data of this subchapter from Immigration New Zealand (2006 g)

For tertiary education, foreign students must pay international fees, which are markedly higher than the national ones. Exemptions are only possible for exchange students and for French and German postgraduate students<sup>119</sup>, who only have to pay domestic fees. Furthermore, the many schools in New Zealand give access to international students, who pay appropriate fees for studying in New Zealand.

Generally, international students can apply to be allowed to work during the semester for up to 20 hours per week. Furthermore, all students with a permit for longer than 12 months are allowed to work full time during summer holidays,<sup>120</sup> and after having completed their studies, graduates can seek an open work permit through the-study-to-work policy<sup>121</sup>. This scheme provides a six month permit to work for students who have finished a full course in New Zealand (however the course must have lasted at least three years). The job offer must be an occupation in the field of former studies and the application must not be handed in three months after the end of the study permit. In 2005/06, 8,000 permits were issued under this policy. Furthermore, partners of students studying in high-demand areas and partners of postgraduate students can apply for an open work permit (around 800 partners of students were issued with such a permit in 2005/06).

The numbers<sup>122</sup> of visas and permits issued to students has been relatively stable at around 100,000 per year since 2002. Nonetheless there is a decline in international students coming to New Zealand. In 2002/03, there were 115,000 students issued a permit or visa, whereas in 2005/06, the number was only 96,000. While there was an increase in visas and permits issued to nationals from countries like Germany, Great Britain and the USA, this increase could not balance the remarkable decrease in the case of several Asian countries. For example, the number of visa issued to students from China decreased from 58,000 in 2002/03 to 43,000 in 2005/06. Keeping in mind the number of international students in the 1990s, the level in 2005/06 is still about four times as high as the figure from 1997/98.

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<sup>119</sup> Immigration New Zealand (2006 h)

<sup>120</sup> Immigration New Zealand (2005 a), p. 28

<sup>121</sup> Immigration New Zealand (2006 i)

<sup>122</sup> Numbers in this chapter are calculated by myself from Immigration New Zealand (2006 j), Students

#### iv. Working Holiday Schemes<sup>123</sup>

New Zealand holds up working holiday schemes with 25 countries. This includes many OECD countries, but also several Latin American and South East Asian countries<sup>124</sup>. The schemes allow citizens of the partner countries aged between 18 and 30 to stay (in most cases) for up to a year in New Zealand. During their stay, the young migrants can undertake work of a temporary nature in New Zealand, however, for some schemes there are no restrictions on the type of job at all. The applicants need to meet following preconditions:

- A return flight ticket or enough funds to purchase one
- Available funds of at least \$4,200 to cover costs of living in New Zealand
- Sufficient health insurance that also covers hospitalisation
- It must be the first time that they have used the working holiday scheme
- They cannot bring children with them
- They must meet health and character requirements

The various schemes differ in mainly three smaller aspects, which is probably a consequence of the mutual character of such schemes. Applicants from most Asian countries, from Latin America and from some Northern and Southern European countries<sup>125</sup> need to ensure that the main purpose of the stay is for vacation reasons. Most countries have a limited number of available places. New Zealand only has unlimited schemes with Sweden, Norway, Germany, the Netherlands, Japan and the United Kingdom. Most other schemes give access to the country for between 1,000 to 2,000 young people. An interesting case is Thailand, where the 100 applicants accepted into New Zealand each year are required to prove functional English knowledge, a completed tertiary education, and available funds of \$7,000. Another singular case is New Zealand's scheme with the United Kingdom, which provides the possibility of a stay up to 23 months. The British working holiday scheme is also an important gate for subsequent residency applications.<sup>126</sup>

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<sup>123</sup> Data of this subchapter from Immigration New Zealand (2006 c)

<sup>124</sup> The partner countries are: Argentina, Belgium, Canada, Chile, Czech Republic, Denmark, Finland, France, Germany, Hong Kong, Ireland, Italy, Japan, Malaysia, Malta, Norway, Singapore, South Korea, Sweden, Taiwan, Thailand, The Netherlands and United Kingdom, USA, Uruguay.

<sup>125</sup> These are Argentina, Chile, Czech Republic, Denmark, Finland, Hong Kong, Italy, Japan, Korea, Malaysia, Malta, Norway, Taiwan, Thailand, United Kingdom, Uruguay

<sup>126</sup> Immigration New Zealand (2004 b): p. 2

Both the increasing number of partner countries and high usage of the schemes are leading to an increase in working holidaymakers. During 2002/03, there were 20,300 permits issued, and in 2005/06 there were 24,800. Only in two countries, namely Japan and the UK, was the development negative. These two countries were the most important source countries for several years. There were 9,100 migrants to New Zealand from the UK in 2002/03 and 8,400 in 2005/06. The Japanese case shows an even bigger decrease from 4,200 down to 2,900 respectively. However, these developments could be more than neutralised by the other partner countries, especially the USA and Germany. The young people originating in the USA numbered 1,754 in 2005/06 (at the beginning of the compared period, the scheme did not yet exist). The biggest increase however is the one originating in Germany. In 2002/03, 1,400 young Germans came to New Zealand, and in 2005/06 there came 4,500.<sup>127</sup>

Because of the intended breaks for travelling, most 'working holidaymakers' find several different short term jobs during their stay. In 2004, working holidaymakers had an average of 3.3 jobs. This is why the schemes provide the new labour market with labour force available for jobs without special skill requirements.<sup>128</sup> Hence for example vineyard and orchid regions gain an extraordinary international flair during the harvest season. Over 20,000 working holidaymakers in 2003/04 took an estimated 7,000 jobs, however because of their expenditure, which amounted to over double the money they earned, they created 11,000 jobs.<sup>129</sup>

However, there are still dire skill shortages in several horticulture and viticulture industries in some regions. This is why there was a pilot seasonal work permit developed in 2005. At the moment, in three areas (Marlborough, Central Otago and Western Bay of Plenty) employers can attract 4,000 seasonal workers for the harvest season<sup>130</sup>. In the high season of 2005/06, 2,800 fruit pickers could be hired through this initiative.

#### v. Long-Term Business Visa and Permit<sup>131</sup>

For migrants who plan to establish their own business in New Zealand, a long-term business visa and permit scheme is available. It is aimed at people who do not want to apply directly for the permanent schemes for self-employed people. A long-term business visa and

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<sup>127</sup> Numbers in this chapter are calculated by myself with the data from Immigration New Zealand (2006 j), work applications decided

<sup>128</sup> Immigration New Zealand (2004 b): p. 2, 36, 46

<sup>129</sup> Immigration New Zealand (2004 b): p. 3

<sup>130</sup> Immigration New Zealand (2006 e)

<sup>131</sup> Immigration New Zealand (2006 f)

permit is issued for nine months and can be extended up to three years if the business is established after those first nine months. It entitles the permit holder to be accompanied by their family (who must also meet several preconditions such as English proficiency). The preconditions for applicants are here, again, good health and character, but they must also have the following:

- Genuine plans to establish their own business
- A feasible and satisfactory business plan
- Sufficient investment capital
- Funds to cover expenses of living

Interestingly enough, legal changes (such as the rise of the spoken English expectations and the visa being granted for nine months instead of the older regulation for three years) lead in this case to a drastic decline of approvals and new applications in the following years. During the financial year 2001/02 only 1,900 of the 2,600 applications were approved. Two years afterwards, out of 4500 applications (included second tries), only 249 were approved. In 2005/06, there was an approval of seven out of a mere nine applications. The visa holders are eligible for applying for residence via the entrepreneur scheme after holding the enterprise for over two years (more about the entrepreneur scheme in chapter 2.2.b.ii).

#### c) Comparison of New Zealand's and Germany's Temporary Migration Regulation

In New Zealand, as in Germany, short-term migration plays an important role and has changed significantly in the last ten years. The number of visitors, short term workers and international students in New Zealand has increased enormously in the 21st century so far. In Germany, however, only an increase in the number of international students and seasonal workers can be found, whereas numbers in the other schemes are either stagnating or decreasing.

Both countries try to fill their labour shortages in the agricultural sector with short-term migration. New Zealand uses its working holiday schemes and a special seasonal scheme. Furthermore, several agricultural occupations can be found in the long-term and immediate skill shortage lists, which means migrants can obtain those jobs more easily. In Germany, however, working holiday schemes are not extensively used (and besides, there are only schemes with three countries). The German answer seems to be the attraction of seasonal labour from central Europe, and especially Poland.

The grant of working visas and permits in New Zealand is strongly geared towards the filling of skill shortages. In addition, partners of high-demand permit holders can be provided

with an open access to the labour market as well. The proof of skill shortages is possible in different ways – there are regularly updated skill shortage lists, and the employer can prove the necessity of attracting foreigners in individual cases or more generally for his or her enterprise, furthermore whole industries can request a better accessibility of international staff. In Germany, however, for the employment of a third country national, a skill shortage needs to be proved in each individual case, there are only very rare exceptions. Officially, there have been no schemes in Germany to attract migrant labour since the termination of the guestworker schemes in the 1970s. However, there are still several exceptions for low-skill occupations such as seasonal and contract workers, where the labour market test is less strict or not necessary. With the introduction of green cards for IT-specialists, a first scheme for high-skilled migrants was set into force. A second one followed in 2005 for high achievers. Experiences with these schemes could play an important role in designing similar strategies in the future to fill shortages in other occupations.

International students in Germany do not play a big role, but they nonetheless have access to the labour market (albeit limited for part time work) to help finance their studies. After finishing their studies, they can be granted a one year working visa to seek a job. However, the job seeking might be hard because the permit holders may obtain only labour market tested employment in Germany. In New Zealand, however, there are almost as many international students in absolute numbers as in Germany (including secondary education students). The study permit does not automatically grant permission to work, but it is possible to apply for a part-time work permit, and after graduating the students are eligible for a full working permit. Furthermore, access to the labour market is more open since no labour shortage needs to be proved in order to employ a foreign graduate in New Zealand.

The new German scheme for self-employed migrants seems to be too bureaucratic to be successful. However, after only one and a half years running with the new scheme it is not yet possible to judge the effect. New Zealand's Long Term Business Visa scheme does not set such high preconditions, instead the business itself is monitored during the first years.



## 2.2 Patterns of Permanent and Long-Term Migration: New Zealand vs. Germany<sup>132</sup>

In the following chapter, I will compare the procedures that grant migrants an unrestricted permit to stay in the host country. In both countries, there are numerous categories which make this possible. These different categories have developed historically and the regulation can always be seen as a reaction to former developments and migration flows. Hence, each sub-chapter will provide the reader with some short information about the evolution of the individual categories. However, in the New Zealand case, I will especially focus on the procedure of the labour market based attraction of migrants. This is caused by the fact that skills-based migration to New Zealand is of high importance for the country and its economy. Furthermore, the *Süßmuth-Kommission* proposed to establish an equivalent scheme for Germany<sup>133</sup>. Hence I will give an overview over the system as proposed by the *Süßmuth-Kommission* as well.

### a) Germany's Exceptional Residence Schemes

In most cases, Germany's categories for long-term migration share the common thread that the usage of the provided schemes is not restricted by maximum numbers of arriving migrants in each scheme. This stems in part from constitutional reasons, and in the case of the EU-internal migration it is based on EU law. The German constitution protects for example the family (Article 6) and the right of asylum (Article 16 a). Consequently, two streams of migration, the family-sponsored one and asylum seekers, evolved on the basis of a constitutional right. In order to guarantee that this right can be realised, there are no annual maximum numbers of migrants arriving which would lead to waiting lists. The same is the case for internal migration within the EU. In the case of the *Spätaussiedler*, however, the right to migrate to Germany and to be granted citizenship is also based on the constitution (Article 116), (although the German government nonetheless introduced such a yearly limit). A noteworthy difference between permanent categories is the legal status of migrants in different categories. This ranges from the direct grant of citizenship to the immediate grant of a *Niederlassungserlaubnis*, to the grant of a *Aufenthaltserlaubnis*, which is still a temporary permit and hence problematic to mention in that chapter.

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<sup>132</sup> Most numbers concerning Germany rounded up to the nearest 1,000; for New Zealand, the nearest 100.

<sup>133</sup> Independent Commission Migration to Germany, 2001: p. 81-118

After the reunification of Germany in 1990, the topic of migration gained a new currency. Hitherto there had been a dearth of discussion about migration after there was no big discussion about migration', although during the 1980s it can be observed that the termination of the guestworker schemes did not have the effect that politicians had hoped for. On the contrary, the guestworkers, especially from countries like Yugoslavia and Turkey, were doubtful whether they would be allowed to enter Germany again after leaving, so many stayed in the country and their families migrated as well.

In the 1990s, migration got a new drive. The opening of the borders to the former communist countries gave the possibility to many ethnic Germans to resettle in Germany. Furthermore, refugees began arriving in Germany in large numbers, especially those fleeing the civil war in Yugoslavia, which resulted in 1.5 million migrants arriving in 1992 (with a net migration of 782,000). In reaction, the German government tightened policies such as the asylum procedures and the procedures to be affirmed as a *Spätaussiedler*. Since then the number of incoming migrants dropped down to under the 800,000 margin and the amount of net migration dropped to under 100,000 in 2004 and 2005. This figure is further influenced by internal EU-migration. Its consistency has changed in recent years, but contributes to a positive net migration nonetheless.

Since 1 January 2005, all adult migrants who stay for over a year in Germany (other than *Spätaussiedler* and those from the EU) are entitled to take part in integration courses (§ 43-45 AufenthG). For some groups, participation may be mandatory. For example, for migrants with low German skills, for the ones who are about to be granted a permanent permit or for these who receive social benefits not visiting the courses can lead to payment cuts. The courses consist of two language classes and an introductory course into Germany's law, culture and history. The courses are already running and were visited by 168,605 migrants by May 2006. 23% of participants are migrants from Turkey, 15% are from the Russian Federation, 7% are from the Ukraine, and 6% from Kazakhstan.<sup>134</sup> However, it is too early to discern the effect of these courses, insofar as how much they actually aid migrants to be integrated in Germany.

#### i. EU-Migration

EU-internal migration is defined as the migration of EU member state citizens and their immediate family to Germany. Such migrants have free access to the labour market and have recourse to protection against discrimination. They do not need to apply for any permit

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<sup>134</sup> Bundesministerium des Innern (2006 b): p. 122, 123

(this is not always the case for family members). Furthermore, they have priority access to work over citizens from third countries. This is not the case however for citizens of the new member states, hence I will make the distinction between new (EU-10 or 2004 accession countries) and old (EU-15) member states<sup>135</sup>. For the new EU-members (with the exception of Malta and Cyprus), the free labour market is not realised yet, but a high number of their nationals migrate to Germany nevertheless. In 2004 about 173,000 migrants arrived from the 2004 accession countries, which makes up roughly two thirds of the 266,000 EU-migrants to Germany. The most important EU-source country of migration was Poland – the flow from this eastern neighbour made up about 50% of all EU-migration to Germany. When looking at the member countries whose citizens have unrestricted access to the German labour market, one can see that the migration flows are relatively stable. It is only in the last three years that continual shrinking of EU-15 net migration was noticeable. In 2003, for the first time since 1990 less than 100,000 migrants arrived in Germany from there; in 2004 the number reached a low of about 93,000 people arriving. The net migration between Germany and the 'old' EU-countries since then has also been negative; in fact, there is an annual 'loss' of about 33,000 people. It is interesting to note that all the EU-countries who were source countries for *Gastarbeiter* in the 1960s and 1970s, such as Italy and Greece, show a negative net migration in recent years. This change however, is balanced by the migration patterns between the new EU-member countries and Germany. There was a positive net migration of about 35,000 people in 2004.

## ii. Family Reunification<sup>136</sup>

Family sponsored migration is possible for the members of the immediate family (spouses and dependent children) of Germans, EU-nationals and foreigners with a *Niederlassungs-* or *Aufenthaltserlaubnis*. The access to the labour market is equivalent to the access that the sponsor has. EU-citizens have the same rights as German nationals. In the case of sponsorship by a third country national, the visa can only be issued if the sponsor can finance the costs of living for the partner, and the sponsored migrants face a two year period during which he or she can gain only labour market tested jobs (§29 V, §4 II 3 AufenthG). Dependent children can migrate to Germany as long as they are under 18 years of age, but

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<sup>135</sup> This chapter's data is derived from Bundesamt für Migration und Flüchtlinge, 2006: p. 27-33

<sup>136</sup> This chapter's data is derived from Bundesamt für Migration und Flüchtlinge, 2006: p. 34-38

only if the parent is either German, a refugee confirmed by the Geneva Convention, a successful asylum seeker, or if they immigrate together with the child. For children of other EU citizens, dependent children up to 21 years can be sponsored, which results in a more favorable regulation for EU-nationals than for Germans (§ 3 II 1 FreizügG/EU). If the sponsor does not fall under any of these groups, there are extra conditions for children older than 15; namely, they need to speak German sufficiently and have good prospects for integration (§ 32 II *Aufenthaltsgesetz*). Moreover, if the parents are not German citizens, they need to prove that they can provide sufficient housing for the family. If the preconditions are met, the applicant is granted an *Aufenthaltserlaubnis*. This permit can be extended after three years for family members of a German or after five years in general to a *Niederlassungserlaubnis*. There are several preconditions to meet next to the time having lived in Germany, the most important being the proof of sufficient German language skills. The completion of integration courses is generally obligatory for the grant of a *Niederlassungserlaubnis*.

Measuring the number of migrants arriving under a family sponsored category is not possible. The German migration statistics do not differentiate between reasons for migration. However, the Ministry of Foreign Affairs publishes a statistic showing the number of family-sponsored visas issued by the German embassies and consulates. The quality of this statistic, again, is diminished by the fact that the ones from EU and EEC countries and most OECD countries do not have to apply for such a visa in advance. Consequently, these cases do not appear in the statistics of the Ministry of Foreign Affairs. Using this data as an indicator of the development for family-sponsored migration to Germany, the following can be shown: In 1996, there arrived about 55,000 migrants, and the yearly numbers grew until 2002 up to 85,000 family members arriving and fell to a ten year low of 52,000 in 2005. The development since 2001 shows the same characteristics as this of the EU-15 migration to Germany during the same period. The most important country of origin is Turkey (here again, this could lead to misinterpretations, since many countries are exempted from a visa application before traveling to Germany), however Turkish migration ties also follow the declining character of the whole family sponsored migration category. Arguably, this might be caused by an exhaustion of Turkish migration networks.

An evaluation by the Ministry of Internal Affairs of the recent regulation uses data from the *Ausländerzentralregister (AZR)* (central register of foreigners). Using this data from the period from 1 January 2005 to 31 May 2006, there were 411,909 family sponsored foreigners granted a permit under the new law. Out of these, 133,649 were spouses of Germans and 91,999 were spouses of foreigners, and a further 77,247 foreigners were

children of a sponsor.<sup>137</sup> Unfortunately, the data does not differentiate between foreign sponsors who are third country nationals. This differentiation might be of interest, since the partners face different obstacles in regards of labour market access.

### iii. Ethnic Germans, Jewish Migration<sup>138</sup>

After the fall of the communist regimes in Central and Eastern Europe, many ethnic Germans moved back to Germany. The former migration of these so-called *Aussiedler* and from 1992 onwards *Spätaussiedler* goes back in some cases several generations. The category of *Spätaussiedler* is the classical example for Germany's citizenship policy based on the *ius sanguinis* principle. Since 1999, the number of arriving migrants under this policy is restricted to a maximum of 103,000 per year, whereas beforehand the maximum was 225,000. The limit however has not been reached since 2000. Furthermore, the migrants need to have upheld what could be translated as a 'German way of life'. This must be proved already in the country of origin<sup>139</sup>. The admitted *Spätaussiedler* and their families however have full access to the labour market, are granted German citizenship,<sup>140</sup> and are entitled to specific integration programmes. In 1990, nearly 400,000 migrants arrived via this category. This number had decreased by 2005 down to 36,000. The most important source countries for this category are the Russian Federation and Kazakhstan. About 80% of migrants who have arrived via this scheme are family members of the actual *Spätaussiedler*. They have to prove some knowledge of German when applying.

Here again, the declining character of the migration development is similar to the development of family reunification and EU-migration. It is arguable whether this is caused by the improvement of the situation ethnic Germans have to cope with, or simply by the lengthy bureaucratic procedure of the application, for instance, the average time between application and the final decision of 48 months.

A second migration scheme oriented towards the Russian Federation is the migration of Russian Jews to Germany. Shortly before the accession of the German Democratic Republic (GDR) to the Federal Republic of Germany took place, the GDR began a scheme for Russian Jews to settle on its territory, in an attempt to revitalise Jewish culture in East

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<sup>137</sup> Bundesministerium des Innern (2006 b): p. 106, 107

<sup>138</sup> This chapter's data is derived from Bundesamt für Migration und Flüchtlinge, 2006: p. 39-52

<sup>139</sup> About the artificial nature of this nationality-test: Spencer-Moore, 2000

<sup>140</sup> Renner, 2005: p. 11

Germany. The reunified Germany continued this policy, making the Jewish parish in Germany one of the three biggest in Europe after it was decimated during the Third Reich. Since 2005, the regulation can be found in §23 Aufenthaltsgesetz. Jewish migrants from Russia are granted permanent residency, and their relatives are granted temporary permits. Since 1993 around 191,000 migrants arrived under this category. While in 2002, there arrived 19.000 migrants, in 2005 the number went down to 6.000. Together with the recent developments for the *Spätaussiedler* and family sponsored streams, also the Jewish migration scheme shows a declining character. Migrants accessing Germany under this scheme tend to be highly skilled. Nonetheless, they are facing difficulties to find appropriate jobs, since their qualifications are often not accepted in Germany.

#### iv. Asylum Seekers<sup>141</sup>

Affirmed Asylum seekers receive a temporary permit for three years and if the reason for asylum is still valid after this period, an asylum seeker can obtain permanent residence. The procedure, however, is rather bureaucratic and the system can barely be described as transparent for somebody without a background in legal studies. During the processing time of the asylum decision, asylum seekers in Germany are not entitled to work during their first year in Germany (§ 10 I *Aufenthaltsgesetz*). Furthermore, in many cases, if an application is declined, the applicant can make an appeal that it is unsafe to return to his or her country of origin, and the deportation will be postponed. If the postponement lasts longer than 18 months, the refugee can obtain a restricted permit.

An indicator of the difficulty to gain the right to asylum is the outcome of applications in 2005: merely 0.9% of the 48,000 decisions the *Bundesamt für Migration und Flüchtlinge* took, granted a right of asylum in Germany. As hinted above, there is no maximum limit for asylum seekers. However, the control over the number of people gaining a right of asylum was met by limiting the legal possibilities for asylum. Principally, the right of asylum is based on the Geneva Convention relating to the status of refugees. Asylum seekers who face political and semipolitical persecution in their home country can base an application on Article 16a of the German constitution (as managed by the above mentioned 0.9%). Furthermore, in cases where a resettlement is not possible out of reasons relating to the Geneva Convention, asylum seekers can get the right to stay in Germany based on §60

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<sup>141</sup> This chapter's data is derived from Bundesamt für Migration und Flüchtlinge, 2006: p. 54-71

*Aufenthaltsgesetz* (this was granted to a further 4.3% in the 2005 decisions). There is a third possibility, which has not been used yet since it was harmonised on an EU-level. In special cases a decision at the EU-level can lead to the acceptance of refugees in Germany as well (§24 *Aufenthaltsgesetz*). In such a case each member country has to offer refuge to a set quota of refugees originating from the specific regional crisis the decision is bound to.

There are numerous types of status for asylum seekers. The security of a permit is relatively low, and even after being granted the right of asylum, it can be retreated. The application, processing time, and court proceedings involve much time, for example in 2000 for more than 60% of asylum seekers, just the third aspect (court proceedings) took over a year<sup>142</sup>. This is one reason why the asylum category is under permanent and long-term migration in this thesis. The different status asylum seekers go through can be characterised by low social security, permanently endangered permit, and a non-existent or very narrow access to the labour market. Access to the labour market is possible after a waiting period of one year, but any job offer needs to undergo a labour market test. Furthermore, the migrant can get the right to work only if he or she did not already receive social benefits for asylum seekers, which is an inappropriate rule since asylum seekers are facing big labour market restrictions. The regulation is quite controversial.<sup>143</sup>

The absolute numbers of arriving asylum seekers was diminished after procedural changes came into force in 1993. However, the changes in the 21st century so far show the prolonging of the development in the second half of the 1990s. During 2000, 79,000 asylum seekers arrived, and only five years later the number was at a low of about 29,000. The origins of refugees are quite diverse. During the last five years, Turkey and Iraq played the most important role as source countries, together with Serbia and Montenegro.

German policies keep the migration via the asylum category strictly separate from any labour market induced policies, which can be shown by the very narrow labour market that asylum seekers have access to. This attitude is clearly confirmed by the *Süßmuth-Kommission* as well, which caused some criticism.<sup>144</sup> The Commission's more liberal proposals for labour market migration all in all are not upheld for the asylum category. For example, no possibility was offered to asylum seekers in Germany to apply for permanent residence via the points

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<sup>142</sup> Independent Commission on Migration to Germany, 2001: p. 125

<sup>143</sup> Bundesministerium des Innern (2006a): BeschVerfV; §10,11; more about the discussion and the effects in Bundesministerium des Innern (2006 b), p. 34-39, Die Zeit, 28.09.2006, p. 29

<sup>144</sup> Boswell, 2003: p. 67-69

system. For civil-war refugees, however, the commission saw the possibility to apply for the points system onshore.<sup>145</sup>

#### v. Labour Market Based Migration by the *Süßmuth-Kommission*

The *Süßmuth-Kommission* developed in 2001 a new approach to labour market based attraction of migrants to Germany. The system considered the consequences of Germany's demographic changes in the direction of an ageing society. Although only some aspects of the proposal were realised.<sup>146</sup> I nonetheless want to introduce the reader to the design, since it might play a role again when skill and labour shortages become more pronounced. The commission consisted of a panel of experts in migration topics from different backgrounds and were advised by several experts from classical migration countries. This is why one could accept the design as taking into consideration a broad range of needs in Germany. It reflects the "paradigmatic change from the ban on recruitment to managed immigration of workers",<sup>147</sup> as the *Süßmuth-Kommission* writes.

The scheme consists of different parts. The two most important ones are the covering of short term shortages in the labour market by limited-in-time migration and by covering long-term skill shortages via a points system based procedure of granting permanent residence to applicants.

The Commission gave advice to check the existence of a labour shortage in two ways – by using a statistical method dependent on singular occupations, and by demanding a levy if an employer hires a foreigner. The points system based migration scheme adheres to the philosophy that broad skills are more important than specialised skills,<sup>148</sup> and that accumulation of highly skilled people can trigger faster economic growth.<sup>149</sup>

In the following section I will give an overview of the points system as proposed by the commission. This points system does not intend to fill short-term skill shortages, but rather long-term labour shortages caused by the demographic development. This is why the system of granting points does not take the actual labour market situation into account. However,

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<sup>145</sup> Independent Commission on Migration to Germany, 2001: p. 94, 95

<sup>146</sup> The scheme granting immediately a *Niederlassungserlaubnis* to high achievers in industry and science and research as shortly described in III.2.1.a stems from the Commission. Furthermore is the possibility for foreign students to be allowed to stay in order to look for a job up to one year after completing studies also proposed in the report by the Commission.

<sup>147</sup> Independent Commission on Migration to Germany, 2001: p. 82

<sup>148</sup> Independent Commission on Migration to Germany, 2001: p. 83

<sup>149</sup> Bundesamt für Migration und Flüchtlinge, 2005: p.35



bonus points can be awarded to occupations in high-demand areas. An age limit of 45 is proposed and the language skills in Germany lead to points<sup>150</sup> as well as other positive integration indicators such as children, a job offer, and the occupation of spouses. To ensure the transparency of the system, it is necessary that the granting of points is not influenced by the discretion of immigration officers.<sup>151</sup> The preconditions for any applications are as follows:

- Applicants must be aged under 45
- They must be in good health
- They must have a clear criminal record
- They must have proof of financial independence (savings or job offer)
- They must have sufficient vocational training (not experience)

Table 4: Example of points assessment, Independent Commission for Migration to Germany, 2001: p. 92

**Example of points assessment**

Maximum: 100 points

- Age: 1 point for each year of a person's life up to 45, however 20 points maximum
- Highest level of completed training achieved: up to 30 points
  - University or College degree: 20 points
  - Vocational training qualification, depending on the duration of training: 5 to 20 points
  - Bonus points: up to 10 points
    - Special demand for completed training in the labour market
    - Qualifications based on the German training system, Doctorate
    - Qualifications from a particular renowned training institution
- Vocational experience and additional qualifications: up to 15 points
  - Experience (up to 5 years max.) In the trade learnt: up to 10 points
  - IT skills
  - Command of a foreign language (third languages)
  - Management experiences
- Good command of the German language: up to 20 points
- Other criteria for good adaptability: up to 15 points
  - Spouse's qualifications (up to 5 points)
  - 2 points for each child (up to 5 points)
  - Job (offer) (5 points)
  - Former or current stay in Germany (up to 5 points)
- Possibly: increasing bonus points for persons from countries waiting to join the EU until full implementation of the freedoms within the Single European Market occurs.

As an example, the commission designed the following points assessment: German language proficiency and a favourable age bring the same maximum points up to 20 each, but the skills of the applicant also play a large role. Through tertiary or vocational training, the applicant can be granted up to 30 points. No differentiation was made

between a Bachelor and Master degree, only a Phd gained extra points. There is no differentiation between experience gained in a foreign country and experience gained in Germany. Furthermore, up to 15 points are provided for other criteria. The double role of a job offer is significant, because it can serve both as proof for financial independence (which is a precondition of an application) and can gain points for the applicant.

<sup>150</sup> It is not made a prerequisite because German is not spoken worldwide.

<sup>151</sup> Independent Commission on Migration to Germany, 2001: p. 90, 91

Since this points-based scheme was never put into practice, and schemes to attract highly-skilled migrants (self employed and high achievers) did not achieve any noteworthy migration flows, it could be argued that long-term migration to Germany is not aiming to complement the labour market, at least not its high-skilled segment. The biggest numbers of migration to Germany are scored under the *Saison-* and *Werkvertragsarbeitnehmer* schemes. Both are focussed on filling labour shortages in the primary and secondary sector. Consequently, Germany's migration schemes do not take part on the worldwide "*Rennen um die besten Köpfe*"<sup>152</sup> (contest to attract the best brains), what the *Süßmuth-Kommission* intended.

#### b) New Zealand's Residence Programme and TTTA

New Zealand's history is strongly bound to migration. One of the first groups of settlers were the Maori people, originating from the Pacific about 500 years ago by, and the first European settlers arrived in the 1830s. Up until after the Second World War, most migration to New Zealand could be defined as long-term migration simply because of the limited transport possibilities back then. For several years, the aim of settling in New Zealand was to replicate all aspects of British society. However, this aim was never entirely fulfilled, because there were other migrants from several other nations settling as well. This included Asian people drawn by the prospect of gold, French, German, Dutch and of course inhabitants of the South Pacific Islands. Dutch workers arrived in great numbers via newly developed assisted passage schemes in the 1950s and 1960s.<sup>153</sup> In addition, guestworker schemes for low skilled jobs with some Pacific Islands were introduced as well. During this period, for the first time, migrants originating from Great Britain and Ireland did not make up the biggest migrant groups anymore, and the number of migrants originating from the neighbouring regions grew. Migration inflows were becoming more diverse. People from non-Anglo-Saxon European countries, North America and the Pacific arrived in increasing numbers. In the 1980s, migration from Asian countries also increased. This diversification of migration led in 1987 to the new Immigration Act, which ended any official ethnically-based attraction of migrants. However, the labour market based attraction was strengthened by the 1991 Immigration Amendment Act, introducing today's points system. Business and investment motives were driving forces of the new policy as much as the need to fill lacks of qualifications in the host population.

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<sup>152</sup> Renner, 2005: p. 18, 24

<sup>153</sup> Winkelmann, 1999: p. 3

There are two main characteristics of the management of long-term migration in New Zealand. One is the limit of arrivals of permanent and long-term migrants, the so-called Residence Programme. At present, the Minister of Immigration is limited to issue 45,000 permanent and long term permits per year (plus or minus 5,000). The number is readjusted on an annual basis by the cabinet (sometimes, there are longer running plans decided as well).<sup>154</sup> This number is problematic, because it causes waiting lists, and it is highly discussed where the limit needs to be set. For this there might not be an absolutely optimal answer, since it is also dependent on emigration patterns, which are not predictable. The second aspect is the allocation of these 45,000 yearly permits amongst the three main streams: Skilled/Business Migrant, Family sponsored and International/humanitarian. The regulation provides at least 60% for the first stream, 30% for family sponsored migration, and 10% for the International/Humanitarian stream. The migrants are either primary or secondary applicants. Secondary applicants are the family members of the actual primary applicant. They can be attached to the application, but if dependent children are attached, specific household incomes need to be proved depending on the number of children. This is the case for all other streams as well. In the following, I will introduce each category with a focus on the procedure leading to the grant of residency and the recent development of each stream.

It is noteworthy that as a reaction on the terrorist attacks of 11 September 2001, applicants from 23 'high-risk' (chiefly Islamic nations) countries are especially probed for any links to terrorism. A specific immigration profiling group has been set up to check applicants with specific skills from such countries. However, there is no information released publicly as to which skills fall under this specific policy and which nationals are affected. Since the profiling group started its work, the declining rate for residency applications from these high-risk countries has increased from 8% to 14% or even 25%, depending on the source of information<sup>155</sup>.

#### i. Trans-Tasman Travel Agreement

New Zealand's permanent and long-term migration patterns are integrated into a system of set quotas, as was briefly shown above and will be more precisely shown in the following chapter. However, the big exception of this well-implemented quota system is the migration between Australia and New Zealand. As briefly mentioned, New Zealand's

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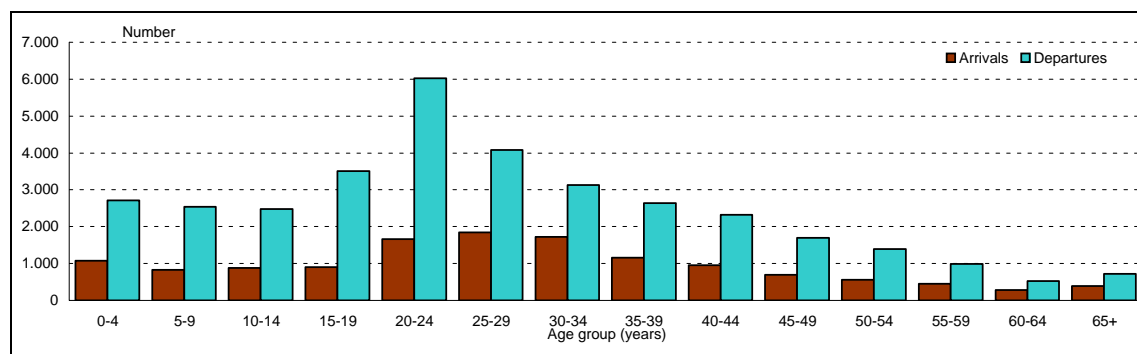
<sup>154</sup> Christine Hyndman, Immigration New Zealand, email from 02.10.2006

<sup>155</sup> New Zealand Herald, 3.8.2006

uncontrolled migration ties with Australia are of a comparable importance as Germany's ties with the EU. In the following, I will introduce more details about which age groups and occupation groups are migrating across the Tasman Sea<sup>156</sup>.

New Zealand's migration ties with Australia have a large influence on the overall net migration. The following graph and figures show the movement patterns in 2005<sup>157</sup>:

Table 5: Age of permanent and long-term migrants to and from Australia, derived from: Statistics New Zealand (2006 e)



All in all, the net migration resulting from flows between New Zealand and Australia is negative for New Zealand, independent of any age group or occupation group. The dispersion of age groups shows roughly a bell curve for both directions, migration to and from New Zealand. For New Zealanders, the migration peaks occur between the ages 15 and 29. The absolute peak is in the age group of 20 to 24 year old migrants. In 2005, 6026 people from this age group left New Zealand for Australia. Of these migrants, around 90% were New Zealand citizens (5,452 New Zealand citizens in absolute numbers). Altogether, 34,766 people migrated to Australia from New Zealand, out of which 30,100 had New Zealand citizenship. In the same year, 13,389 migrants came in the opposite direction, out of which 8,145 held New Zealand citizenship. The bell curve is in that case not as remarkable as for the age dispersion in case of migration from New Zealand to Australia. However, the rough bell form allows a peak for the age groups between 20 and 34 years old. This could indicate a remigration of New Zealanders after spending about five to ten years in Australia. Nonetheless, quite a large amount of New Zealanders leaving to Australia do not return at all, and rather stay in Australia or in some cases move further away.

As already mentioned, the net migration between Australia and New Zealand is negative for New Zealand in every occupational field. However, several occupation groups

<sup>156</sup> Data in this subchapter is derived from Statistics New Zealand (2006 e): Australia

<sup>157</sup> The data is derived from the arrival and departure cards. Everybody leaving and arriving in New Zealand has to fill out these cards; in which information about length of stay, intentions and so on are given. This statistics gives an advantage to the statistical situation in New Zealand, since all de facto movements are recorded, whereas in Germany, there is no such universal data.

show especially high losses. In the groups of professionals (1,263), service and sales workers (1,525) and trade workers (1,000), the biggest losses in 2005 can be found. It is interesting to note that the occupations the migrants between Australia and New Zealand show, are extremely diverse, with a slight concentration of lower-skilled migrants moving to Australia<sup>158</sup>.

## ii. Skilled Migrant Category, Points System

According to Immigration New Zealand, the aim of the Skilled Migrant Category (SMC) is to "meet New Zealand's identified needs and opportunities and contribute to building growth, innovation, and global connectedness. Gaining residence through the SMC is based on employability and capacity building factors and an applicant's ability to settle and contribute to New Zealand."<sup>159</sup>

The policies designed to attract migrants are currently an issue in the New Zealand parliament, and, as a consequence, are often readjusted. The changes that took effect in 2003 and 2004 resulted in an important change of countries that migrants originate from. Arguably, the higher English language skills introduced with the Skilled Migrant scheme<sup>160</sup> might have caused the system to revert back to favouring migration from Anglosaxon countries, especially the UK. Between 1998 and 2004, the UK accounted for 15% of permanent migration to New Zealand. However, between 2004 and 2006, this figure was more than doubled. The motivation behind raising the English language skills stemmed from the peculiarities of the New Zealand labour market in the 1990s, which led to a higher unemployment rate for migrants with low English skills. The argument is that since there are only small- to middle-sized companies in New Zealand, there are barely any highly specialised jobs available, therefore the ability to cover multiple areas of a job is crucial. This however makes the English language skills even more important. In such a labour market climate, migrants with comparatively low English language skills will have worse chances to find a job. Nonetheless, prejudices against these migrants might also be a factor accounting for their comparatively poor labour market performance<sup>161</sup>.

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<sup>158</sup> However, migration of young people to Australia might have caused the government's decision to request interest in student loans for these former students, who decide to leave New Zealand.

<sup>159</sup> Immigration New Zealand (2005 a), p. 34

<sup>160</sup> The "predecessor" scheme was called General Skills Category.

<sup>161</sup> This discussion can be found more precisely in: OECD, 2004: p. 109, 110

Primary applicants generally need to prove their proficiency in English when applying for residence, however, secondary applicants can pay for English language courses in advance. The prepurchase of the tuition fee entitles them to take English courses once they are in New Zealand. However, for some groups of migrants (via the business substreams and especially from Taiwan), this policy proves inefficient, because the tuition is not always taken up.<sup>162</sup>

A migrant interested in residency first of all needs<sup>163</sup> to send an Expression Of Interest (EOI). In this EOI, the migrant is assessed via the points system, and needs to cross the minimum threshold of 100 points in order to be considered. In this EOI, the primary applicant can attach family members such as the partner and dependent children (secondary applicants). These have to meet English requirements as well, if they are over 16 years old. The points system focusses on indicators of the candidate's likelihood of finding employment. Hence, English proficiency, good health and good character are prerequisites. The EOIs are

Factors	Points
<b>Skilled employment</b>	
• Current skilled employment in NZ for 12 months or more	60
• Offer of skilled employment in New Zealand or current skilled employment in New Zealand for less than 12 months	50
<i>Bonus points for employment or offer of employment in:</i>	
• An identified future growth area or identified cluster	5
• An area of absolute skills shortage	10
• Region outside Auckland	10
• Partner employment or offer of employment	10
<b>Work experience</b>	
• 2 years	10
• 4 years	15
• 6 years	20
• 8 years	25
• 10 years	30
<i>Additional bonus points if work experience in New Zealand:</i>	
• 2 years	5
• 4 years	10
• 6 years or more	15
<i>Additional bonus points for work experience in an identified future growth area or identified cluster:</i>	
• 2 to 5 years	5
• 6 years or more	10
<i>Additional bonus points for work experience in an area of absolute skills shortage:</i>	
• 2 to 5 years	10
• 6 years or more	15
<b>Qualifications</b>	
• Recognised basic qualification (e.g. trade qualification, diploma, bachelors degree, bachelors degree with Honours)	50
• Recognised post-graduate qualification (Masters degree, Doctorate)	55
<i>Bonus points for:</i>	
• Recognised NZ qualification (and at least two years study in NZ)	10
• Qualification in an identified future growth area or cluster	5
• Qualification in an area of absolute skill shortage	10
• Partner qualifications	10
<b>Close family support in New Zealand</b>	10
<b>Age (20 to 55 yrs)</b>	
• 20-29	30
• 30-39	25
• 40-44	20
• 45-49	10
• 50-55	5

Table 6: SMC Points for Employability and Capacity Building Factors, Immigration New Zealand (2005 a): p. 38

collected in a pool, out of which a fortnightly selection is taken. Obviously, those with a higher points rating are more likely to be chosen. EOIs scoring higher than 140 points are chosen automatically. The other places are given to a specific number of EOIs scoring between 100 and 140 points which are granted points for the offer of skilled employment in New Zealand. EOIs not falling under these two groups are chosen only if there were not enough EOIs available in the fortnightly selection in order to fulfill the quota in the

<sup>162</sup> Immigration New Zealand (2005 b): p. 5-10

<sup>163</sup> Procedural explanation from: Immigration New Zealand (2005 a): p. 34-43

Residence Programme. Under these selections, EOIs showing skills in shortage areas are preferred.<sup>164</sup> The chosen EOIs are published in point categories on the Immigration New Zealand homepage. The EOIs submitted in New Zealand tend to a score more points than the ones from offshore. This might be related firstly to the easier availability of a job or job offer for onshore applicants, and secondly to the points they can gain by having New Zealand work experience.

After being chosen from the pool, the EOIs undergo an initial verification process by Immigration New Zealand. During this process, roughly 25% fail, while the other 75% are approved and the principal applicants receive an invitation to apply for residence.

The most important sections for earning points are skilled employment, work experience, qualifications and age. In each section, bonus points can be gained; in most cases this depends on whether or not the migrant's occupation is in high demand. The maximum score is about 270, and the minimum is 100. However, to gain the maximum 270 points is barely possible. As an example, the candidate would need to have a postgraduate New Zealand qualification in a skill shortage area, as well as ten years work experience (in New Zealand) in the sector of studies and a maximum age of 39 years, plus support from a well-qualified immediate family. None of the applicants fulfilled this in 2004/05. The average applicant scores about 150 points. Under 10% of applicants scored over 200 points in 2004/05. However, being qualified in a skill shortage field, could bring the applicant bonus points three times, as can be seen in table 5. That is, an applicant could gain at least ten bonus points each time for a job offer, experience, and qualifications in a skill shortage areas<sup>165</sup>. These 30 points could balance out the disadvantage that an applicant who is over 50 years old might have compared to an applicant who is under 30 years old. The proportion of accepted EOIs that were granted these bonus points can be seen as an indicator of the success of the system as regards attracting people who are skilled in labour shortage areas. In 2004/05, 37%

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<sup>164</sup> Departement of Labour (2006 d): p. 9, 10

<sup>165</sup> Noteworthy is the recent change (Departement fo Labour (2006 d) p. 10), that only experience gained in countries whose labour market is similar to the New Zealand one (or in an international company with main part in one of these countries) leads to points. Interestingly enough, during several South East Asian countries are included, none of the new EU-member states is included. The countries with similar labour market are the following: Australia, Malaysia, Austria, New Zealand, Belgium-Luxembourg, Netherlands, Canada, Norway, Cyprus, Philippines, Denmark, Portugal, Finland, Republic of South Korea, France, Singapore, Germany, South Africa, Greece, Spain, Iceland, Sweden, Ireland, Switzerland, Israel, United Kingdom, Italy, United States, Japan.

of migrants gained such bonus points for their job or job offer, 32% for their work experience and 37% gained bonus points based on their qualifications.<sup>166</sup>

During 2004/05, about 50% of invitations to apply for residence under the Skilled Migrant Category were sent to migrants originating from the United Kingdom<sup>167</sup>. Together with 12% of approvals sent to migrants from South Africa and 4% to US nationals, people from English speaking countries made up more than two thirds of all approved Skilled Migrants. Following another logic, about 60% of migrants originate from OECD countries, meaning that they originate from countries that are, generally speaking, facing the same demographic issues as New Zealand<sup>168</sup>.

The age structure of chosen migrants has a decidedly rejuvenating effect upon New Zealand's population. In the 2004/05 period, 50% of chosen migrants were between 20 and 40 years old and another 31% were under 20 years old. This number is important because it balances the emigration of New Zealanders in especially these age groups. 19% of New Zealand's usual residents in the age group of 16 to 24 years emigrate from New Zealand<sup>169</sup>.

During the financial year 2005/06, 29,300 approvals were issued via the Skilled Migrant scheme, plus about 900 via the old General Skills Category scheme. In the year before, there were 24,200 and 3,600 approvals issued respectively. In these two years, residency was granted to decidedly more migrants than in 2003/04, when a number of altogether around 20,000 permanent labour market migrants were granted residency. However, the number of residencies granted under the Skilled Migrant scheme and its predecessors has fluctuated during the last ten years between 16,000 and 35,000 migrants with a peak in 2002/03, when the discussed reforms might have influenced quick decisions in migrants who are not English native speakers to apply for residence. Consequently, the majority of migrants originated from Asian countries in this period.

### iii. Business Category

The business category is part of the Skilled/Business Migrant Category of permanent and long-term migration to New Zealand. It consists mainly of two parts: The Investor and the

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<sup>166</sup> Immigration New Zealand (2005 a): p. 39

<sup>167</sup> A recently published survey testifies that, indeed New Zealand ranges the fourth favourite country, 13 percent of the British want to migrate to<sup>167</sup> in the near future. New Zealand Herald, 5.8.2006

<sup>168</sup> An exception is the USA, which does not show a birth rate under the critical level of two.

<sup>169</sup> Departement of Labour, (2006 a): p. 83



Entrepreneur categories<sup>170</sup>. Both policies were adjusted simultaneously with the adjustments described under the Skilled Migrant scheme. Both schemes have in common that each approved application covers an average of 3.3 people<sup>171</sup> – that is, the main applicant plus 2.3 family members. Both business categories are consequently the ones with the most secondary applications compared to any other long-term migration category.

Since 2005 the Investor Category has worked in a parallel way to the Skilled Migrant scheme. EOIs need to gain a specific amount of points in order to be eligible to apply. Furthermore, the issued permit comes with several conditions which must be met during the first five years after taking up residence. For instance, the permit holder must retain two million dollars on a New Zealand government account. After two years, half of the amount can be invested, but the investment must be approved by the Department of Labour. In addition, New Zealand must be made the main residence of the permit holder and the Department of Labour monitors the investment process. The numbers of applications fell dramatically after the policy changes, which took effect in 2003. During 2001/02, 4,400 applications were approved, but the number fell to 500 in 2005/06. Not only did the absolute number of granted permits under this category fall, but the migrants' origins were also becoming more diverse. Between 2001/02 and 2004/05, numbers of migrating investors from Taiwan and South Korea were diminished, but the largest decline can be shown for Chinese investors. They accounted for 2,800 investors in 2001/02 (more than 63% of the whole substream), and in 2005/06 there were only 44 investor visa issued. Compared to that, the number of British investors grew from 127 to 196 in the same period. The proportion of approved British investors under the scheme however grew from 0.2% up to nearly 38%.<sup>172</sup>

The Entrepreneur Category shows a different development in absolute numbers. The Long-Term Business Visa entitles self-employed migrants after two years to apply for residence under the entrepreneur scheme. Since the introduction of the scheme, numbers of applications and approvals have steadily grown to 2,900 in 2005/06. One reason for this growth is that the scheme seems to be used mainly by migrants from important Asian source countries who formerly took up residence via the Investor Category. Another reason for the growing numbers is the relation to the Long-Term Business Visa (LTBV) category. Migrants holding such a visa can apply for residence under the entrepreneur scheme after two years of establishing and running their own business successfully. The LTBV scheme is reaching the

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<sup>170</sup> Not separately quoted numbers in this chapter are from: Immigration New Zealand (2005 a): p. 46 - 51

<sup>171</sup> Immigration New Zealand (2005 a): p. 46

<sup>172</sup> Immigration New Zealand (2006 j): Residence substreams

stage where more and more migrants are becoming eligible to apply under the entrepreneur scheme. This might explain the rapidly growing number during the last five years. There are several conditions regarding the candidate's business.<sup>173</sup> A business counts as 'established' only if it meets the following criteria:

- The applicant has purchased, or made a substantial investment (a minimum 25% shareholding of a business) in a business operating in New Zealand
- The business has been established for at least two years
- The applicant has been lawfully working in New Zealand in that business for at least two years.

Moreover, the business needs to be considered to be beneficial to New Zealand. This is the case if it promotes the country's economic growth. The criteria are as follows:

- Introducing new or enhancing technology, management or technical skills; or
- Introducing new or enhancing existing products, services or export markets; or
- Creating new or expanding existing export markets; or
- Creating new job opportunities; or
- Revitalising an existing business.

The origins of migrants<sup>174</sup> applying for residency via this scheme are quite concentrated in South Korea and China. Around 74% of approved applications stem from these two main source countries. In 2005/06, 1,200 South Koreans and 940 Chinese were granted residency. The other important groups are Fiji and the UK with 130 and 210 grants respectively. Interestingly enough, Chinese and South Korean applications differ in the aspect of principal/secondary applicants. In 2005/06, 306 principal Chinese applications were issued for another 637 (3.07 per application) secondary applicants, whereas the proportion was 328 principal South Korean applicants with 837 family members (3.66 per application).

#### iv. Family-Sponsored Stream

Through the family sponsored stream, at least 13,500 (in 2006) close family members of New Zealand citizens, permanent residents and Australian citizens living permanently in New Zealand can be granted a residence visa/permit to reunite their families. This stream, however, consists of several substreams. These are the Partnership, Sibling and Adult Child,

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<sup>173</sup> All criterias from: Immigration New Zealand (2006 k): p. 11

<sup>174</sup> Following numbers from: Immigration New Zealand (2006 j): residence decisions by financial year

Dependent Child, and Parent streams complemented by the Family Quota category. The partnership and dependent child policies enjoy a specific prioritisation within the family sponsored stream. This prioritisation will become even more important from 2007 onwards, when the two substreams will be made, to some extent, independent from the approval quota of 13,500<sup>175</sup>. These steps can be explained by the high number of applications on hand which often cause long waiting periods for family members. During 2005/06, there was always a number of around 8,000 applications in the family sponsored stream on hand – in most months the absolute number of applications on hand for the skilled/business stream was lower<sup>176</sup> despite a quota that is twice as high as that of the family stream.

### Partnership Policy

The most important substream, as far as raw numbers of residence grants are concerned, is the partnership policy. To apply under this category, the applicant must prove that they live in a stable partnership with a New Zealand citizen or permanent resident.

The definition of partnership does not differentiate between its legal status,<sup>177</sup> but the couple in question must have lived for more than 12 months together in a stable relationship. A 'stable relationship' can be proved by several indicators such as a joint bank account, common flat, amount of quality time spent together. However, the NZ-partner must fulfill several conditions to be a sponsor. He or she cannot:

- have sponsored more than one successful application previously (and none during the five years before the current application),
- be a successful applicant under this category unless the residency was granted five or years and more ago.

Furthermore, there are special exemptions for perpetrators of domestic violence. Australian citizens and New Zealand residents who were granted residency by being an Australian resident need to prove that their primary place of residence is New Zealand.

During the last ten years, the different partnership policies such as policies for same sex couples, married couples and de facto couples were brought together into one partnership policy. Back in 1997/98, grants for residents under partnership categories accounted for some 47% of all family quota. This number grew to above 50% in recent years. In 2004/05, the

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<sup>175</sup> Cunliffe, Minister of Immigration, 20.08.2006

<sup>176</sup> Immigration New Zealand, (2006 j): Residence applications on hand

<sup>177</sup> These are marriage, civil union and de facto. No differences are made between homo- and heterosexual couples.

partnership substream provided 7,219 grants for residents, that is 62% of the whole family quota. The most important source country of this scheme has been the UK, with a proportion of more than 20% in recent years. The second largest country of origin for the partnership policy is China. Migrants originating from there made up about 15% in 2005/06, which is a noteworthy increase compared to the 11% of two years earlier, and is nearing the proportion that Chinese partnership migration had at the end of the 1990s. Apart from these two important source countries, there is no country from where more than 10% of migrants are originating. The result is a highly diverse mix of countries of origin<sup>178</sup>.

### Family Parent Policy

The second most important regulation in the Family-Sponsored Stream is the Family Parent Policy, whereby parents can gain residency if their child resides in New Zealand. The 4,444 grants of residency under this stream in 2005/06 accounted for about 30% of the whole family stream. This could be described as a peak, since in the years before, the proportion of parents in the overall family stream was just over 20%. However, this is slightly misleading, because it could also be described as returning to the level of the late 1990s once again. The main source countries are the UK, Fiji, India, and most importantly China, with 28% in 2005/06. However, during recent years, no trend can be derived between these main countries of origin<sup>179</sup>.

In order to apply under this stream, the 'centre of gravity'<sup>180</sup> of the applicant's family must be in New Zealand. The sponsor of an applicant needs to have an adult child (over 18) who is a New Zealand resident or citizen. Moreover, the sponsor must have lived regularly in New Zealand for the last three years before the application is submitted. This could be one reason for the recent peak of Chinese parents being granted residence in this substream. This may be a delayed reaction to the Chinese migration peak in 2002/03, since the former labour market migrants are now becoming entitled to sponsor their parents.

### Family Sibling, Dependent and Adult Child Policies and Family Quota

The development of the Family Sibling category and the Adult Child category are relatively stagnant. While the Family Sibling category made up about 8% (about 1150 people)

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<sup>178</sup> Calculated from New Zealand Immigration (2006 j): residence decisions by year

<sup>179</sup> Calculated from New Zealand Immigration (2006 j): residence decisions by year

<sup>180</sup> New Zealand Immigration (2006 k), p. 15

of the entire Family-Sponsored Stream in the last years, the adult child policy made up only 2% and is hovering between 200 and 300 granted residencies per year. For both categories, the main source countries are India, the UK, Fiji, and China. The allocation of grants between the countries naturally mirrors the ethnic make-up of new residents in New Zealand. In both cases, a sponsor must have held and actively used a residence title for more than three years. Consequently, important source countries of the Family Sibling and Adult Child categories are likely to have been main source countries of other, primarily labour market based streams three years earlier. It will be interesting to observe over the next few years whether this will also be the case for British migration, which has been the most significant source country since 2004, or whether the usage of categories with a broader immediate family definition is used more often by migrants from Pacific and Asian countries. In contrast to most other family-sponsored categories, the applicants in the Sibling and Adult Child substreams must have an offer of ongoing employment in order to be entitled to apply under these categories. Moreover, the entitlement is only for relatives (namely adult child or sister or brother) who are between 17 and 56 years old. The requirements that the sponsor has to fulfill are comparable to other family sponsored categories, such as New Zealand or Australian citizenship or residency, in that the sponsor must live in New Zealand currently and must have done so for at least 185 days in each of the last three years. Furthermore, the sponsor must declare that she or he can provide the applicant with financial support and accommodation for the first two years after arrival if necessary.<sup>181</sup>

The dependent child policy applies to children up to 16 years old of New Zealand citizens and residents and Australian citizens living in New Zealand. However, if the dependency criteria are still met, the entitlement to apply under this category is for children up to 24 years old. The absolute numbers of granted residencies during the last 10 years were fluctuating between 650 in 2000/2001 and 1,114 in 2004/05.

To give close relatives<sup>182</sup> who are not entitled to apply for residency under any of the above described family sponsored categories the possibility to gain residency, a ballot system was introduced in 2002/03. Unlike in the other categories, the applicants in the Family Quota must be of good health. However, the usage of this category is negligible since it fell from 226 granted residencies in 2003/04 down to 11 in 2005/06. It is noteworthy that not only the number of grants of residency fell during this period, but also the number of applications.<sup>183</sup>

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<sup>181</sup> New Zealand Immigration (2006 k): p. 16-17

<sup>182</sup> These are: Parents, grandparents, siblings, children

<sup>183</sup> New Zealand Immigration (2006 j): residence decisions by year, residence applications onhand

## v. International/Humanitarian Stream

The International/Humanitarian Stream accounts for about 10% of the entire Residence Quota (4,500 annual grants of residence). This stream includes four main policies:

- The Refugee Quota grants residence to 715 UN refugees per year.
- Asylum seekers can be granted residence once they are guaranteed asylum in New Zealand.
- The Samoan Quota Scheme gives Samoans the possibility to apply for a ballot scheme.
- The Pacific Access Scheme gives citizens from different Pacific Islands the possibility to apply for a ballot scheme.

The *Refugee Quota* has consistently been filled each year since 1997/98. Applicants are refugees who are chosen by the UN High Commissioner for Refugees (UNHCR) and consequently do not apply onshore. The countries of origin often reflect regions where war and civil war have caused people to flee. This explains why Afghanistan, Iraq, Burma/Myanmar, and several African countries such as Sudan, Burundi, Eritrea and Ethiopia are important source countries. Once the refugees arrive in New Zealand, they are entitled to stay at the Department of Labour's Mangere Refugee Reception Centre in Auckland for six weeks, where they can improve their English skills and receive some resettlement preparation. Furthermore, quota refugees are entitled to further English classes as well as access to several resettlement programmes, of which help with housing is included. However, for all refugee related categories, there is a tendency towards poor performance on the labour market<sup>184</sup>.

Such stable development can not be seen in the case of refugees seeking asylum onshore<sup>185</sup>. The already relatively low number of asylum seekers in New Zealand, which may be influenced by New Zealand's isolated geographical position, has shrunk even further in recent years. The number of asylum claimants dropped from over 2500 in 1997/98 down to 317 in 2005/06. One explanation for this could be the introduction of advanced passenger screening in 2003<sup>186</sup>. The most common countries of origin of confirmed refugees were Iran, Iraq, Afghanistan and Sri Lanka. In the same period, the decision approval rate of such claims dropped from 22% down to 12%. In absolute numbers, in 2005/06, 68 asylum seekers were approved. The New Zealand system gives the right to seek asylum to any migrants, independent of the legal status on which they came into, and live in, the country. Once

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<sup>184</sup> Immigration New Zealand (2004 a): p. 12, 13

<sup>185</sup> Immigration New Zealand (2006 j): Refugees

<sup>186</sup> So is argued also in an article from the New Zealand Herald, 25.08.2006

approved, the refugees (called 'convention refugees' after the Geneva Convention for Refugees) are eligible to receive, like the quota refugees, an emergency unemployment benefit which is the same amount as the proper unemployment benefit available to any New Zealand citizen. The approved convention refugees, however, can apply for residency as well. Consequently, the number of residencies issued for convention refugees correlate with the number of approved asylum applications with a small delay. Residency was granted to 162 approved asylum seekers in 2005/06. During 1999/2000, 794 asylum seekers were granted residency. As an asylum seeker, a work permit is already accessible, but unemployment benefits are not<sup>187</sup>. This is important since the processing time, on average, is between four and six months<sup>188</sup>. Being a resident in New Zealand, however, gives the advantage of having the possibility to bring family members via the refugee quota category and, more importantly, via the family-sponsored stream. Asylum seekers are generally not entitled to English courses, whereas confirmed convention refugees are provided with free English courses. The English skills of migrants and their relatives in the two refugee categories tend to be lower than English skills of other migrants. However, within the refugee categories there are differences between geographical origins and between sexes, namely men tend to speak better English. Refugees from South Asia tend to be the most proficient in English.

Another aspect of the International/Humanitarian Stream is the Pacific Access Category (PAC) and the Samoan Quota. These categories developed out of old migration ties between New Zealand and the Pacific region. In the Samoan case, especially, political history plays a significant role, as New Zealand was a colonial power for Western Samoa after the First World War<sup>189</sup>. This colonial background explains both migration ties and also political tensions. Presently, both categories try to foster the special relationships between New Zealand and the Pacific states<sup>190</sup>, which profit from sending migrants to New Zealand by remittances and strengthened ties between the countries. For both categories, set quotas were not always fully utilised, which led to some changes in policy. Principally, via the two categories, 1,100 migrants from Samoa and 650 migrants from several Pacific Islands<sup>191</sup> can be granted residence. However, the policy changes as mentioned above made it possible to uphold any unused places for the following three years. This affected a higher number of residence grants than the quota alone would have foreseen during the last two years. Hence

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<sup>187</sup> Immigration New Zealand (2004 a): p. 12, 13

<sup>188</sup> Immigration New Zealand (2006 j): refugees – processing times

<sup>189</sup> Fischer 2002: p. 185-191

<sup>190</sup> Immigration New Zealand (2005 a): p. 71

<sup>191</sup> 250 from Fiji, 250 from Tonga, 75 from Tuvalu, 75 from Kiribati

1,482 Samoans were granted residence in 2004/05 and 1,330 the following year. Through the Pacific Access Category, 1,491 applications were confirmed in 2004/05 and 1,114 the year later<sup>192</sup>.

The preconditions for an application are different to the points based labour market system. The expected level of English capability is lower, but the applicant needs to have an offer of long-term employment (skilled or unskilled but with a minimum salary) and must be under 45 years old<sup>193</sup>. The points system, in comparison, does not require a job offer and applicants can be up to 55 years old.

### c) Comparison of New Zealand's and Germany's PLT Migration

There are several aspects which Germany's and New Zealand's permanent migration have in common. First of all, both countries are highly influenced by unrestricted migration flows with their specific partner countries. For New Zealand, this is Australia, and for Germany it is the European Union (with aforementioned restrictions for the 2004 accession countries). The main difference between these migration ties is the direction of the migration flows. Germany's migration flows with the old EU-members could be described as an exchange (with a tendency of more outmigration from Germany), whereas the ties with the new member countries are decidedly more one-way into Germany. New Zealand's migration ties with Australia are typified by the migration of relatively young people to Australia, but also the overall net migration between Australia and New Zealand leads more people to Australia than vice versa.

However, this negative net migration via the Trans-Tasman Travel Agreement is balanced by migration from other countries to New Zealand. The maximum number of grants of residency is partitioned into different quotas. The points system assisted scheme, which is designed to attract highly qualified migrants, successfully brings such migrants and their families into the country. The points system focusses on general skills, but also on especially needed skills by granting bonus points for national and regional skill shortages. Furthermore, there are two different categories intended to attract self-employed migrants. The labour market based schemes are complimented by family-sponsored schemes and by the International/Humanitarian Stream. With the last stream, the focus is not on attracting highly skilled persons but on upholding political ties with countries in the Pacific region and, arguably, to satisfy also the demand for workers in unskilled occupations also.

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<sup>192</sup> Immigration New Zealand (2005 a): p. 62-63

<sup>193</sup> Immigration New Zealand (2006 k): p. 21-23



Germany's migration policies do not demonstrate such implementation of different streams into an overarching policy. The migration flows to Germany are highly dependent on historical facts. For instance, the *Spätaussiedler*-policy is based on the *ius-sanguinis* definition of citizenship in Germany. However, this stream seems to be used less from year to year, as the quota of 103,000 migrants per year has not been reached since 2000. A similar decline in usage can be shown for the Jewish Russians policy. A labour market based migration, as seen in New Zealand, does not exist and thus makes EU internal migration not only an unrestricted one but also the only labour market based migration policy to Germany.

Furthermore, both Germany and New Zealand are experiencing a remarkable decline in numbers of asylum seekers. This situation is also evident throughout most other OECD countries<sup>194</sup>. One reason for this may be the tightening of asylum regulations in these industrialised countries. However, New Zealand offers the possibility of settlement to 750 UNHCR assisted refugees per year (alongside its confirmed convention refugees). Once they have gained residency, their status is secure and they have unfettered access to the New Zealand labour market. A working permit is also accessible for asylum seekers, whereas this is not offered for Germany's asylum seekers. During the processing time, they are not entitled to employment (except after a waiting period of one year) and after confirmation of their refugee status, they are entitled to work. However, after three years their refugee status can be revoked if the situation in their country of origin has improved.

### Family Reunification

The New Zealand system grants family based residency through two different substreams. First of all, family members may be included in application issues in the labour market based categories. Secondly, there is an extra family sponsored stream, which makes family reunifications possible. In both cases, the grant of residency leads to full access to the labour market and welfare system. In particular the family sponsored stream uses waiting lists as the policy is implemented into the broader migration policy via a 30% quota of the entire residence policy. A provisional solution to avoid waiting lists is provided by the possibility of family reunification on a temporary basis.

Family sponsored regulation in Germany lacks such quotas. On the contrary, migrants have the right to join the sponsor. The nature of labour market access, however, is dependent on the sponsor's status. Basically, family members joining third country nationals are faced

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<sup>194</sup> UNHCR, 2006: p.2,3

with the most restricted access to the labour market. In the German case, it is not possible to apply for an unlimited family-sponsored permit offshore. The difference between permanent and temporary permits is quite fluid. The grant of a permanent permit is dependent on the time that the applicant has lived in Germany with a restricted permit and if other preconditions are also fulfilled and it leads to the right of the grant of a *Niederlassungserlaubnis*. Inadequacies in the statistical data make it impossible to determine how many migrants are included in which group and have free access to the labour market.

### The Role of Language

Depending on the migration category, German policies concerning permanent and long-term migration have different requirements regarding German language skills. Applicants via the *Spätaussiedler*-policy need to prove their ability to hold a conversation in German. Since 2005 this has also been the case for their relatives who are attached to the application. Before migrating to Germany, these skills need to be confirmed. This is different to the family sponsored policy, where German skills do not need to be verified until the application for a permanent residency is issued. In the case of refugees, no German language skills need to be proven. However, since 2005, migrants can have access to language courses. The role of language skills is discussed in the context of grants of citizenship and integration courses. These integration courses also include two language courses. Foreigners who are granted a temporary permit for over a year, as well as those who are granted permanent residency, are entitled to partake in these integration courses. In special cases, attending these courses can be made obligatory.

New Zealand's regulation shows another perspective towards language skills. These are prerequisites for any application for residence. Every applicant (excluding refugees) over 16 years old needs to prove that they have sufficient English skills. The proof needs to be attached to the application; family members have the possibility to pay for English classes in advance, which they take once they have arrived in New Zealand.

### 3. Integrating Migrants

In the PISA study on the performance of migrant students in the host country's education system, the OECD state that:

*State immigration policies* establish the number and categories of immigrants accepted into the country and the types of residence and work permits granted. *Integration policies* concern the measure taken to promote the incorporation of immigrants in society. Both types of policy can be expected to influence the outcomes of immigrants and their offspring in the receiving country. Immigration policies set the stage for integration.<sup>195</sup>

Established policies in this stage of integration can not be understood as part of coherent "incorporation regimes"<sup>196</sup>. On the contrary, policies that affect the incorporation of migrants are often highly dependent on historical developments and policy areas that – at first glance – are not connected with migration topics. Hence, as Zimmerman states, "countries 'possess a patchwork of multidimensional frameworks' across different institutional sectors [...] These include the *state sector*, the *market and welfare sectors* and the *cultural sector*."<sup>197</sup> In another logic, such a patchwork might also produce the disintegration of citizenship in a political, social and legal dimension, which is obviously the case for Germany<sup>198</sup>. This has an impact on resentment host populations may have toward migrants, as an international study has discovered<sup>199</sup>.

This chapter compares the different aspects of this patchwork of various frameworks. The German Federal office for Migration and Refugees regards proficiency in language skills, education and employment as deciding factors for integration.<sup>200</sup> Hence, in the following section focus is set on labour market performance of migrants, and also the performance migrants show in the education system (where language barriers could be overcome more easily). This section will also centre upon the integration into the welfare system and the

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<sup>195</sup> OECD (2006 b): p. 18

<sup>196</sup> Freeman in: OECD (2006 b): p. 19

<sup>197</sup> Freeman in: OECD (2006 b): p. 19

<sup>198</sup> Birsl, 2005: p. 257

<sup>199</sup> Birsl, 2005: p. 260, 261

<sup>200</sup> BAMF, 2005: p. 69

accessibility and role of citizenship for migrants. However, these different topics cannot be discussed in an overarching manner, so the focus will be set on specific indicators which will give the reader a basic picture of the areas that allow for comparison between the two countries.

### 3.1 *Incorporation into Welfare Systems*

The design of a welfare system can influence migration-related topics in several ways. On the one hand, being included into the system can give the migrants a feeling of being welcome and, more importantly, it gives security in a time when the migrant experiences many uncertainties in life. On the other hand, the design can influence public discussion about migration. For example, the widely criticised issue of "migration into the social net" can only be seen as a concern if there is such a social net and if it grants benefits to migrants. Furthermore, the design of a social net might also have an impact on the migration regulation since, by potentially excluding unhealthy applicants from any entry options, the grant of benefits to these migrants can be avoided *a priori*.

In this context, it would be too extensive to name all schemes that the two welfare systems provide, as there are many minor policies as well as several policies that cannot be found in specific welfare categories but do work in their favor, such as tax alleviations. Hence, in the following section, the coverage of sickness, old age, accidents, unemployment and access to tertiary education in New Zealand and Germany will be compared.

#### a) Germany's contribution dependent Incorporation

Germany's welfare system employs several methods for the distribution of grants. First of all, social insurances must be mentioned. These are financed by employers and employees alike (excepting insurance for workplace accidents). Contributions are paid for the wage up to a specific amount, which was around 41,000 € per year for health insurance in 2006. The health insurance is also financed by students and retired persons, and they secure medical care for the insured and their families. Furthermore, these social insurances hold up a standard of living in case of invalidity, unemployment, retirement and long-term care (with cut backs). The grants from both unemployment and retirement insurance are dependent on the contribution. Social insurances are relatively open to any migrants with work or student permits. As soon as a person starts a job, he or she pays automatically for insurance, and in

turn is insured. However, some of the branches of insurance demand a certain waiting time (for example, as regards retirement, unemployment) before one can receive benefits, whilst in other cases payments are dependent on the amount of money paid into the system (retirement, unemployment for example). This implies that migrants who pay into the system only for the short-term might not be entitled to any payments from unemployment or retirement insurance regardless of their contributions into them.

The most important means-tested branch of the welfare system is the *Arbeitslosengeld II* which can be seen as an equivalent to NZ's unemployment benefit (but which also covers sickness costs). It was recently combined with the *Sozialhilfe*, which is a supplementary benefit open to migrants with legal status (§30 SGB I, §17, 19 SGB XII). However, the use of this supplementary benefit can lead to the loss of the permit (§55 II 6 AufenthG). There are judicial differences between the effect of being granted *Sozialhilfe* or *Arbeitslosengeld II*. The latter can lead to the loss of an entitlement of a further permit, whereas the former can lead directly to the loss of the (restricted) permit. In 2005, 555,000 foreigners in Germany used a supplementary benefit, of which 454,000 used the *Arbeitslosengeld II*.<sup>201</sup> The benefits that asylum seekers are entitled to are a reduced version of the supplementary benefit.

The second most important means-tested welfare solution in Germany is the *BAFöG*, which gives allowances and loans to students to ensure that they can maintain a minimal living standard. Those entitled for this scheme are German citizens, EU-citizens living permanently in Germany, confirmed refugees and other migrants who are themselves, or who possess at least one parent working in Germany for at least three to five years (§8 BAFöG)<sup>202</sup>.

The *Kindergeld*, whereby parents receive a certain amount of money for each child they are raising until the child is financially independent from the parents or turns 25, and (until recently) free tertiary education are examples of universalistic methods in Germany's social system. The entitlement for the former is dependent on an *Aufenthaltsgenehmigung* of one of the parents<sup>203</sup>, whilst the latter requests an *Aufenthaltsgenehmigung* to study, but this is not needed by EU- and EEC-country nationals and their relatives.

The situation is precarious for undocumented workers. They can not be insured in the social insurance system, nor can they receive any benefits since they do not have a valid permit. Theoretically, they would be entitled to the coverage of health costs like asylum seekers are. However, this is not particularly helpful, as the consequence of seeking such coverage may be the checking of the validity of the migrant's permit, leading to their

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<sup>201</sup> Bundesministerium des Innern (2006 b): p. 141-145

<sup>202</sup> Bundesministerium für Bildung und Forschung (2005): p. 8

<sup>203</sup> Landesamt für Besoldung und Versorgung Baden Württemberg, 2006

deportation. Consequently, irregular migrants are forced to find ways to slip through the system, such as by borrowing health insurance cards<sup>204</sup>.

#### b) New Zealand's Fragmented Incorporation

New Zealand's welfare system is less bureaucratic and exhaustive than the German model. It consists of several strands which cover all common risks in life. The public health system covers the costs of any necessary medical treatment, and is financed by the state. Users of the public health system are all permanent residents of New Zealand and migrants whose permit is issued for longer than two years. That is, all migrants staying in the country on a permit for less than two years need to pay for their own health insurance despite the fact that they are financing the public scheme via payment of taxes. This design might be one reason why health characteristics play an important role for most residence substreams. Most permits issued for longer than a year have a mandatory health assessment as a precondition. Indeed, many New Zealand newspapers show the tendency to criticise the government's residence programmes because of the costs that migrants' health problems cause. In this argument, the costs that ineligible individuals inflict on the health system are portrayed as the taxpayer's loss and a burden on New Zealand society<sup>205</sup>.

Furthermore, there is a superannuation scheme which secures a basic standard of living after the age of 65. Entitlement in this case is dependent on having lived in New Zealand for more than ten years before being granted the payments. However, since most migration schemes have a maximum age boarder of 56, and the majority of migrants arrives at an earlier age, most migrants will be entitled to benefit from this scheme.

There is also the Accident Compensation Corporation (ACC), which provides "personal injury cover for all New Zealand citizens, residents and temporary visitors to New Zealand."<sup>206</sup> Consequently, any person in New Zealand, independent of their legal status, is entitled to benefit from the ACC scheme in the event of an accident.

The unemployment benefit – a means-tested payment – secures a minimal standard of living for the unemployed. In order to receive any payments in the case of unemployment, one has to have lived for at least two years in New Zealand before the entitlement starts, but in general, long-term migrants do have the possibility to receive payments<sup>207</sup>. Regarding the

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<sup>204</sup> Stobbe (2004): p. 117-126

<sup>205</sup> e.g. The New Zealand Herald, 16.07.2006, 01.09.2006, 09.10.2006

<sup>206</sup> ACC, 2006

<sup>207</sup> Work and Income (2006), p. 3

situation of quota refugees and confirmed convention refugees, there is a emergency regulation which grants the same payments as the unemployment benefit but no waiting period is necessary.

Tertiary education is not free for anybody, but New Zealanders, permanent residents holding residence for more than two years and Australian citizens can take out loans to finance their study and in some cases can get means-tested allowances as well. Immigrants who do not have New Zealand residency (or are Australian residents), however, have no access to the student loan and, in case they are not Australian, German or French<sup>208</sup> citizens, need to pay international fees which are decidedly higher than the national ones. Furthermore, some of New Zealand's schools accept international students and in so doing 'diversify' their funding through the procurement fees that these international students are paying.

#### c) Comparison of New Zealand's and Germany's policies

Both countries' welfare systems appear to cover the 'general risks of life'. However, their welfare solutions are quite different. While Germany focuses on social insurance, which offers benefits only to those who have contributed to the scheme, New Zealand's system is more universalistic as health, unemployment, accidents and retirement are state financed and grant the same benefits.

Germany's insurance system is highly dependent upon the permit and employment or the family status of the migrant. Basic coverage is guaranteed when contributions are paid. Consequently, a permit is insufficient for entitlement for social-insurance schemes. However, it is crucial for the universalistic and means-tested schemes. It is noteworthy that, nonetheless, a contribution period of one year is essential to gain benefits from unemployment insurance.

New Zealand's state financed schemes cover permanent residents in New Zealand, but 'short-term' migrants staying for up to two years are exempt from both the health and unemployment scheme. For the superannuation scheme, there is even a preresidence time of ten years. The grant of residence, or permits, plays a different role for different schemes. However, the state-financed character of the health scheme often results in a negative portrayal of immigrants in New Zealand media.

Tertiary education in New Zealand is seen as a market, and student fees differ from the legal status of migrants. So do entitlements for supplementary credit schemes. In contrast,

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<sup>208</sup> In the case of German and French citizens, only postgrad students have the possibility to pay domestic fees.

the German tertiary education area does not differentiate between the legal status of migrants, and supplementary credit schemes are open to some migrants.

### 3.2 *Education System*

Students' performance in the education system has been a highly discussed topic in Germany since the publication of the PISA 2000 and PISA 2003 reports. The reports compared 15 year old students' performances in reading, mathematics, science and problem solving in several OECD countries and OECD partner countries. In New Zealand, however, the reports did not result in anywhere near as much public discussion as they did in Germany. One reason for this may be the comparatively favourable performance of New Zealand students. In 2006, the OECD published a report using the 2003 data, in which the academic performance of students with and without a migrant background was compared at the international level<sup>209</sup>. The report differentiates between first- and second-generation migrants. This helps to specify which performance differences might be caused by migration itself and which differences occur between natives and pupils with migrant background who were taking part in the school system from the very beginning. How well a student does during his or her schooling time is crucial for their later success in the work force and their eligibility for tertiary education. Since the school systems in both countries are very different, it seems logical to use the data of the PISA Immigrant report, because the report is based on highly standardised data, which allows for comparison between the two countries.

#### a) Germany's Schooling Dilemma

The disadvantaged conditions in German schools for children with migrant background have existed since the guest worker era. However, correlating with the definition of most migration as being short-term in nature, only a strategy which helped the children to cope with their situation and to prepare them for going back was established. As Schierup/Hansen/Catsles describe it: "The long term legacy of such measures was not integration but the reinforcement of trends to social separation, combined with a high degree

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<sup>209</sup> The comparison includes the OECD countries Australia, Austria, Belgium, Canada, Denmark, France, Germany, Luxembourg, Netherlands, New Zealand, Norway, Sweden, Switzerland and the USA, as well as the partner countries Hong-Kong, China, Macao, China and the Russian Federation



of educational disadvantage for children of immigrants."<sup>210</sup> With such a background of policy intentions, the situation in the education system as the PISA studies describe it can be explained.

In Germany, both first- and second-generation migrant students perform decidedly worse than their native counterparts. Interestingly enough, second-generation migrants tend to perform even worse than first-generation migrants despite the fact that they have in most cases spent their entire school career in Germany. In this context, one explanation might focus on the different origins of the specific migration groups. While in the second-generation migrant sample, there is a relatively high proportion of comparatively lower performing Turkish students, there is in the first-generation sample a higher proportion of comparatively better performing students from the former Soviet Republic<sup>211</sup>. However, Germany's migrant students perform on average decidedly below the level of the native counterparts and worse than most subgroups in the international comparison. On average, second-generation migrant students scored 93 points lower than their native peers in mathematics testing, which is the biggest disparity that was found in any of the 17 compared countries. The picture is similar as far as literacy, science and problem-solving are concerned. In Germany, the scores for literacy and mathematical performance of second-generation are among the lowest of all compared countries<sup>212</sup>.

First-generation migrants, despite their good performance compared to the migration group that was already born in Germany, performed nonetheless decidedly below the OECD average (their native peers performed just under the average). 50% of native students performed better than the average of first-generation migrant students.

In both migrant groups, the situation is especially precarious for the lowest achieving students, since they perform decidedly worse than the lowest native performing students. The report sees this as an indicator that these students are especially in danger of suffering exclusion<sup>213</sup>. About 40% of Germany's students with a migrant background perform at a level under two in maths and reading. The levels range from one to six, six being the highest. At level two, students will leave school extremely undereducated. This not only means that it will be practically impossible for them to find skilled employment, but also that the skills they have gained are not sufficient to build a crucial basis for life-long learning.

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<sup>210</sup> Schierup/Hansen/Castles, 2006: p. 147

<sup>211</sup> OECD (2006 b): p. 32, 56

<sup>212</sup> OECD (2006 b): p. 37, 38

<sup>213</sup> OECD (2006 b): p. 42

On average, migrants whose language spoken at home is not the language of instruction show a remarkably worse performance. This is the case for both their performance in literacy and in numeracy. The report indicates that these migrants need special language support in order to be able to follow classes. The three student groups compared (native students, first-generation students and second-generation students) do not show significant differences as far as gender performance is concerned. Generally, male students perform better in maths than their female counterparts, however, the latter show a decidedly better performance in reading<sup>214</sup>. Regarding the most common countries of origin of migrant students in Germany, significant differences are evident here as well. Migrant students with Turkish origin perform worse than their native counterparts by over 20%. The difference is only about 10% as regards migrant students from the former Soviet Republic and Poland<sup>215</sup>.

In Germany, compared to native parents, the parents of migrant students show lower background characteristics as far as educational, economic, social and cultural status are concerned. The differences in Germany are the most striking found in any case country. However, even when one takes this socio-economic background into account, migrant students in Germany still perform worse than their native counterparts. The report mentions two possible explanations: Firstly, the role of language (language of instruction or other) spoken at home seems significant in influencing student performance. Secondly, the impact of school pupils' attendance was found to be a relatively important factor. Students in Germany with a migrant background are more likely to attend schools where a large proportion of students are also migrants or have a migrant background and where the schools have "less socio-economically advantaged student populations"<sup>216</sup>. Using the PISA 2003 data, Entorf and Lauk discovered that Germany's non-comprehensive school system, where students are separated depending on their academic ability, has an important impact on the lowest-performing migrant students from an underprivileged socio-economic background. Their thesis is: "non-comprehensive school systems magnify the prevailing educational inequality between students with a low parental socio-economic background and children from more privileged families"<sup>217</sup>. In the German school system<sup>218</sup>, pupils are separated into streams from about the age of 10 years onwards. Regarding the differences in performance between

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<sup>214</sup> OECD (2006 b): p. 46-51

<sup>215</sup> OECD (2006 b): p. 52, 53

<sup>216</sup> OECD (2006 b): p. 77

<sup>217</sup> Entorf/Lauk, 2006: p. 22

<sup>218</sup> This is the case in most *Länder*. However, in some *Länder* the visit of comprehensive schools is possible. This, however, was neither by the study of Entorf/Lauk nor by the PISA report considered.

students with and without migrant background, the effect of this early separation between high and low achievers gains an ethnic and social dimension of separation as well. It is all too evident that the situation is the worst for students from disadvantaged families with a migrant background<sup>219</sup>. As a consequence of this situation, students from migrant families are less likely to attend a *Gymnasium*<sup>220</sup>, and will therefore be less likely to attend university. For example, there is a clear underrepresentation of (Turkish) migrants in German universities and *Gymnasien*.<sup>221</sup> Also, in the vocational options which are available for adolescents without a *Gymnasium* education, children from a migrant background perform worse than their German counterparts. Out of this group, only 39% of foreign residents found an apprenticeship in 2001, compared to 68 % of Germans, and those apprenticeships found tended to be of a more low-skilled nature.<sup>222</sup>

Since the German school system is under the jurisdiction of the *Länder*, the policies to meet migrant students' special needs differ throughout the country. The PISA report on migrant students does not specify any *Länder* policies in particular. However, since the *Aufenthaltsgesetz* came into force in 2005, language support for all migrant groups experienced some regulation. For migrant students, specific language classes have been made mandatory within the school system since then.<sup>223</sup> Furthermore, some schools with large migrant populations can request further staff, although how much this helps to improve education is questionable, since teachers do not receive any preparation for teaching native speakers of foreign languages<sup>224</sup>. As a reaction to the PISA reports, the perspective of Germany's school systems has changed. In the *Land* of Schleswig Holstein, for example, they are strengthening their comprehensive school system.<sup>225</sup> Whether *Länder* such as Bavaria or Baden Württemberg, which do not have any experience with comprehensive systems, will follow this example seems unrealistic. However, it is still unclear whether a change to a comprehensive system will solve the problems faced by migrant students.

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<sup>219</sup> This effect is also criticised by Birsl, 2005: p. 248 and Schierup/Hansen/Castles, 2006: p. 155, 156

<sup>220</sup> A high school which leads to the entitlement of tertiary education

<sup>221</sup> Birsl, 2005: p. 247; Schierup/Hansen/Castles, 2006:p. 159, 160

<sup>222</sup> Schierup/Hansen/Castles, 2006: p. 160

<sup>223</sup> OECD (2006 b): p. 118-156

<sup>224</sup> OECD (2006 b): p. 148, 150

<sup>225</sup> Spiegel online, 16.10.2006 b

## b) New Zealand's Inconspicuous Migrant Students

In terms of the performance of migrant students in the education system, the New Zealand case can be found on the opposite side of the continuum to that seen in Germany. Together with Canada and Australia, New Zealand's students perform the best out of all the case countries. Indeed, all three groups of students in New Zealand perform well above the OECD average. This contradicts the argument that the difference between students' performance increases with a growing migrant population. However, in New Zealand there are still slight differences between students with and without a migrant background. Interestingly, New Zealand and Germany are the only countries where second-generation migrants perform worse than first-generation migrants in maths, sciences and problem solving<sup>226</sup>. Here again, one explanation might be the changing sources of origin of migrants in the two samples. Whereas first-generation migrant students may be - to a large degree - children of labour market migrants who were assessed via the points system, the parents of second-generation migrants met less restrictions when they arrived during the 1970s and 1980s. During that period no points system was in force and, in addition, there was high demand for low-skilled labour.

Around 20% of New Zealand migrant students performed below level two (as explained above) in mathematics and reading. Around 12% of native peers also failed to reach this level<sup>227</sup>. Focussing on the language spoken at home, the report shows some correlations between good performance and language of instruction coinciding with the language spoken at home. However, this difference is not significant in case of first-generation migrants<sup>228</sup>. In general, New Zealand's students follow the international trend in gender specific performance, that is, boys tend to outperform girls in mathematics whereas the situation is reversed as regards literacy. However, the New Zealand case shows one peculiarity: female second-generation migrant students outperform their male peers in maths.<sup>229</sup> Focussing on origins of migrant students, the most common countries of origin for New Zealand's migrants are Samoa, the UK and China. While pupils with a Samoan background perform decidedly worse

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<sup>226</sup> OECD (2006 b): p. 32

<sup>227</sup> OECD (2006 b): p. 42-46

<sup>228</sup> OECD (2006 b): p. 46-48

<sup>229</sup> OECD (2006 b): p. 49, 50

than their New Zealand counterparts, this is not the case for students from China and the UK. On the contrary, these two groups tend to perform even better than their native peers.<sup>230</sup>

This leads to the argument that New Zealand migrants' success in the education system is related to the socio-economic background of the students' parents. Indeed, there are only negligible differences between the socio-economic background of migrants and the host society. However, accounting the socio-economic background of students' parents, the differences in performance in mathematics remains relatively insignificant. This is also the case, when taking into account that the language spoken at home and the language of instruction often differ. In New Zealand, migrant students usually attend schools with a strong migrant population and the student-teacher ratio is higher for migrant students. However, no significant differences in performance can be shown between schools which are attended mostly by native students and schools with proportionately more migrant students.<sup>231</sup>

New Zealand's school system is generally comprehensive and educational inequalities are less pronounced between disadvantaged migrant students and privileged native ones, which confirms Entorf and Lauk's thesis about the influence of peer groups in school systems. In New Zealand, students attend the same school until the age of 15. After turning 16, students have the option of leaving school or completing their secondary education.

New Zealand's policies and practices to support migrant students with a non-English speaking background with their English skills were not included in the international PISA comparison. A study conducted for the Ministry of Education in 2003 describes the support of ESOL (English speakers of other languages) students as quite varied<sup>232</sup>. At both the primary and secondary levels, schools use different practices. Most schools however offer classes during which the specific migrant students attend special language training according to their skills. However, some schools offer specific reception classes, which have different duration and eventually merge with the mainstream classes. The intensity of learning depends on the level of English capability. Mostly, however, the migrant students attend normal classes. The importance of the education industry for New Zealand may play a further role to boost language support in the school system. Many international students visit New Zealand schools and pay fees<sup>233</sup>, consequently, there is will to support these students in learning the language of tuition.

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<sup>230</sup> OECD (2006 b): p. 49-53

<sup>231</sup> OECD (2006 b): p. 58-81

<sup>232</sup> Ministry of Education, 2003: p. 107-119

<sup>233</sup> OECD, 2004: p. 98

### c) Comparison of New Zealand's and Germany's Education Systems

The academic performance of New Zealand's and Germany's migrant students is very different. In Germany, the students perform relatively poorly compared to their native counterparts, which becomes more apparent when compared internationally. The opposite is the case for New Zealand's first- and second-generation migrants, despite of the country's proportionally bigger migrant population.

There are several possible explanations. The difference in performance between socioeconomic backgrounds of migrant students and native ones in Germany is very big, which is not the case in New Zealand. However, taking this into account and comparing exclusively students with the same socioeconomic background, differences remain large in Germany. The same is the case when the language of tuition does not coincide with language spoken at home. The effect of this seems higher in the German case. The different schooling systems in the two countries might have an additional impact. New Zealand's comprehensive system is attended by pupils aged from five years onwards and classes run from the morning to the early afternoon, whereas Germany's non-comprehensive system is attended by six year old pupils onwards and classes take place exclusively in the morning (at least in the first years).

Both countries have developed specific language support for non-native speakers. New Zealand has the longer experience in this, and non-native speakers of English can get special language support. New Zealand schools can also get special funding for the proportion of their non-native English speaking students. Nonetheless, the language help the schools offer differs. In Germany, there is no general policy regarding language support for non-native German speakers. There are some policies where schools can request extra staff based on a high migrant population. However, these staff members often lack specific training for teaching non-native speakers.

### 3.3 *Migrants' Settlement Outcomes*

The following section compares the performance of migrants in the labour market in Germany and New Zealand, which is a crucial part of their settlement outcomes. Migrants' labour market performance is an important indicator for social integration. Through work, people are in contact with other people and work also provides financial independence. As the *Süßmuth-Kommission* puts it: "Gainful employment enables immigrants to support themselves, helps establish contact with the domestic population and facilitates social and

cultural identification with the host society."<sup>234</sup> Social and cultural exchange are indeed facilitated by employment. If the incorporation of migrants into the labour market fails, this will likely undermine any integration efforts of migrants and their host society. Following another logic, if migrant employment rates are high, this might also reflect the success of the migrant selection process. Consequently, an indicator for the effectiveness of migration regulation (which is for at least 60% labour market oriented in New Zealand) is the migrants' labour market performance.

An indicator of successful integration into the labour market is a similar rate of employment between migrants and the host population. However, in the case of high unemployment for the entire population, it might be misleading to speak about any group's favourable labour market integration. In this case, native and migrant groups are struggling to find sufficient employment. Different unemployment rates may provide information about larger problems that some groups have to deal with. In New Zealand, for comparison, immigrants should not face big problems to find a job, as the unemployment rate is currently at around 4%.

#### a) Germany's Unemployment Concerns

In Germany, corresponding to the problems migrants face in the education system, the performance of many migrants in the labour market is quite poor. Since the German labour market statistics differentiate between foreigners and Germans, the following numbers do not regard all migrants but only those who so far have or could not take up German residence so far. Several important groups are not included in these numbers, such as most of the migrants who came into Germany via the *Spätaussiedler* regulations and the ones who had taken up citizenship by 2005.<sup>235</sup>

Firstly, the proportion of foreigners in Germany who are available for the labour force is decidedly lower than the labour-force proportion of Germans. This may be caused by a restricted access to the labour market faced by some foreigners, by the structure of the labour market in Germany, and also by the skills foreigners have and the skills accepted by employers<sup>236</sup>.

Secondly, the unemployment rate of foreigners in Germany is proportionally higher than the rate of their German counterparts. Foreign unemployment rate was 17.6 % in 2005

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<sup>234</sup> Independent Commission Migration to Germany, 2001, p. 217

<sup>235</sup> Data is derived from Statistisches Bundesamt (2006 c)

<sup>236</sup> Independent Commission Migration to Germany, 2001, p. 214

(or in absolute numbers, 672,903 people out of a labour force of 3,823,000 foreigners). The overall unemployment rate was 9.1 % in 2005 in Germany. Unemployed foreigners made out 13.84 % out of all unemployed people in Germany.<sup>237</sup> Under the group of foreigners, specific groups such as Turks are especially affected by unemployment. As Birsl points out, the risk of unemployment is the highest for foreigners whose origin is not in the EU-15. However, there is no data available that gives information about unemployment rates of important groups like confirmed refugees originating from the former Yugoslavia and other countries. First, there are differences regarding the employment sectors of the economy. The main differences can be found in the areas of retail, hospitality, mining and manufacturing industries, and public service. While foreigners are proportionally overrepresented in the first two areas, they are decidedly underrepresented in the public service. One explanation for this could be the accessibility for civil servant jobs exclusively for German citizens. Furthermore, the overrepresentation in the manufacturing industry could be seen as a legacy of the guestworker era. Part of this legacy however might also be the increasingly insecure nature of (especially low-skilled) employment in this industry. 47.9 % of foreigners in Germany are manual workers, which is quite high when compared with 27.8 % of Germans. The opposite is the case for the service sector: 60% of Germans are employed in the service sector (including civil servants), whereas 39% of foreigners have such jobs. However, this 2005 data must be seen in a temporal context. Previously, the differences were even larger, but the gap is slowly closing. Here again, differences remain stronger for specific migrant groups, such as *Spätaussiedler*, and migrants from Turkey and former Yugoslavia.<sup>238</sup>

Secondly, looking at self-employment rates, there are only small differences between Germans and foreigners. There are however differences in the types of self-employment. Migrants are overproportionally self-employed in the hospitality sector, which may indicate that this type of employment is the only option to obtain and sustain a job. It is noteworthy in this context that the income gained from self-employment for foreigners is lower than the income that self-employed Germans gain from their businesses. However, comparing the

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<sup>237</sup> Own calculation, data derived from: Statistisches Bundesamt (2006 c): p. 67-94

<sup>238</sup> Birsl, 2005: p. 254; The foreign population originating from Bosnia and Herzegovina, Croatia, Serbia and Montenegro makes out 415,500 people (Statistisches Bundesamt (2006c): p. 48), this is actually behind Turkey and Italy the third most important origin. However, recent studies do not focus on this important migrant group yet. Interestingly, 57.78% of these foreigners in Germany have jobs with social insurance contribution, Italians compare with a proportion of 31.7 % and Turkey with 25.98 %. One reason might be the different age structure of the migrant groups, however, further research is needed into that aspect.



incomes of self-employed migrants to the income of their employed counterparts, the self-employed have higher incomes.<sup>239</sup>

Thirdly, the proportion of workers whose income contributes into the mandatory social insurances, is comparatively low for the foreign labour force. The proportion is 57.24% for foreigners, and 67.5% overall. A further aspect is that proportionately, many foreigners are in a cycle of unemployment, which is very difficult to get out of. An indicator shows that some 26% of foreign households fell under the poverty line in 1998. In comparison, 11 % of German households fell beneath this line in the same year.<sup>240</sup>

The perception that German workers have of their migrant colleagues in companies is different along similar lines as the actual performance. While some EU-migrants, such as Italian and Greek workers, are barely perceived as foreigners anymore, there are perceived differences for workers without such a comparably secure legal status. In particular, Turkish migrants and migrants with Yugoslavian background are still confronted with dissociation from native colleagues, as a study surveying German, Spanish and British companies, found.<sup>241</sup>

#### b) New Zealand's Remigration Shadow

In New Zealand, there are two different statistics concerning the labour market outcomes of New Zealand migrants. First, Immigration New Zealand monitors short-term outcomes of all recent SMC and Business migrants with its New Migrant Follow-up Survey (NMFS)<sup>242</sup>. The disadvantage of this data is that migrants who were granted residency via the Family and International/Humanitarian stream are excluded with exception of refugees, who are the subject of a separate publication<sup>243</sup>. The second important statistics about migrants' labour market outcomes is information derived from the five-yearly Census, where employment status, annual income, place of birth and time spent in New Zealand are asked. Unfortunately, the last Census took place in March 2006 and most of the data is yet to be released. Hence, the usage of publications dealing with the older 2001 Census data is unavoidable and the numbers can be updated for only several migrant groups. The decrease in

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<sup>239</sup> Independent Commission on Migration to German, 2001: p. 221, 222

<sup>240</sup> Schierup/Hansen/Castles, 2006: p. 160

<sup>241</sup> Birsl, 2005: p. 260, 261; Whether the citizen status of most *Spätaussiedler* correlates with a positive perception s it is the case for the EU-citizen status of former guestworkers stays open.

<sup>242</sup> Departement of Labour (2006 c)

<sup>243</sup> Immigration New Zealand (2004 a)

the unemployment rate, which dropped about 3% between 2001 and 2006, is especially problematic, as is the fact that the main countries of origin have changed remarkably for some important streams. However, the 2001 data can still be used because the main aspects of migrants' labour market integration are relatively stable. In the following years until 2008, a Longitudinal Immigration Survey will take place, which will focus on settlement outcomes of in 2005 arrived migrants<sup>244</sup>. This will provide a lot of data regarding the settlement outcomes of permanent migrants.

Parallel to the introduction of the points system in 1991, the proportion of new migrants who received tertiary education increased and is decidedly higher compared with the host population. There are specific characteristics relating to regions of origin: migrants arriving from the Americas (46% with tertiary education) and Southern and Central Asia (44% with tertiary education) are the highest skilled migrant groups. Migrants from Europe, the Middle East and North Africa also tend to be well qualified<sup>245</sup>. Migrants from Oceania, including Australia, are the lowest skilled.

Consequently, migrants generally account for a higher proportion of workers in professional jobs, while a lower proportion of recent migrants work in blue-collar jobs. Apart from these trends, the industries where migrants work in are fairly similar compared to the host population.<sup>246</sup>

Nonetheless, migrants face a decidedly higher unemployment rate than the host population. These differences have diminished after about ten years, as most migrants can be described as performing as well as their native counterparts. In these first ten years, however, unemployment rates are higher and the probability of having a job that is equivalent to the migrants' qualifications is lower. The highest unemployment rates were faced by migrants from the Middle East (12%), Southern Asia, (around 12%) especially Sri Lanka (17%), Africa (12%, with the exception of South Africa and Zimbabwe) and the Pacific Islands (12%) in 2002, when the domestic unemployment rate was at 5%. For the case of migrants from several other Asian countries, the unemployment rate might not be very high, but the low labour force participation could be inferred as 'hidden' unemployment.<sup>247</sup> These countries reflect, to a large degree, the origin countries of refugees and the other International/Humanitarian substreams. Indeed, refugees are especially facing high

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<sup>244</sup> Statistics New Zealand, (2006 g)

<sup>245</sup> Statistics New Zealand, 2004: p. 2-4

<sup>246</sup> Statistics New Zealand, 2004: p. 11

<sup>247</sup> Statistics New Zealand, 2002: migrant employment

unemployment in New Zealand.<sup>248</sup> In this context, it is interesting to note that even though migrants originating from Southern Asia and the Middle East are comparatively highly skilled, they nevertheless struggle to find appropriate jobs.

One explanation for the comparatively high unemployment rates of refugees (employment rate of 16% after six months and 26 % after two years in 2003/04<sup>249</sup>) and of several Asian and Pacific Island migrant groups could be their language background. Even during the first years of settlement, migrants from the UK, Ireland and North America perform almost similar with New Zealand's host population, whereas it takes migrants without an English speaking background several years to catch up in term of unemployment rates and incomes are concerned. This is an observation that Winkelmann and Winkelmann made in their long-term study of New Zealand, which used the data from three consecutive censuses. As an outcome, this study found that high skills do not guarantee positive labour market performances. The New Zealand case shows that language skills play a very important role<sup>250</sup>. This finding may explain why the required English skills for most migration streams to New Zealand were tightened in 2003.

The New Migrant Follow-up Survey<sup>251</sup>, surveying labour market migrants who entered New Zealand after these changes, revealed that 95% of principal applicants and 65% of secondary applicants were working for pay or profit. This shows a higher labour market of these groups compared with the entire New Zealand population. 61% of these recent migrants earned as much as or even more than the New Zealand average. Judging from these numbers, labour market migrants are performing well in New Zealand's economy.

However, there are some concerns about discrimination by employers against non-native English speakers. Nationals from Asian countries, the Middle East and Africa seem to face this problem particularly, as a study surveying recent immigrants found.<sup>252</sup> Remigration patterns could be seen as another indicator of discrimination. For instance, migrants from Taiwan, Hong Kong, Malaysia, Singapore, Indonesia and China spent more than 75% of their residence time outside of New Zealand. This number, however, is only an indicator, and remigration patterns are influenced by many other aspects. All in all, after five years, about a

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<sup>248</sup> Immigration New Zealand (2004 a): p. 12, 13

<sup>249</sup> Immigration New Zealand (2004 a): p.12

<sup>250</sup> Winkelmann/Winkelmann, 2000: p. 56,57

<sup>251</sup> Department of Labour (2006 c). There are some issues as far as the response rate in the survey is concerned, which is why the representation of the recent migrant population can be accepted. Information about single migrant groups, however, may not be representative enough.

<sup>252</sup> New Zealand Herald, 14.09.2006

fifth of the long-term and permanent migrants to New Zealand left the country again. This trend seems fairly similar for all migrant groups from 1998 onwards (as the quoted survey started with the 1998 group)<sup>253</sup>. Out of these emigrants, there were barely any migrants who originally migrated via the International/Humanitarian stream; rather, most of them were granted residence via the labour market streams, especially through the investor category. While there are no peculiarities comparing male and female absence rates, there are peculiarities in family types. Two-parent families and couples without children are more likely to spend time overseas than is the case for single migrants and one-parent families. The New Zealand government is actively trying to cope with this issue in order to keep migrants for longer in New Zealand. They do so by changing aspects of return regulations for residents, introducing new conditions to specific substreams such as the investor category, and by changing the citizenship regulation.<sup>254</sup>

#### c) Comparison of New Zealand and German Cases

In Germany, migrants from most origins perform decidedly worse than their German counterparts. This is not only true during the first settlement years, but rather a fixed character migrants in Germany generally show. However, this is the case to a lesser extent for migrants originating from the EU-15 countries. Migrants from Turkey face the biggest problem of any main migrant group, despite the fact that many of them live as third-generation migrants in Germany. The relatively poor performance of people with a migrant background in Germany seems to be interdependent from the educational issues described above and the manual sector skills many migrants have. However, discrimination (largely indirect) plays an important role as well, hindering migrants from performing better or from obtaining jobs which fit their skills.

Judging from the statistics, New Zealand's recent migrants are much better integrated into the labour market. The points-based attraction of highly skilled workers led migrant groups into New Zealand which are often more highly qualified than the average New Zealander. After an acclimatisation period, most of these migrants show a similar labour market performance as their New Zealand counterparts. The skills migrants have lead in most areas to appropriate jobs. However, in the case of some migrants, especially from non-English speaking backgrounds, there are problems relating to finding appropriate jobs. For some of these migrants, the acclimatisation periods might be longer than the average ten years.

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<sup>253</sup> Departement of Labour (2006 a): p. 63-67

<sup>254</sup> Departement of Labour (2006 a): p. 87-88

Migrants with an English speaking background barely require any such acclimatisation period, which is characterised by lower employment rates and lower wages, at all. Refugees show the worst labour market performance.

To summarise, New Zealand's attraction of skilled labour migrants and the precondition of high language skills seem to lead to good performance in the labour market, especially when compared with the German case. Nonetheless, not all the permanent and long-term migrants stay in the country; on the contrary, New Zealand's migration patterns are extremely porous. The New Zealand government tries to amend this development through the planning of the residence programme and setting incentives in a number of policy areas to encourage new residents to stay longer.

### 3.4 *Citizenship and Migrants*

Citizenship regulations can influence such longer stays for example. Citizenship grants can bring the entitlement to rights reserved for citizens as the inner circle of a nation. The grant of citizenship mirrors the perception of migration as well. If migration is seen as an exceptional occurrence, an opening of a society's inner-circle, and also guaranteeing full political rights, may not be realistic. The following section, compares access to citizenship with emphasis on political culture and the different dependencies of electoral rights from citizenship.

#### a) Germany's Excluding Citizenship

The German design of citizenship is still closely bound to the idea of the 'ethnic German nation'. Consequently, the grant of citizenship follows the *ius sanguinis* principle, with the children of German citizens being granted citizenship by birth. This led to a very low number of naturalisations until the early 1990s. However, as indicated above, the 1990 legal changes in the foreigners law caused higher annual naturalisation rates, even if only small numbers of migrants who live in Germany were covered. Nonetheless, the number of naturalisations grew from 61,709 in 1994 to 143,267 in 1999. The following year could be characterized by a flow of naturalisation rates as a reaction to the legal 1999 changes. Back then, the adoption of some *ius soli* principles led to the possibility of dual citizenship for some groups (indeed, 44.9 % of the 2000 naturalisations led to a double citizenship). There were 186,688 people granted citizenship; 178,098 the following year.<sup>255</sup> After these two years, the

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<sup>255</sup> Schierup/Hansen/Castles, 2006: p. 149

rate slightly decreased; in 2004 127,153 people were naturalised. Another effect of the 1999 reform was the number of foreign children born in Germany halved: down from 95,216 in 1999 to 49,778 in 2000. The impact of Turkish migrants on the number of naturalisations is most important – in 2004 alone, a third (44,465) of all citizenships were granted to Turkish nationals.<sup>256</sup>

In order to be entitled to citizenship, foreign nationals living in Germany need to fulfill several preconditions, which are listed in the *Staatsangehörkeitsgesetz*<sup>257</sup> (§8-12b StAnG) (citizenship law):

- Eight years' residence<sup>258</sup> in Germany (some exceptions lead to entitlement after from five years onwards, for example taking part in an integration course or being a spouse or child of a migrant who is granted citizenship)
- Renunciation of the previous nationality
- Clean criminal record (at least no serious offence)
- Ability to support themselves and the family
- Basic German proficiency
- Declaration of allegiance to the German Constitution

Furthermore, a child born in Germany is granted citizenship as long as at least one of the parents is German or if one of the parents has been living in Germany for the last eight years. These children may hold dual citizenship and have to decide for one of them before their 23rd birthday (§ 4 StAnG).

As well as citizenship, the migrant is entitled to vote, to be a candidate in elections at all levels, and to work in any civil servant jobs. Without citizenship, only migrants from EU countries are entitled to vote – but is limited to the communal level. Hence, naturalisation plays a crucial role for political participation. Generally speaking, migrants without citizenship cannot take part in Germany's political life. Under these migrants, judging by the high numbers of naturalisations of Turkish nationals, are often persons who were living in Germany for decades or who were born in Germany. The exclusion of dual citizenship for most people, however, makes it often unfeasible to apply for German nationality; as a consequence, any political participation is denied. This leads to the conclusion that Germany's political culture is still characterised by the exclusion of foreigners who cannot meet the

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<sup>256</sup> Statistisches Bundesamt (2006 c): p. 49

<sup>257</sup> Bundesministerium des Innern (2006 a): StAG

<sup>258</sup> Residence in the sense of living in Germany permanently as a EU-citizen, Suisse, with a *Aufenthaltserlaubnis* or a *Niederlassungserlaubnis*. Gaps of up to six months have no influence upon entitlement. (§12b StAnG)

citizenship criteria. In spite of their integration into several other dimensions of citizenship, such as in the social sphere, the actual political citizenship which grants the right of political participation remains relatively exclusive<sup>259</sup>.

Furthermore, non-German nationals and non-EU nationals face several disadvantages in sponsoring their family to join them in Germany. This has a discriminating effect on migrants who have lived in Germany often for some decades.

#### b) New Zealand's Secondary Citizenship

In the year 2005, 25,481 migrants were granted citizenship in New Zealand. In the preceding years, the number was plus or minus 20 % of this total. It is relatively problematic to figure out the rate of at which migrants gain citizenship, since the entitlement occurs several years after taking up residence. However, annual naturalisation numbers of over 20,000 should cover more than 50% of an average annual new resident group. The two most important nationalities of origin were either China or the UK. The rates of taking up residence mirror roughly their actual importance for the New Zealand Residence Programme. In 2005, 3,466 Chinese and 2,602 British migrants were granted residence. South Africa and India are almost as important countries of origin. Generally speaking, the countries of origin were very diversified, since none of the important nationalities ever made up more than 15 % of all naturalised migrants.<sup>260</sup>

The grant of citizenship is regulated in the Citizenship Act 1977<sup>261</sup>, which was recently ammended in order to set incentives for migrants to remain in New Zealand for longer.<sup>262</sup> The general requirements for being granted citizenship are as follows (§7 Citizenship Act 1977):

- Indefinite entitlement to stay in New Zealand
- Having lived in New Zealand under such an indefinite entitlement for most of the time during the five years preceding the naturalisation<sup>263</sup>
- Good character
- Sufficient knowledge of the responsibilities and rights that are attached to New Zealand Citizenship

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<sup>259</sup> Birsl, 2005: p. 282

<sup>260</sup> Statistics New Zealand (2006 f)

<sup>261</sup> New Zealand Government, 2006

<sup>262</sup> Departement of Labour (2006 c): p. 90

<sup>263</sup> Altogether, the migrant must have stayed for at least 1,350 days in NZ during these five years and at least for 240 days in each of these years.

- Sufficient knowledge of English
- Intention of continuing residence in New Zealand

Children of New Zealand citizens and permanent residents who are born in New Zealand gain the citizenship by birth<sup>264</sup>, while children of others gain the most favourable status of the parents (§6 Citizenship Act 1977). This is a recent change, as until 1 January 2006 there was a purer version of the *ius soli* principle in force, which allowed citizenship to any child born in New Zealand.

The entitlement to register for elections is regulated in the Electoral Act 1993<sup>265</sup>. All New Zealand citizens and permanent residents are entitled to vote if they had lived in New Zealand for more than one year (§73, 74 Electoral Act 1993). However, any citizen who has not been in New Zealand during the three years preceding the specific election and any resident who has not been in New Zealand during the 12 months preceding the specific election are not entitled to vote (§80 I Electoral Act 1993). However, to run for parliament is an exclusive right for New Zealand citizens (§ 47 III Electoral Act 1993).

For New Zealand residents in most cases it is possible to work in civil servant jobs, however there are some exceptions as well, such as the positions in the Department for Defense.

### c) Comparison of New Zealand and German Citizenship

Over the last ten years, the German and New Zealand citizenship regulations have been slowly nearing each other. While the German system has adopted aspects of the *ius soli* principle to soften its hitherto rigid *ius sanguinis* design, the New Zealand system has been moving in the other direction. However, still in existence are several important differences, such as the period of residence in the country that leads to entitlement of citizenship. Loosely speaking, the New Zealand regulation expects candidates to have lived onshore for five years on an unrestricted permit, whereas the German regulation requests eight years, including all time spent in Germany without breaks for longer than six months per year. Consequently, the eight years in Germany could actually be shorter than the five years with a residence permit in New Zealand. While the German regulation makes a naturalisation dependent on the migrant's financial independence, New Zealand's regulation binds the migrant to stay onshore to some extent.

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<sup>264</sup> If the child is not born in New Zealand, citizenship is gained by descent from New Zealand citizens. This regulation does not include permanent residents. (§7 Citizenship Act 1977)

<sup>265</sup> New Zealand Government, 2006



The main differences lie in the participation in general elections. New Zealand's electorate is enriched by the votes of most of its permanent residents. In Germany, there is no right to vote for non-citizens in any election apart from some exceptions on communal level. However, there are no differences in right to stand for elections. In both countries, it is an exclusive right of citizens to represent the population on a parliamentary level. Nonetheless, the effect of the right to vote for many migrants might play an important role in political discussion.

#### *IV. Viability of New Zealand's Regulation for Germany*

New Zealand and Germany show several common aspects which make it possible to test the feasibility of a New Zealand's migration regulation for the German model. Firstly, the electoral systems are very similar, with the effect of a multiparty parliament and coalition governments. New Zealand's and Germany's demographic development have common aspects, with the difference being that in the German case the effect of an ageing population and the consequent threat of future labour shortages seem more drastic. Both countries have free movement patterns with a larger entity. For New Zealand this is the Trans-Tasman Agreement with Australia, for Germany the EU(-15). In both cases, these relationships influence the net migration to a remarkable degree. New Zealand introduced most aspects of its current migration schemes in 1990, when the country suffered from high unemployment rates, to a comparable extent as the current situation in Germany. Furthermore, the exploration of New Zealand's migration system could enrich the academic discussion, since the New Zealand model is a relatively under-researched field in the German discourse on migration.

These factors make it very interesting and pertinent to test whether aspects of New Zealand's migration regulation could be worth adopting for Germany. In order not to be misled by several positive or negative outcomes in some aspects, a broad research design was chosen. In the following section, the different policies which were compared shall each be evaluated on their suitability for Germany.

#### *Political debate about Migration*

Migration is a highly politicised topic in every country. However, the chief difference between the New Zealand and German party landscapes is that none of New Zealand's parties

question the necessity of future (economically-oriented) immigration. This consensus regarding the framework led to a continuation of the migration schemes independent from changing governmental parties. In the German case, there is no such consensus about the necessity of migration. From the outset, this may endanger any tendencies towards opening the country for economically-oriented migration. It is questionable whether emphasising labour market based migration adds new barriers for low-skilled migrants and refugees to obtain access to the country. An argument against this concern is that there are only two main migration channels in Germany – one is to seek asylum, and the other is through family-sponsored streams. The lack of a labour market oriented channel adds a certain amount of pressure on these two channels, which results in the introduction of even higher barriers for these schemes. By introducing a scheme concentrated on high skills, pressure is taken off the already existing schemes, which could bring new options for both lower skilled people and refugees alike.

However, in order to react appropriately to the labour supply gaps which are likely appear in the coming years, a well established system of schemes is required, to try to fill these gaps with skilled migrants. Whether this will occur before gaps in the labour market become too big is mostly dependent on the parliamentary parties, especially the CDU/CSU, since the two other important stakeholders – trade unions and employers – already request the move towards a skill-oriented attraction of migrants from third countries.

### *Restricted Migration*

New Zealand's restricted migration schemes have various intentions and lead to high migration flows. First, there are the student schemes. Through these schemes, schools and universities become more international, which leads to the exchange of perspectives and skills and quite often the international students help to finance the institutions, since they pay considerably more fees than domestic students.

Secondly, there are extensive working holiday schemes. Through these schemes young people from all over the world are able to gain relatively unbureaucratic access to New Zealand's labour market, where they supply typically low-skilled labour for short terms, since the ostensible intention of the scheme is travelling the country.

Thirdly, there are possibilities to gain a restricted working permit for specific jobs and jobs which no appropriately skilled New Zealanders. As for the student and the working permits, there are also schemes which intend to smooth the transition between different status the

migrants have, namely via the Study-to-Work and the Work-to-Residence schemes. These schemes are complemented by a scheme for self-employed migrants, which also provides the possibility of smooth transition into a residence scheme. Recruitment of a migrant can lead to a labour market test, which decides whether they will obtain a work permit. However, these labour market tests are automatically waived if the migrant's job is in a skill shortage area. There are two twice-yearly reassessed skill shortage lists: the Long-Term Skill Shortage List gives information about nationwide lacks of labour supply, and the Immediate Skill Shortage List works on a regional level. For the New Zealand case, restricted permits play an important role as an entry point for longer-term residence. Over 80% of new residents were migrants under restricted schemes beforehand.

In Germany, labour shortages in the agricultural, hospitality and tourism sectors are satisfied by seasonal worker schemes. However, it is questionable for how long these schemes will work, because most partner countries reach the stage of free movement in the EU in the next few years. At present, it is not clear whether the unrestricted travel between these countries and Germany will affect sufficient labour supply in low-skilled sectors, as is the current case in Britain. However, the Central European countries have a similar demographic development as Germany, and will arguably catch up as regards wages. Both aspects could have a flattening effect for the migration patterns between Germany and its eastern neighbours. The start of working holiday schemes with more countries could ease this development, even if it is not realistic that Germany attracts proportionally as many working holidaymakers as New Zealand does. For many of these migrants, the rationale of improving English skills and lifestyle plays an important role in choosing New Zealand, whereas German skills and life in Germany might not be quite as appealing for such high numbers of young people. Nonetheless, such schemes play an important role to awaken the interest in the country and to strengthen their German language skills, which will be required if they try later to migrate to Germany.

An opening of Germany's school system for education-migrants and a further opening of Germany's tertiary system might be a feasible aspect to adopt from the New Zealand model. Fortifying the opening of the schools for international students was also proposed by a recent German Ministry of Internal Affairs evaluation on migration law.<sup>266</sup> Since 2005, Germany's system allows third country nationals who graduated in Germany to find work after completing their studies. At the moment, job offers to these graduates are still labour market tested, which results in low success rates of finding a job. This is not only caused by

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<sup>266</sup> Bundesministerium des Innern (2006 b): p. 42

the surplus of Germans who could do the job, but also by the bureaucratic and time effort that goes with a labour market test. Free access to the labour market could result in a higher success rate of this regulation and could keep high-skilled migrants in the country who went to university in Germany and who might already be well-integrated into society.

Also, other schemes that try to attract high-skilled migrants still make jobs accessible after labour market tests. The introduction of national and regional labour shortage lists could be used to avoid many labour market tests in areas such as information technology (even if the labour market test cannot find German or European applicants in this area regularly, the test still needs to be done). In order to entice migrants who are skilled in demand areas to come to Germany for a restricted time, it is important to offer a favourable permit with labour market access for their partners as well.

Similarly, a loosening of the preconditions self-employed migrants need to meet may increase the success of attracting such migrants to Germany. At present, the German regulation sets the level of the intended business so high that only a very low number of migrants are able to set up a business at all. It seems reasonable to lessen these preconditions to some extent and to monitor the businesses during, for example, three to five years, as it is the case for self-employed migrants to New Zealand. Furthermore, there should be schemes available that allow migrants to gain a residence permit after a short time, instead of requesting the migrant to set up the business on a temporary permit base, which may also cause some reluctance linked to uncertainty.

### *LongTerm and Permanent Migration*

New Zealand's Residence Programme balances emigration patterns of the domestic population and offers 60% of its unrestricted permits to high-skilled migrants, a further 30% to family-sponsored applicants and a further 10% to International/Humanitarian migrants. The most important substream for the high-skilled labour market migrants is assessed by a points system. In this system, migrants gain points for characteristics, which are evaluated to lead to an easier integration into the labour market. High achievers and migrants who are skilled in labour shortage areas are favoured by this system and are therefore very likely to be granted residency via this stream. For the majority of these migrants, the settlement outcomes are positive and they find work in areas in which they are skilled at. All in all, New Zealand's points system seems to help the country gain high-skilled migrants who are easily integrated. This attraction of high-skilled migrants has also a familial dimension, since immediate family

members can be included to the application. Sufficient English language skills are a precondition for any primary applicant, although attached family members can satisfy this request simply by prepurchasing English classes in New Zealand. The system is reviewed regularly and slight changes are made from time to time. In some cases, these small changes cause larger changes and make the system less transparent. For example, because of points for work experience are now only granted to nationals from specific countries.

The family sponsored substreams try to grant residence preferably to immediate family members, however there are also possibilities for the wider family such as siblings and parents. The most important substream under the family sponsored ones is the one for partners. The aim group of New Zealand's partnership substream is relatively broad. The sponsor does not necessarily need to be married or to have a civil union with the sponsored migrant. However, the couple needs to be able to prove that they have been living in a stable relationship for more than a year.

The international/humanitarian substreams grant residence to refugees, either to an annual 750 refugees who are assisted by the UNHCR, or to confirmed asylum seekers. The latter group have the right to work during the procedure of asylum consideration. Furthermore, there are two substreams granting residence to nationals of some Pacific Island states. These substreams follow a political rationale, but also serve to fill especially low-skilled shortages in the labour market.

Whether Germany should or should not introduce such a points system in order to attract high-skilled migrants has been under discussion for several years now. In the context of Germany's demographic development, such a system seems rather necessary. However, as mentioned above, the introduction of a points system seems unfeasible unless all important parliamentary parties stand behind it, although it does at present have the support of German trade unions and employer organisations. The *Süßmuth-Kommission* illustrated how such a system may conceivably look in Germany. The points system designed in its report did not set German language skill as a precondition for application, but rather as an aspect points are granted for. This reflects the less international role of German in an appropriate way.

Furthermore, the commission's proposal granted residence only for migrants under 45 years old, whereas the New Zealand one is obtainable for applicants of up to 55 years. Other than that, the points system is designed similarly to the New Zealand one. It would grant residence to high-skilled migrants and their families, which could result in the need for regulation changes in other areas of Germany's migration regulation. If the family members of these high-skilled migrants are granted residence immediately, it might be problematic to

maintain the policy of granting exclusively restricted permits to migrating family members of Germans and migrants who are already living in Germany on an unrestricted basis. These migrants could be part of a family-sponsored residence stream.

Such a points system is also open to adjustments, which New Zealand's government is quite aware of. Recent minor changes in New Zealand's points system affected certain migrants quite significantly, for example the regions where many migrants come from. This fact could abate any qualms about migration developments which cannot be stopped once they have been implemented. The success of such a points system in Germany is not predictable, but should perhaps be started for at least for a small number of migrants in order to gain experience with the system.

Alongside this points system, which already includes many family members alongside the assessed primary applicants, New Zealand's family-sponsored substreams make it possible for a relatively broad definition of family members to migrate to New Zealand. Whether this could be implemented in Germany is, again, a highly politicised issue. However, it could be a pull factor for some high-skilled migrants. Through family-sponsored migration, incoming migrants are already in a social network and do not necessarily have long acclimatisation periods. Arguably, a broader definition of partnership for the migration regulation would also mirror social changes in Germany's society, where a stable relationship is not necessarily bound to a marriage or an equivalent legal framework anymore.<sup>267</sup> Even if a broader definition of family may not be realisable, a deciding aspect which makes Germany unattractive for potential migrants is the labour market access for joining partners of third country nationals. As in the New Zealand regulation, family members should be allowed open access to the labour market, because this facilitates swifter integration and independence.

Refugees in New Zealand are facing similar settlement problems as refugees in Germany, for example, they share a high incidence of unemployment. Nonetheless, asylum seekers in New Zealand can obtain a working permit, which allows them to earn their own living during the waiting period until a decision on their status is made. This can be seen as a fair and humane treatment, and allows them a chance to not be dependent on social benefits. The argument that this would attach an inappropriate pull-factor to the asylum option in Germany would be weakened if there was another migration scheme – such as a points system – that allowed entry into Germany and drew attention away from the asylum option.

It is also questionable whether an equivalent to New Zealand's Residence Programme is feasible for Germany. In the New Zealand case, the programme shows the intended

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<sup>267</sup> Ostner, 2001, p. 88-101

proportions of migrants between different schemes. Its extent is decided annually, and it leads to a transparent partitioning between different migration categories. All migrants included in the Residence Programme have open access to the labour market and face the same conditions to gain citizenship. However, it can also lead to waiting lists, especially in the case of the family-sponsored stream. If Germany introduced a points system, it should be coordinated with the other schemes which grant permanent residency, in order to allow an overview of Germany's migration patterns. Furthermore, it may help to make the conditions under which such an unrestricted permit is issued more cohesive.

Regarding the role of English language expectations for New Zealand's migration system, the role of German language for German migration regulation is not transferable, seeing as German is not as widely spoken as English. In 2005, Germany introduced a nationally organised policy of language courses. However, it is the question whether language is indeed the most important precondition for integration, or whether the actual facilitators of integration are access to the labour market and good qualifications (which are also accessible for migrants' children).

New Zealand's possibility for secondary applicants to prepurchase English language courses instead of proving English language skills before arriving could be combined with the recently introduced integration courses in Germany. This could gain points for migrants in the points system if language skills are not a precondition for an application. It could also be useful for other German substreams. For example, such a possibility of prepurchasing could be used for migrants who come to Germany as *Spätaussiedler* or are part of a migrant's family. However, as indicated above, it does not seem to make sense to set good German language skills as a precondition for migration to Germany. This would diminish the number of possible migrants dramatically, since outside of Europe it is not very common to learn German as a foreign language.

### *Integration of Migrants into the Welfare System*

In both New Zealand and Germany, migrants are granted some form of "social citizenship". This is most obvious in case of the important welfare policies. The longer a migrant lives (and works) in either of the countries, the more benefits he or she is entitled to from the respective welfare schemes. However, the two countries' welfare systems are set on rather different paths, which makes it not particularly feasible for Germany to adopt aspects of New Zealand's regulation. Arguably, Germany's social insurances incorporate migrants –

especially the ones with restricted permits - even better than in New Zealand. The migrants are integrated into the system as soon as they contribute to the system. In New Zealand, short-term migrants contribute into the system via taxes, but they can gain barely any grants from the system.

Despite their different design, the welfare systems of Germany and New Zealand are both held to be an important pull-factor in public discussions. However, at least in the New Zealand case, this argument does not seem to be very stable, since many of its migrants come from nations which have equivalently supportive welfare systems, and lifestyle seems to be the deciding pull-factor for New Zealand's migrants.<sup>268</sup> However, this is hardly mentioned in public discussion.

### *Migrants' Integration into the Education System*

It has been shown that New Zealand's system manages to integrate children with a migrant background relatively well. This might stem from several reasons not related to the actual education system itself. For example, the socio-economic background of migrant children compares to the socio-economic background of New Zealand's general population. Another factor might be that in many cases, children with a migrant background learned English in school before migrating, or they even come from an English speaking background. However, as the OECD study showed<sup>269</sup>, the language spoken at home and the socio-economic background of a student, plays an important role in their performance at school. Nevertheless, there are other important school-based factors that influence the students' performance heavily. Presumably, New Zealand's school policy of offering special English classes for migrant students with problems in English and the comprehensive school system help migrant children catch up with native students' language skills.

In the German model, students with a migrant background tend to perform considerably worse than native students. The two main aspects affecting migrant students' performance in Germany are comparatively poorer socio-economic backgrounds and as migrants in Germany are in most cases non-native German speakers. Nevertheless, an OECD study found that even when these factors are taken into account, there is still a significant performance difference in Germany between students with and without a migrant background.

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<sup>268</sup> OECD (2004): p. 98; Department of Labour, (2006 a): p. 90

<sup>269</sup> OECD (2006 b)



These differences can partially be attributed to the non-comprehensive school system and the relatively unregulated handling of support for non-native German speakers in German schools.

It seems unfeasible for Germany to change its school system to a comprehensive one. This may be difficult first of all because the matter is decided by the individual *Länder*, and *Länder* like Bavaria and Baden Württemberg have been known to show a distinct distaste for comprehensive school systems. Nevertheless, further research should be made to discover whether or not existing comprehensive schools in some *Länder* (such as in Lower Saxony) show different migrant student performance patterns. Schleswig Holstein for example is considering a change in direction towards a comprehensive school system. Secondly, there are some countries with comprehensive school systems, where students with a migrant background perform worse than their native counterparts. In these cases, a better supply of German language teachers for all student groups could help to improve the performance of students with a migrant background.

Furthermore, if no change to a comprehensive system is possible, better possibilities to change between the school streams might lessen the peer effects of the German school system, where migrant children are attending specific schools in high densities.

#### *Performance on Labour Market / Settlement Outcomes*

Poor settlement outcomes can have effects on different levels. First they can lead to the loss of the attracted migrants, which might correlate with a loss of high skills, a loss of migration networks and a negative impact on the country's reputation as an attractive place to live. Hence, Immigration New Zealand is doing extensive research into the settlement outcomes of its new residents.

The New Zealand case shows generally favourable settlement outcomes for the new residents. However, there are differences between certain migrant groups. The differences could be characterised by the migrant's native language. If they are English native speakers, migrants are more likely to find well paid jobs which reflect their skills. In some cases, acclimatisation times seem to fall away. This is different for speakers of English as a foreign language. While European migrants tend to need some acclimatisation time to reach the jobs suiting their skills and reaching equivalent salaries with New Zealanders, some migrants from Asian countries need considerably longer to obtain jobs suiting their skills. After ten years of living in New Zealand, most migrants' labour market performance is no longer different

compared with New Zealanders' performance. However, there is a loss of new residents over time. Between 10% and 20% of new residents have left New Zealand after about five years, which mirrors the flexibility of long-term migration patterns, and is not necessarily the consequence of bad settlement outcomes.

The overall picture is different for Germany. Inhabitants with a migrant background show a considerably worse labour market performance, which is observable in the high unemployment rates and a concentration of manual labour. Some migrants need more time to acclimatise, while others never reach comparable labour market outcomes as the native population. Even some second- and third- generation Turkish migrants continue to show low performances on the labour market on average. These differences are smaller than they were for the actual migrant group, but are still significant. This compares to the performance of students with a migrant background in the German education system. However, despite comparatively disadvantaged conditions for a successful settlement, many migrants remain in Germany. In 2001, about 40% of all migrants had lived in Germany for more than 15 years. Consequently, a large proportion of foreign children were born in Germany.<sup>270</sup>

In order to boost migrants' settlement outcomes in Germany, focus needs to be on a number of factors. The above mentioned issues in the education system have a particular cementing effect for social differences between Germany's inhabitants with and without migrant backgrounds. However, it might be helpful to research the settlement outcomes for recent migrants in order to find out where the obstacles are, which groups are facing particular problems, and how the acclimatisation process can be improved. In this research, all substreams of the migration regulation need to be taken into account. This should play an important role for a possible implementation of a points system as well, in order to optimise it for the German context.

### *Citizenship*

New Zealand's and Germany's naturalisation regulation have been nearing each other in recent years. While New Zealand's migrants need to have lived in the country for five years without large residence gaps, Germany's regulation requests an eight years pre-residency period, but it accepts up to six months' gaps. Whereas Germany has changed its regulation in an *ius soli* based direction, New Zealand's movement lead in the other direction, thus the two systems are approaching each other on the migration spectrum.

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<sup>270</sup> Independent Commission on Migration to Germany, 2001,: p. 15

However, there remain two important differences. First, the German system provides the possibility for a double citizenship only in exceptional cases, such as young age and if the loss of original citizenship would lead to unreasonable hardship. Secondly, New Zealand's electorate is enriched as non-citizens may vote. This gives migrants a political voice, even if they are not entitled to be candidates themselves.

EU law forced Germany's election system to open up itself, allowing all EU nationals to vote at communal level. Other than that, there is no change in the German election regulation at any level. To extend the vote to migrants would be an important sign in Germany, indicating that the nation is on its way to officially accepting its migration history and reality. It would also prevent further marginalisation of migrants, arguably caused by their lack of the right to vote.<sup>271</sup> With the German *Melde*-regulation at communal level, a regulation in New Zealand, where one year of unlimited residence in the country entitles the migrant to vote - could be easily realised. Furthermore, the acceptance of double citizenship would mirror the temporary nature of migration and fully integrate all migrants into the public life of Germany.

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<sup>271</sup> Castles/Schierup/Hansen, 2006: p. 161, 162

## *Conclusion*

This thesis explored the feasibility for Germany to take advantage of the migration experience that New Zealand gained, in order to have broad parts of the population participating positively in a knowledge-based economy and to balance demographic developments. New Zealand's successful attraction of high-skilled migrants is complimented by their good integration into the labour market, education system, and political life.

In spite of numerous differences between the countries, there are some important similarities such as the electoral system, similar demographic developments, the membership of larger entities with travel freedom (EU for Germany, and CER - Closer Economic Relations - between Australia and New Zealand), fluctuating net migration rates, and peculiarities in the countries' economic and welfare performances. These factors give relevance to a comparison across numerous aspects relating to migration.

The study found several core fields where aspects of New Zealand's regulation could be adopted in the areas of restricted and unrestricted migrant attraction and integration. However, the precondition for such changes is a basic political consensus and recognition of the necessity and advantages provided by migration. So far, such a consensus is missing in the German political landscape.

A points system is a powerful mechanism for attracting high-skilled migrants. Such a system can be tested and developed on a small scale with minimal risk. In the long run, however, it should become an important part of a wider residence framework programme, which sets the attraction of high-skilled migrants and their families in proportion to family-sponsored, humanitarian, and other politically based residence substreams. More generous regulations for the migration of family members would not only give a fair possibility for migrants to achieve an equal family life as Germans have, but it would also heighten the attractiveness of Germany as a migration destination, since the desperately sought after high-skilled migrants cannot be successfully attracted without provisions for their families. However, it is crucial that these measures go hand in hand with policies that give migrants a fair chance in the education system and the labour market. Furthermore, giving permanent residents a voice in general elections might be one way to demonstrate respect for their importance for Germany and to combat their marginalisation.

The proposed political reorientation is crucial for bringing Germany back in line with the aims of the Lisbon Strategy; but just as importantly, it is necessary for ensuring a tolerant social climate in Germany. Further fragmentation of German society, not only along socio-

economic lines but also along ethnic lines, will aggravate and cement the disadvantages that many migrants already face in their life in Germany. This cannot be justified by any means when bearing in mind Germany's intolerant history.

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