THE THIRD GATE: NATURALIZATION LEGISLATION IN EASTERN AND CENTRAL EUROPE

DISSERTATION

Presented in Partial Fulfillment of the Requirements for
the Degree Doctor of Philosophy in the Graduate
School of The Ohio State University

By
Anna Shadley, B.A.

*****

The Ohio State University
2008

Dissertation Committee:
Professor Goldie Shabad, Adviser
Professor Michael Neblo
Professor Anthony Mughan

Approved By:

[Signature]
Adviser
Graduate Program in Political Science
ABSTRACT

Through citizenship laws, a state defines its population and identifies who belongs and who does not. This notion is intuitive, but how does a state decide who gets to be a member? Moreover, citizenship requirements vary dramatically around the globe. Thus, the central question of my study is this: why is it easier to become a citizen in some countries than in others?

Because the current understanding of citizenship issues is based primarily on analyses of the established democracies of the West, I expand the scope of these studies by investigating these issues in the post-communist Central and Eastern Europe. Many of these states are newly independent, allowing me to capture issues of citizenship at a founding moment for emerging democracies. They are addressing questions of nationhood and constitution-building for the first time in decades.

Once limited to places of transit migration, these states are now destinations for immigrants. Ethnic tensions, democratization, economic incentives, and newfound mobility are feeding migratory patterns. Yet these states are simply not accustomed to being terminuses for migration. Given their history and their present political and economic situations, they are poorly equipped to deal with these new demands.
I construct an analytical framework that remedies the lack of theoretical agenda in previous works on citizenship policy and law. My framework is composed of two differing perspectives on the central dynamics of naturalization legislating, one focusing on domestic factors and the other on international ones. My analysis of these approaches is informed by normative understandings of what membership should look like in liberal democracies.

My research combines cross-national analysis of data from 27 countries in Eastern and Central Europe with in-depth qualitative case studies of the Czech Republic and Slovakia. I single out these two countries for deeper research because they do not always follow the theoretical predictions. The multi-method approach I use enables me to first gain an understanding of the general patterns of the region before delving into an in-depth examination of particular cases.
Dedicated to Bradley.
ACKNOWLEDGMENTS

I wish to thank my adviser, Goldie Shabad, for her support, encouragement, and critical eye. Her patience and belief in me made this dissertation possible, as did her endless help in correcting grant applications. I also thank Tony Mughan and Michael Neblo as committee members who both jumped in when needed and devoted considerable time into helping my drafts progress.

Special thanks go to Clarissa Hayward, Kuba Zielinski, and Natalie Kistner for their early encouragement and thought-provoking discussions. Katja Michalak and Salomé Samii deserve particular praise for their tireless support and for listening to my ramblings as I thought things through. Salomé, in particular, was great at getting me “unstuck.” All of them were cheerleaders at a stage when I needed it most.

I am thankful for the generous support of The Mershon Center, Ohio State University’s Office of International Affairs, The Graduate School, and The Department of Political Science. The funding I received from these sources enabled my research trips and provided me with time to write.

I am grateful to Andrea Řezničková, Daša Majnušová, Donald Hempson, and Jürgen Landgraf in Prague. Each made my research easier by helping me make contacts and showing me the city, and Donald and Jürgen let me bounce my ideas off
them over delightful Czech beers. Lubomir Lanator in Bratislava performed
these tasks equally well, and with tremendous graciousness.

I also want to thank my parents, who instilled in me the importance of
education and encouraged me to keep at it. Without their guidance, I may never have
embarked on this journey.

Finally, special thanks to Bradley. You urged me on, gave me encouragement,
and occasionally cracked the whip. You made me believe I could not fail as long as I
kept at it. You took care of “life” when I was too busy or too anxious to do so myself.
From laundry to cooking to cleaning and more, you made sure things did not fall apart.
Most of all, you helped me keep things in perspective. I am indebted to you. Thank
you.
VITA

October 31, 1976...................... Born – Cincinnati, Ohio

1994-1995.............................. Attended Sarah Lawrence College

1999...................................... B.A. Political Science, University of Cincinnati

2002...................................... M.A. Political Science, The Ohio State University

1999-2005.............................. Graduate Teaching and Research Associate The Ohio State University

2005-2007.............................. Lecturer, The Ohio State University

PUBLICATIONS


FIELDS OF STUDY

Major Field: Political Science
TABLE OF CONTENTS

Abstract ............................................................................................................................ ii

Dedication .................................................................................................................. iv

Acknowledgments ....................................................................................................... v

Vita .............................................................................................................................. vii

List of Tables ................................................................................................................ xi

Chapters:

1. Introduction ................................................................................................................. 1

   The Scope of the Study .......................................................................................... 4

   Research Design .................................................................................................. 8

   Multi-method Approach .................................................................................. 8

   Methodology ....................................................................................................... 10

   Dependent Variable .......................................................................................... 11

   Case Selection .................................................................................................... 12

   Sources of Data .................................................................................................. 17

   Overview of the Dissertation .............................................................................. 20

2. Membership Rules and Liberal Coherence ............................................................... 22

   Liberal Coherence is Irrelevant ........................................................................... 27

   Liberal Coherence is Possible .......................................................................... 36

   The Argument from Community ....................................................................... 37

   Liberal Nationalism ........................................................................................... 45

   Liberal Egalitarianism ....................................................................................... 51

   Conclusion: Liberal Coherence is Impossible .................................................. 55
# LIST OF TABLES

<table>
<thead>
<tr>
<th>Table</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>International Migrants as a Percentage of the Population</td>
<td>13</td>
</tr>
<tr>
<td>1.2</td>
<td>Estimated Number of International Migrants at Mid-year</td>
<td>14</td>
</tr>
<tr>
<td>4.1</td>
<td>Naturalization Requirements</td>
<td>100</td>
</tr>
<tr>
<td>4.2</td>
<td>Initial Scores for Inclusiveness Calculations</td>
<td>102</td>
</tr>
<tr>
<td>4.3</td>
<td>Categorization of Countries According to Level of Restrictiveness</td>
<td>103</td>
</tr>
<tr>
<td>4.4</td>
<td>Ruling Parties and Level of Restrictiveness</td>
<td>108</td>
</tr>
<tr>
<td>4.5</td>
<td>Examples of Preamble Language of Selected Countries</td>
<td>111</td>
</tr>
<tr>
<td>4.6</td>
<td>Summary of Inclusive and Exclusive Preamble Language</td>
<td>113</td>
</tr>
<tr>
<td>4.7</td>
<td>Preamble Language and Restrictiveness of Naturalization Laws</td>
<td>114</td>
</tr>
<tr>
<td>4.8</td>
<td>World Values Survey on Groups Not Welcome as Neighbors</td>
<td>120</td>
</tr>
<tr>
<td>4.9</td>
<td>World Values Survey on Threatening Groups</td>
<td>121</td>
</tr>
<tr>
<td>4.10</td>
<td>Government Response to Immigrants</td>
<td>122</td>
</tr>
<tr>
<td>4.11</td>
<td>Net Population Growth and Level of Restrictiveness</td>
<td>124</td>
</tr>
<tr>
<td>4.12</td>
<td>Age of Population and Level of Restrictiveness</td>
<td>126</td>
</tr>
<tr>
<td>4.13</td>
<td>Size of Titular Population and Level of Restrictiveness</td>
<td>128</td>
</tr>
<tr>
<td>4.14</td>
<td>Change in Titular Population Size and Level of Restrictiveness</td>
<td>129</td>
</tr>
<tr>
<td>4.15</td>
<td>Social Welfare Expenditures and Level of Restrictiveness</td>
<td>130</td>
</tr>
</tbody>
</table>
4.16 Unemployment Rates and Level of Restrictiveness year ........................................ 132
4.17 EU Candidacy and Restrictiveness of Naturalization Law ................................. 136
5.1 External Migration Estimates for the Czechoslovak Republic, 1945-1947 ... 144
5.2 Migration Losses in the Czechoslovak Republic, 1948-1990 ......................... 145
5.3 Top 10 Countries of Immigration to the Czech Republic, 2001-2004 .......... 147
5.4 Top 10 Countries of Immigration to the Slovak Republic ......................... 147
5.5 Migration Rates in the Czech Republic ................................................................. 148
5.6 Migration Rates in the Slovak Republic ................................................................. 148
CHAPTER 1

INTRODUCTION

Migrants aspiring to change their citizenship must pass through three gates on their journey. The first gate is immigration: the receiving state must grant them entry. Next is the second gate, permanent residence. Here, the state grants some immigrants the right to settle permanently on their soil. The third, and ultimate, gate to pass through is naturalization. Once a migrant attains naturalized citizenship status, all of her official rights and duties are the same as any native-born citizen. For many migrants, the third gate is one that never can be entered, and nationality status is a crucial determinant of access to resources.

In the system of independent, sovereign states, the construction and design of these three gates is largely left to receiving states. Naturalization law, in particular, is seen as a sovereign prerogative. The result of this approach is a tremendous variation in the naturalization laws around the world. For example, in Spain, applicants for naturalized citizenship must have a certificate of good conduct from the police, 10 years of residency and a statement from two Spanish citizens supporting an individual’s application. Japanese naturalization law requires “good
behavior,” including no traffic violations. The Argentine government requires applicants to provide a medical certificate showing the psychological and physical state of the prospective citizen. Irish naturalization law requires just one year of continuous residence, and the president may grant Irish citizenship to anyone as a “token of honour.” The French residency requirement is reduced from five years to two if the applicant holds a degree from a French university. Italian law requires different levels of residency: three years for those with familial ties to Italy; four years for nationals of the European Union; five years for refugees, foreigners of legal age adopted by Italians, and people who have worked abroad in the service of Italy; and 10 years for those who do not fall into any of these categories. The traditional countries of immigration (the United States, Canada, Australia and New Zealand) waive language requirements for applicants over the age of 50.

This brief tour illustrates the diversity of naturalization legislation worldwide. All naturalization laws are designed to define a state’s population and identify who belongs and who does not, but why do different states follow different paths? Why, for example, is it easier to become a citizen of the Netherlands or the United Kingdom than it is to become a citizen of Germany?

Why do states pursue the naturalization laws they do? Why do some states adopt restrictive laws that close off membership, while others create far more inclusive laws that encourage membership to grow? Despite the variation we see, are there common patterns? The central question I ask focuses on the third gate:
why is it easier to naturalize in some states than in others? As I describe above in the snapshot of worldwide variation, the rules for aliens who want to become full citizens vary dramatically from state to state. In some cases, the formal legislation asks very little of applicants, while in others the laws require a great deal from prospective citizens.

My objectives in this dissertation are to characterize clearly the naturalization laws in the Central and Eastern European post-communist region, categorize them by level of restrictiveness, and ultimately, to explain the cross-national variation. The dissertation is largely empirically-based, but I also aim to contribute to the normative citizenship debates, and thus the following chapters speak to both the normative and empirical literatures. An underlying assumption of my work is that less restrictive naturalization laws are better than more restrictive ones. This claim is a controversial one, and it is the most normative claim of this study. I explain this perspective in the next chapter and return to it in at the end of the dissertation, but I point it out now because the reader should note that all of my claims and queries ultimately are aimed at discovering what can be done to encourage less restrictive laws.

The question of restrictiveness in naturalization law is an important one because it has significant real-world consequences. Naturalization status affects individuals’ lives politically, socially and economically. Voting, the right to form political parties or run for office, the ability to own property, and eligibility for occupation, health care and education are some of the ways in which naturalization
status may affect immigrants. For those who are already citizens, naturalization
law’s impact is no less important. After all, established citizens must live and work
alongside “new” citizens. In short, naturalization laws affect real people in real
ways. Through the laws, communities are defined, identities are forged, and rights
and duties are bestowed. Just as territory determines the geographic limits of the
state, citizenship determines the social limits.

Unlike other changes in the post-communist world, such as economic
transformation or the development of political institutions, citizenship and
naturalization have not received the attention given to other aspects of the
transition. Yet there is no justification for this neglect. Other regions of the world,
particularly Western Europe and the English-speaking settler societies (the United
States, Canada, Australia and New Zealand), receive a good deal of attention
concerning their citizenship issues – so much attention, in fact, that a listing of
sources on the subject would be tremendously long. Yet citizenship and
naturalization issues are no less important in Central and Eastern Europe.
Naturalization laws define who is included and who is excluded in the
postcommunist region just as much as they do in the West. Migration flows are
active in Central and Eastern Europe, just as they are in the West. Last but not
least, legislators argue and the public debates citizenship and naturalization in
Central and Eastern Europe, just as politicians and the public do in West. There is
no theoretical reason to ignore citizenship in the postcommunist world. In fact, as I will explain below when I discuss case selection, there are many reasons to focus on the issue.

**The Scope of the Study**

In this study, I have made two important decisions regarding focus. First, I have focused on laws rather than on broader policy. Secondly, I narrowed the focus further to naturalization rather than the larger category of citizenship. Both of these choices are consequential ones; therefore, I explain them below.

I believe it is important to look beyond the letter of the naturalization law, but I also believe that the first step in understanding differences in restrictiveness is to have a firm grasp on the official laws. It is true that implementation and administrative application can (and often do) diverge from official law, and it is certainly a subject that deserves serious attention. My goal here, however, is to understand why some states pursue more restrictive “laws on the books” while other states choose more inclusive “laws on the books.” What administrators do with the laws after their codification, while both interesting and important, is beyond the scope of this dissertation. Further, from a methodological standpoint, it is clearer and simpler to have an objective measure of restrictiveness and exclusivity. Introducing policy as a focus adds a dimension of subjectivity that, while perhaps unavoidable, is not my aim here. The reader should never assume, however, that official law always translates perfectly into real, applied policy.
With that caveat in mind, I believe that the reader should have no difficulty separating the very different issues of official law versus policy implementation.

Regarding my second choice, I focus on naturalization law, rather than broader citizenship laws, as an analytic strategy to explore questions of belonging and membership. Naturalization law is a declaration of a state’s formal definition of who may come to belong to the polity and who may not. Naturalization law is a particularly interesting dimension of citizenship because it is the only mode of citizenship acquisition that is voluntary, both on the part of the applicants and on the part of the states that confer it (Klusmeyer 2000, 14).  

Prospective new citizens willingly decide to become applicants, and states are free to accept or not accept new members. This volitional aspect of citizenship makes naturalization a rich topic of study because one can deal with the motivations of law makers, as I do here, or one can ask about the incentives and disincentives that immigrants have for naturalization.

Naturalization constitutes one aspect of citizenship. The questions I pose represent a new way of conceptualizing citizenship issues. In much of the extant citizenship literature, it is the consequences of citizenship that are problematized. Researchers and theorists alike have questioned which rights should be granted (or recognized, depending on one’s ideological perspective), how rights and duties are

---

1 The other two basic ways of acquiring citizenship are through the principles of *jus soli* and *jus sanguinis*. Some countries grant citizenship by *jus soli*, meaning that the place of birth determines citizenship. Other countries grant citizenship by *jus sanguinis*, meaning that the citizenship of the parents (i.e., the “blood”) determines the citizenship of the child. In other cases, a mixture of both approaches is used to grant citizenship. In any case, naturalization is the only mode of citizenship acquisition that is truly voluntary.
or ought to be implemented and enforced, how citizenship rights came into being, and so on. In my work, however, I want to problematize admission to citizenship itself, and naturalization is one form of admission to citizenship. The normative debates over what citizenship should include and how will take on greater meaning if we question what it takes to become a citizen in the first place. Why, in some countries, is it easier to become a citizen than it is in other countries? Once we understand whom citizenship includes, the debate over what citizenship should involve will become much more interesting.

My focus on naturalization thus fits into the broader category of citizenship studies by offering an explanation of a particular subset of citizenship types. In the larger category, citizenship is defined in many ways. It is seen as a legal status (van Gunsteren 1998); a balance of rights and responsibilities or benefits and burdens (Kerber 1997; Klusmeyer 2001; Kymlicka and Norman 1994; Somers 1993); a “loyalty reference” (Franck 1996); an identity (Kymlicka and Norman 1994); an expression of membership in a political community (Weil 2001); and official membership in a state (Barrington 2003, 1999 and 1995). Citizenship is a considerably large and multifaceted issue of study. Numerous dimensions are involved, all of them complex and multi-faceted in their own right. Citizenship research addresses the rights and obligations of both citizens and non-citizens, ideological and psychological questions of belongingness and identity, questions of state sovereignty, border controls, globalization, transnational migration, human rights, naturalization and so forth.
My focus on naturalization deals with state efforts to control citizenship. By stipulating rules and conditions for official admission to the political community, states regulate and control their populations. The drafting of naturalization law is a state’s opportunity to formally define who may come to belong and who may not. A focus on naturalization legislation illuminates one of the many aspects of the complex topic that is citizenship. My purpose here is to focus on one particular dimension of citizenship – naturalization – with the understanding that it fits into the larger picture of citizenship conceived more broadly. It may be that the real political decisions occur not at this third gate, but earlier. If it is the case that legislators tackle these decisions at the first and second gates (entry and residency), then my study will have identified an important area of research that should be explored. Naturalization rules, however, determine major life chances for would-be citizens, and they speak to the heart of what it means to belong to a polity. Therefore, I aim to identify the determinants of restrictive and nonrestrictive laws in order to understand why some governments pursue naturalization laws that are more or less restrictive that those of other governments.

My research also fits into the literature on citizenship and political philosophy. Naturalization law poses a special puzzle for liberal democracies. Liberal political philosophy is committed to the moral equality of humans, yet this assumption creates a serious difficulty when it comes to membership rules. The principle of equality implies a commitment to equal consideration, but naturalization laws are
membership rules for exclusion. Thus, liberalism’s commitment to the moral equality of people is at odds with membership restrictions that arbitrarily include some and exclude others. Prompted by this concern, I devote part of my dissertation to understanding the liberal justification of membership criteria, i.e., naturalization laws. How can this dilemma be resolved? What can morally justify the exclusionary practices of liberal democratic states? Is there ever an acceptable justification, and if not, what then?

Research Design

Multi-method Approach

My research combines cross-national analysis of data from 27 countries in Central and Eastern Europe with in-depth, qualitative, comparative case studies of the Czech Republic and Slovakia. This combination of methods allows me to address the question of naturalization law from different angles. The “large”-N portion provides a comparative overview of the determinants of naturalization law throughout the region. The qualitative segment sharpens the focus for a detailed examination of law formation and outcome in two countries that stand out from the sample. The Czech Republic and Slovakia are singled out for further research because they do not always follow the theoretical predictions. Naturalization requirements in the Czech Republic are stricter than the political, demographic, economic and international factors would predict. Slovakia’s requirements, on the other hand, are far more liberal than those factors would predict. In fact, Slovakia has some of the most liberalized naturalization laws in the region. The multi-
method approach I use enables me to first gain an understanding of the general patterns of the region before delving into an in-depth examination of particular cases.

Methodology

The “large”-N portion of this study involves an analysis of various potential determinants of naturalization law in a sample of 27 states. I rely heavily on cross-tabulations of the independent variables against the cases’ levels of restrictiveness. I also use secondary sources of survey results (World Value Surveys) to get at historical and cultural attitudes towards immigrants and immigrations. Content-analysis of constitutional preambles was also used to shed light onto these attitudes.

By restricting my qualitative study to two cases – the Czech Republic and Slovakia – I was able to design a manageable research program that would consist of face-to-face interviews, as described above. The interviews ranged in length from 45 minutes to two hours, with most lasting about an hour and fifteen minutes. I declined to record the interviews, preferring instead to take notes by hand, in order to encourage frank responses. My goal was to create an atmosphere of a conversation more than an investigation. Further, the questions were largely open-ended so that the respondents would identify the factors they felt were most important rather than merely focusing on the factors I thought might be important. I transcribed the notes from shorthand to longhand immediately following each
interview. While I did code each respondent and have a record of who said what, I make no special attribution to name subjects in this dissertation. For my purposes, the names of the respondents are not important; more important are their positions and proximity to the legislative process.

I designed the questions (see Appendix F) to elicit both technical details of the legislating process in question as well as more abstract considerations about the spirit of the process. Because I was interviewing people with different relationships to the legislative process under examination, I used the focused interview approach. I conducted most of the interviews in the offices of the respondents, but some were completed in more informal settings such as cafes.

On the whole, the interviews were highly illuminating. By interviewing a wide range of participants in various positions, I was able to gain a diverse set of perspectives on the process. The respondents were incredibly gracious and helpful. Even those who were reticent at the beginning of the interviews quickly softened and spoke at length after a time. All were extremely approachable and unhesitatingly offered follow-up access. Any weaknesses in the interview process were solely mine. There were times when I feared I was not asking the right questions, and this situation was the only major limitation to my interviews.

---

2 As described by Merton and Kendal (1946, 541-557), the focused interview (as opposed to the schedule-structured and nondirective interview techniques) has four characteristics:

(1) It takes place with respondents known to have been involved in a particular experience.
(2) It refers to situations that have been analyzed prior to the interview.
(3) It proceeds on the basis of an interview guide specifying topics related to the research hypothesis.
(4) It is focused on the subjects’ experiences regarding the situation under study.
return to the U.S., I found myself wishing I had pursued one line of questioning over others, or wishing I had pressed a respondent further on certain issues, and so on. I also wished I had been able to interview more respondents, but the number I interviewed were sufficient to give me a rather detailed picture of the variety of perceived determinants.

Dependent Variable

The dependent variable I constructed is restrictiveness of naturalization law. Yet in fact, any discussion of restrictiveness versus permissiveness in citizenship is somewhat misleading. By nature, all naturalization laws are restrictive in some way. They separate “us” (those who belong) from “them” (those who do not). As Barrington (2000, 260) points out, when a government defines citizens, it is also defining non-citizens. In defining who may belong, states are also necessarily identifying who may not belong. The lines of belongingness and nonbelongingness, however, differ from state to state to state, and it is possible to identify some naturalization laws as more or less restrictive than others.

There are several common components of naturalization laws: (1) absence of criminal convictions; (2) knowledge of the history of the host state; (3) knowledge of the culture of the host country; (4) renunciation of foreign citizenship; (5) proof of employment or sufficient income; and (6) a specified length of legal residence. To the extent that a state requires fewer of these components, or it is theoretically easier for applicants to meet the requirements, we may say the law is less restrictive.
To construct an index of restrictiveness, I gathered the requirements for each state in the sample. By assigning a value of one for each of the first five requirements and a value of zero if a component is not required, I devised a simple score wherein a higher number indicates a higher level of restrictiveness. For residency requirements, the mean value offers a demarcation point such that countries with requirements below the mean are assigned a value of zero while those above the mean are assigned a value of one. These scores are summed to produce a raw score. I used the raw scores to divide the sample into three groups: (1) countries with the least restrictive requirements; (2) those with moderate-level requirements; and (3) those with the most restrictive requirements. In this way, I was able to create an index of restrictiveness for the dependent variable.

Case Selection

As I was writing this dissertation, I was frequently asked who would want to immigrate to postcommunist Europe. While it is true that immigration and naturalization rates in the region are lower than in the West, it is a misconception that the demand for immigration and naturalization is negligible in Central and Eastern Europe. Table 1.1 illustrates the nontrivial number of international migrants expressed as a percentage of the population in the sample cases, from 1985 (where possible) to 2005. The percentages in the table represent tens of thousands of people who ultimately could be affected by the naturalization laws in

---

3 Please note that there is no categorization of countries according to naturalization law restrictiveness in the literature. I gathered the laws myself from various sources and classified each of them into the taxonomy.
those states. For those who want to pass through the third gate, their chances of success vary greatly from country to country. Table 1.2 offers similar data, but the data are presented in raw numbers.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>2.1</td>
<td>2.0</td>
<td>2.3</td>
<td>2.5</td>
<td>2.6</td>
</tr>
<tr>
<td>Armenia</td>
<td>--</td>
<td>18.6</td>
<td>14.1</td>
<td>10.2</td>
<td>7.8</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>--</td>
<td>5.0</td>
<td>3.7</td>
<td>2.0</td>
<td>2.2</td>
</tr>
<tr>
<td>Belarus</td>
<td>--</td>
<td>12.4</td>
<td>12.4</td>
<td>12.8</td>
<td>12.2</td>
</tr>
<tr>
<td>Bosnia-Herz.</td>
<td>--</td>
<td>1.3</td>
<td>2.1</td>
<td>2.5</td>
<td>1.0</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>0.2</td>
<td>0.2</td>
<td>0.6</td>
<td>1.3</td>
<td>1.3</td>
</tr>
<tr>
<td>Croatia</td>
<td>--</td>
<td>10.5</td>
<td>15.4</td>
<td>13.7</td>
<td>14.5</td>
</tr>
<tr>
<td>Czech Rep.</td>
<td>--</td>
<td>4.1</td>
<td>4.4</td>
<td>4.4</td>
<td>4.4</td>
</tr>
<tr>
<td>Estonia</td>
<td>--</td>
<td>24.1</td>
<td>21.3</td>
<td>18.3</td>
<td>15.2</td>
</tr>
<tr>
<td>Georgia</td>
<td>--</td>
<td>6.2</td>
<td>5.0</td>
<td>4.6</td>
<td>4.3</td>
</tr>
<tr>
<td>Hungary</td>
<td>3.2</td>
<td>3.4</td>
<td>2.8</td>
<td>2.9</td>
<td>3.1</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>--</td>
<td>21.9</td>
<td>20.8</td>
<td>19.1</td>
<td>16.9</td>
</tr>
<tr>
<td>Kyrgyz Rep.</td>
<td>--</td>
<td>14.2</td>
<td>10.5</td>
<td>7.5</td>
<td>5.5</td>
</tr>
<tr>
<td>Latvia</td>
<td>--</td>
<td>29.7</td>
<td>28.5</td>
<td>22.7</td>
<td>19.5</td>
</tr>
<tr>
<td>Lithuania</td>
<td>--</td>
<td>9.4</td>
<td>7.5</td>
<td>6.1</td>
<td>4.8</td>
</tr>
<tr>
<td>Macedonia</td>
<td>--</td>
<td>5.0</td>
<td>5.8</td>
<td>6.2</td>
<td>6.0</td>
</tr>
<tr>
<td>Moldova</td>
<td>--</td>
<td>13.3</td>
<td>10.9</td>
<td>11.1</td>
<td>10.5</td>
</tr>
<tr>
<td>Poland</td>
<td>3.5</td>
<td>3.0</td>
<td>2.5</td>
<td>2.1</td>
<td>1.8</td>
</tr>
<tr>
<td>Romania</td>
<td>0.7</td>
<td>0.6</td>
<td>0.6</td>
<td>0.6</td>
<td>0.6</td>
</tr>
<tr>
<td>Russia</td>
<td>--</td>
<td>7.8</td>
<td>7.9</td>
<td>8.1</td>
<td>8.4</td>
</tr>
<tr>
<td>Serbia and Montenegro</td>
<td>--</td>
<td>1.3</td>
<td>7.2</td>
<td>6.6</td>
<td>4.9</td>
</tr>
<tr>
<td>Slovak Rep.</td>
<td>--</td>
<td>0.8</td>
<td>2.1</td>
<td>2.2</td>
<td>2.3</td>
</tr>
<tr>
<td>Slovenia</td>
<td>--</td>
<td>9.2</td>
<td>10.2</td>
<td>8.9</td>
<td>8.5</td>
</tr>
<tr>
<td>Tajikistan</td>
<td>--</td>
<td>8.0</td>
<td>5.3</td>
<td>5.4</td>
<td>4.7</td>
</tr>
<tr>
<td>Turkmenistan</td>
<td>--</td>
<td>8.4</td>
<td>6.2</td>
<td>5.4</td>
<td>4.6</td>
</tr>
<tr>
<td>Ukraine</td>
<td>--</td>
<td>13.7</td>
<td>13.7</td>
<td>14.1</td>
<td>14.7</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>--</td>
<td>8.1</td>
<td>6.4</td>
<td>5.5</td>
<td>4.8</td>
</tr>
</tbody>
</table>


Table 1.1: International Migrants as a Percentage of the Population
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>62793</td>
<td>66013</td>
<td>71154</td>
<td>76695</td>
<td>82668</td>
</tr>
<tr>
<td>Armenia</td>
<td>658720</td>
<td>454806</td>
<td>314016</td>
<td>235235</td>
<td></td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>360600</td>
<td>291859</td>
<td>160365</td>
<td>181818</td>
<td></td>
</tr>
<tr>
<td>Belarus</td>
<td>1270500</td>
<td>1268500</td>
<td>1283700</td>
<td>1190944</td>
<td></td>
</tr>
<tr>
<td>Bosnia-Herz.</td>
<td>56000</td>
<td>73321</td>
<td>96000</td>
<td>40814</td>
<td></td>
</tr>
<tr>
<td>Bulgaria</td>
<td>21846</td>
<td>21510</td>
<td>46610</td>
<td>101000</td>
<td>104076</td>
</tr>
<tr>
<td>Croatia</td>
<td>475438</td>
<td>720974</td>
<td>615896</td>
<td>661417</td>
<td></td>
</tr>
<tr>
<td>Czech Rep.</td>
<td>424498</td>
<td>453713</td>
<td>453489</td>
<td>453265</td>
<td></td>
</tr>
<tr>
<td>Estonia</td>
<td>382012</td>
<td>308781</td>
<td>249588</td>
<td>201743</td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>338300</td>
<td>249900</td>
<td>218600</td>
<td>191220</td>
<td></td>
</tr>
<tr>
<td>Hungary</td>
<td>339023</td>
<td>347510</td>
<td>293266</td>
<td>295990</td>
<td>316209</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>3619200</td>
<td>3295400</td>
<td>2871300</td>
<td>2501779</td>
<td></td>
</tr>
<tr>
<td>Kyrgyz Rep.</td>
<td>623033</td>
<td>481614</td>
<td>372296</td>
<td>287791</td>
<td></td>
</tr>
<tr>
<td>Latvia</td>
<td>805491</td>
<td>712915</td>
<td>539728</td>
<td>449215</td>
<td></td>
</tr>
<tr>
<td>Lithuania</td>
<td>349233</td>
<td>272110</td>
<td>212018</td>
<td>165197</td>
<td></td>
</tr>
<tr>
<td>Macedonia</td>
<td>95025</td>
<td>114397</td>
<td>125529</td>
<td>121291</td>
<td></td>
</tr>
<tr>
<td>Moldova</td>
<td>578500</td>
<td>472900</td>
<td>474400</td>
<td>440121</td>
<td></td>
</tr>
<tr>
<td>Poland</td>
<td>1319385</td>
<td>1127166</td>
<td>962951</td>
<td>822660</td>
<td>702808</td>
</tr>
<tr>
<td>Romania</td>
<td>169530</td>
<td>142770</td>
<td>134972</td>
<td>134204</td>
<td>133441</td>
</tr>
<tr>
<td>Russia</td>
<td>11524948</td>
<td>11706951</td>
<td>11891829</td>
<td>12079626</td>
<td></td>
</tr>
<tr>
<td>Serbia and Montenegro</td>
<td>130336</td>
<td>759622</td>
<td>691559</td>
<td>512336</td>
<td></td>
</tr>
<tr>
<td>Slovak Rep.</td>
<td>41295</td>
<td>113501</td>
<td>118458</td>
<td>124464</td>
<td></td>
</tr>
<tr>
<td>Slovenia</td>
<td>178077</td>
<td>200155</td>
<td>174437</td>
<td>167330</td>
<td></td>
</tr>
<tr>
<td>Tajikistan</td>
<td>425900</td>
<td>304900</td>
<td>330300</td>
<td>306433</td>
<td></td>
</tr>
<tr>
<td>Turkmenistan</td>
<td>306500</td>
<td>259600</td>
<td>241000</td>
<td>223732</td>
<td></td>
</tr>
<tr>
<td>Ukraine</td>
<td>7097100</td>
<td>7062900</td>
<td>6947100</td>
<td>6833198</td>
<td></td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>1653000</td>
<td>1473700</td>
<td>1366900</td>
<td>1267839</td>
<td></td>
</tr>
</tbody>
</table>


Table 1.2: Estimated Number of International Migrants at Mid-Year
Thus, I focus on Central and Eastern postcommunist Europe because, far from being an anomaly, population movements within the region after 1989 are significant and consequential. Westbound transit migration, family reunification, regional conflicts, ethnic relocations and repatriations, and employment migration all have contributed to a shifting of populations throughout Central and Eastern Europe. In short, naturalization laws matter in this region. Moreover, there are several theoretical reasons why we should investigate the naturalization laws in this geopolitical area. First, many of these states, once limited to being places of transit migrations, are now becoming a final destination for immigrants. Several of these countries are developing into increasingly prosperous democracies, a development which attracts migrants. The growing prosperity of the Czech Republic, Poland, Hungary, and Slovenia, especially, are alluring to immigrants (Vachudová 2000, 160). In addition to economic and political attractions, ethnic intolerance and discrimination are feeding into the new migrations patterns. Roma from Romania, Ukraine and Bulgaria, faced with low education, high unemployment and no ethnic homeland to protect them, have also been attracted to these growing democracies (155). Complicating this has been the influx of refugees from the wars in the former Yugoslavia.

The issue becomes even more salient when we consider that these states were not accustomed to being terminuses for migration systems. They are simply not prepared to deal with the influx of migrants that they are now seeing. People are arriving at the borders seeking permanent admission and membership, and
governments must decide what to do with them. Should they accept the applicants, or should they turn them back? They are poorly equipped to make these decisions and to deal with these demands (Vachudová 2000, 160; Jacobsen 1996, 658).

Yet another reason that naturalization legislation is important in the postcommunist region concerns changing borders after the collapse of the Soviet Union. Consider the case of Poland. In the recent past, Poland bordered three states: East Germany, Czechoslovakia and the Soviet Union. But in the 1990s, Poland suddenly had seven new neighbors: a unified Federal Republic of Germany, the Czech Republic, Slovakia, Ukraine, Belarus, Lithuania and the Russian Federation. This drastically complicated immigration law (Jesein 2000, 187).

Finally, the origins of naturalization laws in Central and Eastern Europe are very different from the origins of Western naturalization laws. Citizenship in the West was largely defined by the Nineteenth Century with the democratization of political institutions. In contrast, the countries I examine offer a rich and varied setting in which to study the development of citizenship policy. Some of the states in my sample are long-established, such as Poland and Hungary. Others have regained independence after a decades-long interruption, such as Latvia. Still
others are newly independent states for the first time, such as Kazakhstan and Kyrgyzstan. All have had to deal with the question of citizenship, including the development of naturalization law.

*Sources of Data*

One of the largest challenges in studying citizenship issues is access to appropriate data. As far as I can tell, there is no comprehensive database for naturalization laws. This complication meant that I had to independently research the laws of each country individually. Although this was a time-consuming process, the benefit was that I was able to control the coding myself. Secondly, because laws were passed in different years across the sample, it did not make sense to choose one year to contrast across cases. Rather, it was necessary to use data that described the cases in the time periods right before the passage of the laws. To the extent possible, I located similar records for each country for comparable periods.

The first step in gathering data focused on the official naturalization laws of the case states. I accumulated these data by researching the first postcommunist naturalization laws for each country in my sample, individually. From these laws, I created a categorization of level of restrictiveness, ultimately dividing the states into three categories. I now had an operationalization of my dependent variable.
The next step in this research was to consult secondary sources relating to the various independent variables I explore in Chapter Four. Some of the information came from governmental statistical offices, and other figures came from larger databases run by international organizations. I discuss these sources in greater detail in Chapter Four. These sources were extremely helpful in this analysis for several reasons. First, because I was not always certain of the reliability, bias, validity and methods of governmental sources, it was helpful to have independent databases to use as a comparison to the government figures. Additionally, not all governments had statistical offices that shared the data with researchers. Without the data offered by the independent organizations, my analysis would have been incomplete. Finally, secondary sources were the only realistic way to gather some of the data. Because of issues of economy, time and expertise, it only made sense to make use of the wealth of secondary data available to me.

The third data source came from respondents in face-to-face interviews. In Autumn of 2005, I conducted 17 interviews in the Czech Republic and Slovakia with current and former government officials of varied rank, as well as with a handful of “experts” and NGO workers specializing in immigration issues (see Appendices for a listing of the positions of people I interviewed). These individuals were chosen for one of three reasons: (1) their proximity to the parliamentary negotiation process by virtue of their positions; (2) their designation as “experts” on the process; or (3) because of identification through a “snowballing” process of asking initial respondents to recommend further
contacts. Interviewing parliamentarians was helpful in that they witnessed the debates and legislating first-hand. Interviewing those close to the legislators was equally useful in that they provided me with a knowledgeable account of the proceedings. Lastly, interviewing the experts who studied the process but were not necessarily present was also fruitful because it gave me an academic perspective on the debates.

I also conducted archival research in the Parliamentary Library in Prague, Czech Republic, which houses not just Czech parliamentary records but also Slovak and Czechoslovak. I was able to access transcripts of the parliamentary debates from the relevant era, and the transcripts helped me in two ways: (1) I was able to identify the relevant individuals; and (2) I found information that helped me fill in the blanks of my interviews. Finally, I used Czech and Slovak archived newspaper articles and opinion pieces to get a sense of public opinion. While I discuss these articles in Chapter Five, I do not use this information directly in my analysis. Rather, I used it to understand the setting in which the legislators were operating.

Like all other research strategies, the one I implemented was not perfect. My research, however, combined secondary analysis, official documents, and in-person interviews in the hopes of balancing out the weaknesses of each alone. As a result, I am confident that the multi-method approach I used revealed valuable insight into the variation in naturalization laws.
Overview of the Dissertation

In the present chapter I have introduced the research puzzle, discussed the context of the study and situated this study in the extant literature. I have also described my research design, including the construction of the dependent variable, the case selection, the methodology, and the sources of data. My objectives for this dissertation are to characterize the naturalization laws, categorize them by level of restrictiveness, and ultimately, to explain the cross-national variation.

As I mentioned earlier, my dissertation is largely empirically-based, but I also wish to contribute to the normative citizenship debates, and thus the following two chapters will speak to both the normative and empirical literatures. Chapter Two imagines a perfect naturalization law, from a normative perspective. I argue that the only consistently liberal solution to the membership problem in liberal states is to allow for unlimited immigration and naturalization. This is a strong claim, and one that is not pursued in the “real world.” Therefore, I spend a good deal of time exploring (and ultimately rejecting) alternatives and defending my claim.

Chapter Three moves from the normative literature to the empirical, surveying various proposed determinants of naturalization law. I synthesize the literature into two approaches that I call the national and the postnational theses. The national thesis employs state-centric, domestic explanations including political, historical,
cultural, structural, economic, and demographic factors. The postnational thesis employs supra- and transnational explanations, such as the role of international organizations and sending states.

The concluding chapter, Chapter Six, includes a summary of my major findings and their implications. I evaluate my research design, highlighting both its strengths and weaknesses. I summarize the findings, indicate their significance, and discuss avenues for improved research. I also return to the normative question posed in Chapter Two and address outstanding questions and issues that future research could resolve.
CHAPTER 2

MEMBERSHIP RULES AND LIBERAL COHERENCE

Naturalization regulations pose a special puzzle for liberal democratic states; the puzzle stems from liberal political philosophy's commitment to the moral equality of humans. For liberals, every individual matters equally, and this belief is one of the most important principles for the theory. Liberal political thought leaves little room for particularism and differential treatment of people: all are entitled to equal consideration. The assumption of moral equality is shared by many liberal observers, who agree that despite our multiple differences and particularities, we are fundamentally of equal moral worth.¹ This position, though, poses a problem for both liberal theory and liberal states regarding membership rules. The principle of equality implies a commitment to universalism and equal consideration, but membership rules are rules that limit the commitment to equal consideration. They are essentially rules for exclusion. So while liberal philosophers strives to realize the principle of equality, they do so only in a bounded and defined space – the state. Since the theory's commitment to universalism cannot justify exclusionary practices and remain a coherent political philosophy, liberal states have a serious difficulty to confront.

The liberal theorists we examine in this chapter argue that the maintenance of the liberal polity depends on closure and exclusion. Without control over immigration and naturalization, they argue, we would not be able to sustain the liberal polity. In their view, liberalism cannot survive without organized political communities. Liberalism thus cannot survive without exclusionary practices. Yet such exclusionary practices contradict, if not undermine, the liberal commitment to moral equality. In short, liberal political philosophy is unable to cope with modern membership practices. The aim of this chapter is to explore the difficulties liberal political philosophy faces in order to understand whether this dilemma can be resolved.

As we will see in this chapter, many theorists concede that liberalism's commitment to the moral equality of people is at odds with membership restrictions that arbitrarily include some and exclude others. At the same time, though, most of them continue to search for justifications for exclusion, despite their concessions that a serious dilemma is present. There are three main approaches to dealing with this problem. First, some theorists attempt to sidestep the problem by asserting that it makes no difference whether liberal inconsistencies exist. In this view, the liberal commitment to moral equality ends at the border. The second approach seeks to identify immigration and naturalization laws that are liberally defensible. The third tells us that it is an impossible task to find non-arbitrary, consistently liberal
immigration rules; thus, we have only two options available to us: (1) anything goes and states may do what they wish; or (2) membership rules must be abolished completely, with no limits.

In this chapter, I assess these three approaches by reviewing the arguments of key contributors to each approach. I measure each approach against its ability to maintain liberal coherence (that is, the coherence between the internal principles and practices of liberal democracies and their external principles and practices). Many liberal democracies come at least close to upholding the principle of moral equality when it comes to their own citizens. The story changes when it comes to upholding the principle of moral equality for outsiders. At the border, it seems liberal states engage in non-liberal or even illiberal practices.

The challenge for liberals is to ease the tension between the liberal principle of moral equality and the perceived need for closure and bounded communities. The principle of moral equality suggests that closed membership, with its attendant privileges, is unacceptable. Yet most liberal theorists working on the subject attempt to justify varying degrees of immigration control, which amount to exclusive membership practices. In short, from a liberal perspective, membership practices must embody the principle of moral equality, or, at a minimum, at least not undermine it.

My own view is that liberal theory cannot coherently justify their practices of exclusion. As long as membership restrictions are in place, the contradiction between liberalism's claims of moral equality and its actual exclusionary practices is irresolvable. Membership restrictions, no matter how practical they may be, are never consistent with liberal political philosophy. The only way out of this tension is to do
away with membership restrictions altogether. Few theorists embrace such a claim, even those who are largely sympathetic to less restrictive borders, which we will see in this chapter. Whatever the correct solution, the claim remains that exclusionary membership practices are serious problems for liberal philosophy. As I have presented it, the liberal puzzle is how to achieve coherence between internal and external principles. Liberal philosophy must work out a way to ensure that external principles and practices – not just internal ones – are consistent with core liberal values, such as the principle of moral equality.

To summarize, the issue of membership rules is especially problematic in liberal polities. Tension exists between the moral equality claims of liberalism and the exclusive practices of liberal states when it comes to immigration and naturalization. This problem of membership in liberal states can be addressed in three ways:

1. *Liberal coherence is irrelevant.* Because of state sovereignty, states may establish any membership restrictions they deem desirable. One can be a consistent liberal while allowing non-liberal or illiberal practices at the boundaries of membership, and there is no obligation to justify one's practices externally. The task for those defending this position is to show that states have an inherent right to sovereignty.

2. *Liberal coherence is possible.* There are non-arbitrary restrictions on membership that are defensible from the liberal position. These restrictions may consist of one of the following arguments:

   a) Communal identity can be a liberal pursuit, and liberals rightfully can draw upon these sentiments in constructing rules of membership. This is the argument from community. The challenge for those who take this position is to show how community-based identity can outweigh humanity-based identity.
b) National identity can be a liberal pursuit, and liberals rightfully can draw upon these sentiments in constructing rules of membership. This is the liberal nationalist position. The challenge for supporters of this position is to demonstrate how such identities can outweigh the principle of moral equality applied universally. A second challenge is to show how such identities can be cultivated without falling prey to ideologies which liberal nationalists would condemn as racist or illiberal.

c) Claims to communal or national identity cannot be liberal, but other justifications for membership restrictions are morally and ethically possible in the liberal state. Restrictions can be based on arguments concerning the protection of the rights, liberties and welfare of current citizens. This is the liberal egalitarian position. The task for defenders of this position is to identify precisely which non-arbitrary criteria can serve as the basis for membership.

3. Liberal coherence is impossible. No non-arbitrary restrictions exist. This leads to two options:

a) No solution is possible, so we return to the position that allows every state to determine its own membership rules. The task again is to show that states have an inherent right to sovereignty.

b) No solution is possible, so we must abolish membership rules in favor of completely open states. The task for those taking this position is to demonstrate how political communities can be sustained without limits on membership.

Each of the positions outlined above face difficult challenges, yet the liberal theorist must take one of these positions. The common challenge liberals face is to demonstrate that their proposed solutions embody, or at least do not undermine, the liberal principle of moral equality. We now turn to these positions and evaluate them.
Liberal Coherence is Irrelevant

I have claimed that liberal state authorities must justify their naturalization criteria through appeal to the coherence of liberal principles between external and internal practices. But is this a fair assumption to make? Perhaps the coherence test is unfair, and state agents need not justify their policies to outsiders. Rather than operating from an assumption of necessary justification, most states operate from the opposite assumption – the assumption of sovereignty, in which practices and policies need not be justified to nonmembers, much less justified through appeal to liberal coherence.

In contemporary times, at least, the principle of state sovereignty is an established one. Even as more and more issues seem to slide out of the realm of sovereign autonomy in the face of increasing global interdependence, liberal orthodoxy stands by the commitment to a state's right to determine its own population. State autonomy and self-determination of membership exhibit a striking endurance, despite challenges to state sovereignty regarding issues such as human rights, terrorism, fiscal obligations, environmental responsibilities, drug control, and more. Unlike the issues under challenge, immigration issues are regarded as strictly internal matters, and the belief is that individual states have the ability – even the right – to determine such internal matters without external interference.

Drawing from Thomas Hobbes' conception of humans' natural condition as described in *Leviathan*, this perspective likens individual states to individual agents who possess the liberty to do whatever is necessary to ensure their own personal
security.² Like Hobbes, philosophers with this view of the world believe that the international order is unstable, unpredictable and dangerous. Thus individual states, which exist in a setting without any overarching sovereign power, have the absolute moral right to impose policies they believe protect their own interests. Concomitant with this liberty is the assumption that states need not justify their choices to external forces. Only they may judge what is in their own interests.

Clearly, sovereign power is a key belief of this position. Let us examine this claim by placing it in the context of naturalization and membership rules. Rightly or wrongly, many observers see immigration as a threat to the internal security and stability of liberal states. This view suggests that states have the liberty to impose any naturalization and immigration policies that would protect them from internal instability. There can be no moral obligation to justify their policies according to liberal coherence, since they have the absolute right to be the sole judges of what would best protect them from insecurity.

When it comes to naturalization and immigration policies, there are two versions of this argument: one strong, and one weak. Both versions, however, come to the same conclusion: individual states may limit immigration and naturalization as they see fit. This means that states are under no obligation to justify their membership

² Hobbes, of course, was no liberal. But his perception of the state of humans corresponds to these theorists’ perception of the global condition and state relations. In Hobbes’ view, the natural condition of humankind is one of constant war, with no sovereign power over it to enforce compliance to agreements and provide security. In the absence of such an overarching enforcing power, everyone in the state of nature is permitted (expected) to do whatever he or she can to preserve his or her security. The only judge of what would secure one's safety is the individual. The extreme insecurity that this condition creates can be escaped by creating a powerful sovereign body to act as enforcer. Hobbes argues that no such solution can exist at the international level. In this sense, states remain in the natural condition, and the logic of individuals with no sovereign power applies just the same to states living in the condition of “perpetual war.” States have the absolute moral right to do whatever they find to be in their own best interests (Hobbes, 1985).
rules in any way, and certainly they are not under an obligation to maintain liberal coherence between internal and external principles. They have the moral right to control their borders in any way they deem necessary, and this can include non-liberal or illiberal measures taken against nonmembers. Put another way, liberal commitments of moral equality may justifiably end at the border. While liberal states must strive to maintain internal coherence to liberal principles (otherwise they would cease to be liberal states), they are under no obligation to maintain external coherence. Even when it enacts restrictions that are illiberal, it cannot be accused of inconsistency.

The stronger version maintains that the international order strongly resembles Hobbes' state of nature. Individual states are in constant danger from external challenges, and there is no international sovereign policing force. Liberal states are especially vulnerable because of illiberal threats from the outside. As in the Hobbesian state of nature, these states have the right to do whatever they believe is in their best interests for self-protection. Individual states alone have the authority to determine what constitutes their interests. Immigration and naturalization are issues that originate in that dangerous external realm, and they are threatening to liberal states. Thus, each state has a right to limit immigration and naturalization as it deems necessary. More succinctly, the argument has four steps:

1. The international order is Hobbesian and insecure. Liberal states face external threats.
2. States have the right to do what they deem necessary to ensure their own security.
3. Immigration is one such external threat.
Therefore:

4. The liberal state may limit immigration as it sees fit.

Frederick Whelan represents the strong version of this argument. We may observe him work through the steps in the argument outlined above. He argues that liberalism, a valuable good, is “scarce and fragile” in our “imperfect world” (1988, 21). Writing that “liberal societies can never be obligated to do what might imperil existence as strongholds of liberalism,” Whelan contends that this broad power justifies immigration restrictions at the state's discretion. Specifically, his concern stems from non-liberal immigrants, most of whom, he reports, are from non-Western countries. Liberal states are particularly vulnerable to non-liberal immigrants because there is a point (some unspecified upper limit) at which the liberal state can no longer assimilate non-liberals into the civic community. Pushed beyond this absorptive capacity, the liberal state would be undermined and jeopardized (21). He concludes that liberal citizens must “be on their guard” to protect liberal institutions, even if this means restricting access to liberty for outsiders (22). The upshot of Whelan's argument is that membership decisions, among other issues, are “properly matters of sovereign political choice” (14).

Three main charges can be levied against Whelan's strong version of the argument. First, we can question the assumption that we live in an imperfect, Hobbesian state of nature. Perhaps the claim of imperfection cannot be challenged, but that the international order is Hobbesian is a highly questionable assumption. Consider
the existence of international rights frameworks. While they may fall short of a genuine enforcing power, they nonetheless constrain the actions and powers of individual states, sometimes radically. Moreover, if international rights regimes are seen to be legitimate in some areas, it is difficult to understand why international agreements could not be reached on our particular issue.

Beyond this point, even if we did live in a Hobbesian world, such a condition does not justify exclusion at the state’s discretion. If liberal states are vulnerable and need to protect themselves from illiberal influences, would the liberal truly be comfortable with the state autonomously using its discretion to identify the illiberal actors? In my view, it is dangerous to suppose that agents of the state can effectively and objectively make these judgments.

The next objection to the strong position challenges the assertion regarding the threat of immigration. We can ask how real the threat to liberal states is from dangerous external forces, specifically, the external force of an influx of immigrants and applicants for citizenship. Whelan singles out non-Western immigrants as a particular threat, since, in his view, they are likely to be non-liberal (21). First, it seems rather crude to write off non-Westerners as automatically being non-liberal. Even if the world's non-liberal states tend to be in the non-Western world, there is no guarantee that immigrants from those states would automatically be non-liberal as well. More significantly, if the concern is that these immigrants would be non-liberal, this is very different from saying that they are likely to be illiberal. Illiberalism implies an active opposition to liberal values and practices; I concede that this could pose a threat to liberal states. If, on the other hand, they are merely non-liberal, then it is not
necessarily the case that they oppose liberal values. Rather, they may simply be unfamiliar with liberalism's values. Such a condition surely could be addressed by providing education about liberal constitutionalism. While not all immigrants would embrace those values, it is unfair to say that none of them would. For that matter, not all citizens of liberal countries embrace those values, either. Since Whelan's fear seems to be non-liberalism, it seems to me that his concerns are overstated. Later in this chapter I revisit the question of threats from immigration to investigate related concerns about catastrophic consequences of uncontrolled immigration.

The weak argument comes to the same conclusion of state autonomy over membership rules but takes different steps to get there and thus may succeed where the strong version fails. Unlike the strong version, the weak version does not begin with the assumption that the international order is a Hobbesian state of nature. This observation is based on the ability of states to reach international agreements on various issues. Since international agreements are feasible and do exist, individual states can be constrained by external forces when it comes to particular issues; therefore, the international order is not entirely Hobbesian. However, this is a consequentialist argument: were immigration and naturalization to be unrestricted, the result would be an overwhelming level of chaos, catastrophe and instability. Left untended, these marks of insecurity would destroy liberal institutions. Therefore, the state may restrict immigration since it causes a direct threat to the state. While states do not have unlimited Hobbesian powers, on this particular issue they do have Hobbesian powers. Immigration and naturalization policies may be limited as individual states deem necessary to maintain stability. To summarize, the argument is:
1. The international order is *not* Hobbesian (international agreements are reached on certain issues).
2. So liberal states can be externally constrained on particular issues.
3. However, unlimited immigration and naturalization would create instability that could threaten liberal institutions.

Therefore:

4. On this *particular* issue, the liberal state must have Hobbesian powers to limit immigration as it sees fit.

This “floodgates” argument is set forth by James Woodward (1992), who predicts severe catastrophes for liberal states if they are not permitted to control immigration themselves. As a self-declared liberal egalitarian, he argues for Hobbesian powers only over the issue of immigration rules. Woodward's argument focuses on the deleterious effects of unrestricted immigration on the institutions and character of liberal states. He highlights three problems of negative effects on: (1) wage levels and the labor market; (2) the provision of social services; and (3) the political character of liberal states.

The first complaint is that uncontrolled immigration would lead to competition between immigrants and poor citizens, where immigrants would have an unfair advantage. A commonly-held fear is that immigrants tend to take lower-status and lower-paying jobs away from citizens, thereby pushing the wage levels of all down. This situation occurs because of a variety of factors. First, immigrants are often willing to take these less desirable jobs either because that is all they are qualified for (given their sometimes limited language skills, networking capabilities, or prejudice on the part of employers) or because they are willing to take any job available just to get a foot in the door (with the intention that eventually they will move on to higher
positions they may be more qualified for). Second, they are frequently willing to accept lower pay than citizens would be because it is sometimes still more money than they could earn in their home countries. Employers prefer to hire immigrants over citizens because of their willingness to take the lower-paying, less prestigious jobs. Woodward (1992, 69-70) proposes that immigration exacerbates the situation of less well-off citizens and results in increased income inequality.

The second complaint, if accurate, seems even more catastrophic. He worries that unbridled immigration would disrupt and jeopardize the public welfare institutions of liberal states. Financial resource strains and cultural clashes over values and goals would disrupt schools, transportation services, and recreational facilities. As a result, those who are able to would turn to private institutions to provide these services, which would further exacerbate “inequalities in wealth and opportunity” (70-71). If Woodward is correct about the consequences, then liberals should be gravely concerned about uncontrolled immigration. Multiple empirical studies, however, suggest that immigration does not harm the economic prospects of citizens. For example, Held et al. (1999, 313) provide evidence that “in Western Europe and Canada the impact of immigrants on the welfare state may actually be positive.” Peter Schuck (1998, 354) uses the American example to elaborate:

We are in most important respects a far better society than we were before these immigrants arrived. Their contribution to this progress is striking in the growth of the economy, the expansion of civil rights and social tolerance, and the revitalization of many urban neighborhoods.
Finally, Woodward also fears the consequences that unlimited immigration would have on the political character of liberal states. Specifically, he supposes that immigration creates a rise in racial and ethnic tensions, arguing that whether we like it or not, it is easier for people to “live peacefully with, care about and identify with people who are ethnically and culturally like themselves” (70). On this point, Woodward may be correct. Alternatively, he may be correct only if the community in question lacks some other identity or goal that binds the community members together. In the absence of non-ethnic or non-cultural shared traits, perhaps people do find it easier to identify with those who share such characteristics. I am not prepared to argue against this claim, but I submit that his claim may work only when other shared identities are not mobilized. If his claim is correct, then again, it does not justify exclusion at the state’s discretion. It would only justify exclusion at the point when the evidence suggests destabilization would set in.

Although the strong and weak versions of this argument travel by different paths, the conclusions are essentially identical: the liberal state may restrict immigration and naturalization as it wishes. In the end, this perspective has failed to support either version. For liberal states, admission practices and policies ought to be justified according to liberal principles. The test for such states, then, becomes whether their internal practices are symmetrical with their external practices. In other words, their admissions criteria may be evaluated on the basis of liberal coherence.
**Liberal Coherence is Possible**

Many theorists in the liberal camp reject the position described above, arguing instead that liberal coherence is both possible and obligatory. Within this approach, three distinct arguments are made. The first two positions in this category assert that particularistic identities carry more ethical weight than a broader, human identity. The argument from community, represented by Michael Walzer\(^3\), is that political communities need a shared identity to function, and this identity is created by allowing communities to choose their own members. The liberal nationalist position, represented by David Miller, applies communal identity at a different level – the level of the nation. Liberal nationalists assert that the nation is a particular type of community that has moral value outweighing the value of the principle of equality applied universally. The third position in this category appeals to values that are central to the realization of the liberal project rather than to community or national identities. This liberal egalitarian view is represented by Joseph Carens, who argues that the interests of national security, liberal institutions and public order warrant membership restrictions. The common thread of these three positions is that the

---

\(^3\) It is certainly debatable whether Walzer is truly a liberal (he has been dubbed a communitarian by many). While the result of his work may create a peculiar form of liberalism, his fundamental commitments fit within the liberal tradition.
theorists believe that we must justify our membership rules, and we must justify them according to liberal principles. All of them believe that membership restrictions can be consistent with liberal political philosophy.

The Argument from Community

Walzer appeals to the idea of community to answer the membership problem. To show that membership restrictions can be justified according to liberal principles, he relies on the importance of shared identity within a political community. For a political community to function, shared identity is imperative. This shared identity, according to Walzer, is created by the members of the community themselves: in his words, “we decide the rules of admission” (32). This is a crucial step for Walzer, because only by defining its own terms of membership can a political community construct its shared identity. To defend his position, he sets up three models of membership (neighborhoods, clubs and families) and ultimately concludes that a political community is like a club in many (though not all) ways. Since clubs have the right to determine their membership, so too should political communities.

To understand better what the political community is, Walzer begins by asking whether neighborhoods (which he refers to as “random associations”) can serve as useful analogies for political communities. People “choose but are not chosen” in neighborhoods, meaning that people have freedom of movement in and out of them, and there are no membership rules, at least not officially or legally (36). But Walzer discards this analogy, saying that is an inappropriate model for membership. If states were like neighborhoods, he claims, there could be “no patriotic sentiment,” and
“neighbors would be like strangers” (37). The political community would thus lack cohesion and distinctiveness. He also fears that if states were like neighborhoods, where people are free to enter as they wish, their welfare, freedoms and culture would actually end up being constrained, as no meaningful common life would exist and inhabitants would organize against strangers (38-39).

Even though he rejects the neighborhood model, it is here that we can most explicitly see his stance on immigration and naturalization laws. He is presenting an argument for control over immigration. From his discussion of liberty and welfare, we can see that he believes that freedom of movement is desirable, but he also believes that unrestricted movement through state borders would actually reduce freedom of movement at the local level. He comments that “neighborhoods can only be open if countries are at least potentially closed” and that “to tear down the walls of the state is not ... to create a world without walls, but rather to create a thousand petty fortresses” (39). In addition, from his concerns over cohesiveness, we see that he values cultural and group distinctiveness. It is also clear that he believes that this distinctiveness is dependent on closure (i.e., immigration controls).

Walzer then moves on to the club model, which he uses extensively to justify membership restrictions since clubs and states “can regulate admissions but cannot bar withdrawals” (40). Here, the argument is that clubs and states have to ask the same questions regarding the distribution of membership. On clubs, Walzer (41) writes, “The members decide freely on their future associates, and the decisions they make are authoritative and final.” I, however, question the freedom that he claims clubs have to determine membership. It is not true that all clubs can have just any membership
rules they want. Many clubs have been subjected to public scrutiny and even legal review of their refusals to admit applicants. And some clubs do not determine their membership at all – membership in some clubs is determined solely by the applicant, for example, clubs that anyone can join simply because they are interested in the goals of the club.

Walzer has presented us with this argument:

1. Clubs have the right to determine their membership.
2. Political communities are like clubs.  

Therefore:

3. Political communities have the right to determine their membership.

My objection, first of all, is that, as I have already observed, it is not true that clubs have an absolute right to determine membership. Therefore we can already see that the third step in his argument does not follow. Second, it is not clear that political communities are like clubs. It may be that they are like clubs in some respects, but one cannot say that they are like clubs in the ways that matter for the argument, let alone

---

4 Walzer also says that states are not analogous to clubs in important respects, but the gist of his argument is as above.
that all clubs are like all states. Even if we revise the second claim to say that political communities are like *some* clubs in *some* ways, it remains a leap of faith to move from this claim to the conclusion of his argument.

Although Walzer insists that the states-as-clubs analogy works in a legal sense, he also says that it may not capture the entire picture of the “moral life” of the polity:

Clearly, citizens often believe themselves morally bound to open the doors of their country – not to anyone who wants to come in, perhaps, but to a particular group of outsiders, recognized as national or ethnic 'relatives' (41).

Thus, despite his overall acceptance of the club model, states may be more like families than clubs in an important sense. Walzer uses the family analogy to introduce another issue: moral claims. His argument is that family members are “morally connected to people they have not chosen, who live outside the household,” and this “kinship principle” is also recognized by states (41). We sometimes may feel a moral obligation to admit people, specifically, in cases where we feel the applicant belongs to our national “family.” Additionally, Walzer believes that is is probably legitimate for states to give priority in immigration to relatives of citizens.

We end up in a similar bind as we did with the club model. This time, the argument is:

1. Families involve moral and ethical connections to people who are not chosen.
2. Political communities are like families.

Therefore:

3. Political communities involve moral and ethical connections to people who are not chosen.
This reasoning fails in several ways. Walzer has not shown that political communities are like families. He has observed that political communities *can be like* families in that there exist moral relationships between people who have not chosen to be connected. That there are moral and ethical relationships in families, however, is certainly debatable. But for the sake of argument, I am willing to grant him this part of his observation. It remains that the unchosen element of families is just one part. To an important degree, families *are* chosen – families absolutely can be constructed, and this rarely mitigates any sense of ethical obligation on the part of family members. Adoptive families can be created, spouses are chosen, and so on. Most families, I would wager, are a mixture of genetic connections (unchosen), legal connection (chosen or unchosen) and connection by convention (chosen; as in groups that live together as families despite no genetic or legal connection).

So what Walzer wants to say must be that political communities *can be* like a *certain aspect of some* families. Put this way, his claim loses a large part of its power. Moreover, he still has not demonstrated even this claim. As in the club model, the second step in the argument is an assumption, and a debatable one at that. To end up at step three of his argument again requires a leap of faith. As for the first step, I have already alluded to the possibility that it is not obvious that families involve moral and ethical connections, and I have countered that his characterization of families does not accurately describe all families, and maybe not even entirely any family. Walzer is left with the mere observation that some families may involve ethical relationships with unchosen others, and political communities may involve the same. The family analogy thus does not seem to tell us much about political communities.
Ultimately, Walzer's claim is that states are like clubs and families: no one has the right to enter, and we may sometimes feel a moral obligation to admit those who belong to our national “family.” However we may feel about his conclusions, the analogies he uses to get to them do not seem to bear up under scrutiny. Nonetheless, all of Walzer's analogies are presented in order to build the case for his main claims. He wants to show that the only way to protect a community's vital self-conception is to allow it to determine its own membership, which, at the state level, is achieved through immigration and naturalization laws. Furthermore, the political community itself is the sole authority on what those laws should be. Walzer does allow two restrictions on this autonomy: (1) the rules must be consistent with the community's self-understanding; and (2) the rules must also be consistent with the principle of mutual aid for “necessitous strangers.”

To clarify Walzer's position:

1. A political community's self-conception is vital to that community's functioning.
2. Thus, self-conception merits protection.
3. Protection requires the polity to define its own membership. At the state level, this means that there must be immigration and naturalization laws.
4. Community members have sole authority over what the laws should be (limited only by two restrictions).

My reaction to this argument has three parts: (1) it is not obvious that a shared self-conception is necessary for a polity's functioning; (2) even if self-conception is

5 The principle of mutual aid expresses the need to provide support to those least well off. Walzer asserts that the principle ought to be as strong for states with respect to outsiders as it is with respect to members of the state. But, he suggests this principle is better served by exporting wealth to the needy rather than by importing new citizens.
necessary, it is not obvious that the way to protect it is through membership rules; and (3) members' authority to decide the rules of membership is problematic. My first question is how vital self-conception is to the functioning of a political community. Walzer argues that political communities must have a shared understanding in order to function. Without a shared self-understanding, he says, there could be no special affinities among members:

...there could not be communities of character, historically ongoing associations of men and women with some special commitment to one another and some special sense of their common life (62).

We saw this sentiment come out in his discussion of the neighborhood model, when Walzer argued that open borders would lead to a lack of cohesion among members. Yet is far from obvious, even if we value distinctiveness of culture, that it is crucial for a polity's functioning. The inhabitants of a neighborhood, to continue the example, may or may not share a common self-understanding (they probably usually do not), but neighborhoods seem to function just fine all the same. Of course, we should remember that Walzer rejects the neighborhood model as an unsuitable analogy for the state, but perhaps he rejects it precisely because it does not support the point he wants to make.

The leap from self-conception meriting protection and the need for membership laws is also unclear. It is Walzer's position that the only way to protect a polity's self-understanding is to allow members to determine their admission policies. His club analogy tries to persuade us of this position: club members have this right, and states are like clubs, so members of a state should also have this right. Yet we
have already seen how this reasoning is flawed. Additionally, could there not be other ways to protect shared identity? Why are admission and exclusion laws the only way? For that matter, perhaps the shared understanding could be so strong as to not need protection in the first place. It could be a robust identity that is in no danger of falling apart.

Next, Walzer says that the right of community members to choose the laws is authoritative and final, except for the two limiting principles referenced above. Even with the two limiting principles, however, the right to self-definition is problematic. For Walzer, this authority derives from his ideas about self-understanding. The principles that guide a political community must come from the community itself. Otherwise, the entire concept of self-understanding is meaningless. Although that point seems reasonable, how does one judge whether the purported self-conception truly reflects how each member of the polity sees herself? What if a member (or, more likely, members) does not accept the identity as a genuine reflection of the community? It does not seem difficult to imagine a situation in which a political community's dominant identity is controversial among its members. It does, however, seem difficult to imagine a shared identity that is acceptable to all members. Political identities are often more disputed and less settled than Walzer admits. Despite this, polities function anyway. For these reasons, I find his four-part argument regarding self-conception and membership laws to be less than persuasive.

There is one remaining criticism of Walzer's position. Following his reasoning, if a community's self-conception is of a liberal polity, then of course any membership rules we have ought to be consistent with liberal principles. I have no argument with
this position itself; after all, it is precisely my claim in this chapter. The problem enters when we consider just what those liberal principles are. I have argued that a key element of liberalism is the principle of moral equality. I doubt that Walzer would take issue with this, but it seems he would limit the application of this principle to within a political community's borders. That is, his argument applies the moral equality principle to citizens, not to humankind more broadly. Yet our aim was to find out whether we can apply membership restrictions and remain coherently liberal, and an important part of liberal coherence is the application of the moral equality principle not just to those who already belong, but to all. Ultimately, Walzer gets us no closer to solving the liberal membership dilemma. We have seen that his view is consistent with applying liberal principles within liberal polities, but we have not seen how to make our membership practices consistent with liberal principles. He is nonetheless a good starting point for our discussion of liberal membership justifications because the other theorists in this section provide more detailed versions of some of his arguments. Perhaps they will help us answer our question: can restrictions on membership be justified from a liberal perspective?

*Liberal Nationalism*

One of Walzer's goals was to demonstrate that membership restrictions can be justified by appealing to the idea of community. The implication of this aim is that relationships within the community can be morally significant in a manner that outweighs the principle of equality applied universally. Liberal nationalists take up this call and try to support it by specifying a particular form of community that
outweighs universal moral equality: the nation. For theorists who adopt this view, our obligations to fellow nationals should be prioritized over our obligations to humanity more broadly. We owe more consideration to our fellow nationals than we do to outsiders. If it can be shown that the moral equality principle can be particularistic and not universal, then we can justify immigration restrictions in cases when admission would harm national members.

David Miller represents the liberal nationalist position. His book, *On Nationality* (1995), is in part an attempt to solve the liberal membership dilemma, and to do this he wants to weaken the power held by the principle of moral equality applied to humanity writ large. His main claim is that nation-states are the biggest unit of collective life that can create and sustain the kind of cohesion that enables a sense of obligation and a willingness to regard others in justice-terms.

According to Miller, the nation is a community that enables attachments to collective definitions and norms, and this function is necessary and good. To establish the point that the moral worth of the nation outweighs the universal principle of equality, Miller begins by advocating the adoption of ethical particularism. He contrasts this principle with ethical universalism, which he characterizes as a viewpoint in which “relational facts” cannot enter the picture (50). Under the framework of ethical universalism, “only general facts about other individuals can serve to determine my duties towards them” (50). Miller then works through a series of arguments to conclude that ethical universalism cannot justify the principle of nationality, so he says that we must adopt the ethical particularist view. For this
position, relational facts are relevant – in fact, they are key. We base our sense of duty and obligation on relational facts: our relationships to others create moral expectations and commitments (50). This justifies prioritizing national relationships; without this bond, according to Miller, people’s motivations to act justly towards strangers would be undermined.

One difficulty in adopting this ethical particularist position is that external justification can never be required. As far as moral considerations are concerned, there is no external world that exists, since our obligations and expectations are defined by our connectedness to others in our community (here, our community is the nation). There can be no requirement to justify exclusion to outsiders because we have no obligations to those falling outside our relational sphere. Miller is explicit in doing away with this requirement. External justification, however, is a dangerous thing to do away with. Imagine a community based on racist principle. We could probably concede that the members of this community feel a connectedness and therefore hold feelings of loyalty and obligation to fellow members that they value over moral obligations owed to outsiders. They could use their relational attachments to justify exclusion of “outsiders” within their community, and there can be nothing anyone outside of the community could say to criticize this type of behavior.

Yet Miller clearly condemns racist communities. The basis for a morally acceptable national identity cannot be biology or any physical characteristics, he insists. Rather, national identity must come from a “common public culture,” and this culture can handle ethnic diversity (25). He also asserts that the common public culture does not need to be “monolithic and all-embracing” (26). His only
requirement is that the public culture not delve too deeply into the private sphere. The common public culture may legitimately include things like language and religion (and normally not such “private” issues as food, dress and music), but Miller also allows that the boundary between public and private is fluid. Thus, for example, although music is “not normally part of the public culture that defines nationality” (26), he does write that there may be times when things like music become part of the national identity (195). And although Miller claims that race (which he sees as a biological or physical characteristic) must be left out of the common public culture, he also claims that ethnicity is a matter of culture. He writes: “nationalist identities invariably contain some ethnic ingredients,” and that is perfectly acceptable to Miller, even though biological or physical characteristics are not allowable. So Miller rejects racist nationalism. My earlier point was that it is not clear how he can.

For Miller, every relationship based in communal ties would be of greater moral worth than any universal-based relationship. It is hardly clear that every kind of community is moral from a liberal standpoint. I ask the reader to consider once more racist communities, or sexist communities, or homophobic communities. It seems safe to assume that most liberals would reject the value of these sorts of communities. But Miller's argument does not give us any reason to distinguish between types of communities in order to make such judgment calls. From what he has argued, we do

---

6 While he does not want the common public culture to go too far into the private sphere, he also does not want it to be too shallow. Miller criticizes “thin constitutionalism” because it is too widely shared and leaves no room for distinction among liberal states. He wants to promote national identity based on a particular liberal state, not just identification with all liberal states.
not know what makes racism, sexism, homophobia and so on morally unacceptable. He simply makes nations morally worthwhile, and this leaves room for those who want to make communities based on race, etc. morally worthwhile, too.

Miller would limit immigration in two ways, both of which he holds are consistent with liberal political philosophy: (1) he would set an “upper bound” (or quota limit) for individuals belonging to “problematic groups”; and (2) he would demand that prospective members be willing to accept current political practices (he means they must be willing to be liberal themselves). Later, we will see that the liberal egalitarian suggests similar restrictions, and we will criticize them in greater detail. For now, I focus on objections to Miller's specific restrictions.

Recall that Miller finds a common public culture to be the central feature of national identity, and that this national identity can fluctuate and shift. He also acknowledges, however, that we may face so much immigration that the common public culture cannot adjust to the influx. Or, we may find that the immigrants come in large enough numbers that they feel confident in staking a claim to nationhood. Miller sees these possible events as problems for the liberal nation, and he proposes that they be prevented by limiting the number of immigrants who may enter (129). Importantly, he recommends limiting the number of immigrants who come from particular groups. Although he does not advise excluding entire groups, this type of exclusion should still raise a red flag for the liberal. Individuals are being excluded not on the basis of individual characteristics, but because they happen to belong to a particular group. Such an action is inconsistent with the liberal focus on individual rights.
Miller's second restriction is that the prospective member must be willing to accept the current political practices of the nation. For Miller, this means an acceptance of the validity of the “ongoing collective debate about what it means to be a member of this nation” (153). This collective debate is what makes the national identity liberal in Miller's eyes. In short, the prospective member must be willing to be liberal and engage in liberal practices. It is not enough, however, that the applicant accept liberal constitutionalism. Miller also demands that he or she commit to the history, language and culture of the nation (153), and this is accomplished by acknowledging the authority of the liberal institutions (124). But what can such an acknowledgment of authority really mean for those unfamiliar with the institutions? Like a conservative nationalist, the liberal nationalist is demanding that the potential member accept the institutions as legitimate and authoritative, without requiring that the legitimacy be rationally demonstrated. Miller wants the applicant to accept the authority of the institutions without having consented to them. The issue of authority without consent raises thorny questions for the liberal, and I do not think it can be dismissed as easily as Miller dismisses it. The obligation to acknowledge the authority of the institutions without understanding or even participating in their legitimation seems to place a conservative, even illiberal, constraint on membership.

The first challenge we asked Miller to solve was that the principle of nationality could justifiably outweigh the principle of moral equality applied universally. The second task was to provide membership restrictions that appealed to the idea of the nation and retained liberal coherence. I have argued that Miller does not
satisfactorily complete either task, and so I reject the liberal national position. One liberal position that attempts to justify membership restrictions remains: liberal egalitarianism.

Liberal Egalitarianism

Neither the argument from community nor liberal nationalism provided us with a way to satisfactorily solve the liberal membership problem. There is a third possibility, though, and that is the position of liberal egalitarianism. In keeping with the commitment to freedom of movement, the position here is a presumption in favor of fewer rather than more membership restrictions. This approach nonetheless does not signify an absolute right to immigration. There are good reasons to restrict admission than can be justified by liberal political philosophy. Joseph Carens is one theorist who believes that membership restrictions need not violate coherence between internal and external principles. Although he believes that they should be used sparingly, he does submit that there are three issues, in particular, that can justify membership restrictions: (1) national security; (2) the protection of liberal institutions; and (3) public order.

For Carens, liberal states have a duty to do what they can to ensure internal freedom of movement. Liberal freedoms suggest this obligation. Invading foreign armies and subversive elements bent on overthrowing the state could jeopardize freedom of internal movement for citizens. On the grounds of protection of national security, then, an established principle of international relations is that liberal states may justifiably prevent entry to subversives. Although it may seem practical, even
defensible, to engage in such exclusion, it could be construed as liberal incoherence, except for the fact that citizens are not free to engage in subversive activities, either. Carens (1992, 28) says that this serves to get around the problem of incoherence: “if it is against the law for citizens to try to overthrow the state, that kind of activity would presumably justify refusal of entry to outsiders.” He concludes that “people who pose a serious threat to national security can legitimately be excluded” (28).

Notwithstanding Carens' assertion, there in fact is a breakdown in liberal coherence. In the case of foreign subversives seeking entry, the state is making a judgment about intent. The outsiders have not yet harmed the state; authorities simply believe that they intend to do so. Coherence can be maintained in this situation only if citizens are also detained based on intent, which they are not, and in any case, such a detention would be seen as illiberal. Alternatively, coherence can be maintained if outsiders are allowed entry but ejected when they actually attempt to harm the state. But subversive citizens are not deported. Their freedom of movement may be restricted (if they are sentenced to prison, for example), but they are not ejected from the state. My objection is harder to justify in the case of invading armies (since invasion itself is an action that could harm the state) or in the case of individuals who have committed some kind of act that gives us good reason to think they would pose security threats, but at least in the case of subversives, it holds. Despite his assertion to the contrary, Carens has lost coherence between internal and external principles.

The second argument Carens provides is an argument from the value of liberal institutions. A challenging question arises when one asks whether liberal states must admit people who are not liberal themselves. Must we admit those who are not
committed to our principles? Drawing his argument from John Rawls (1972, 216-221), Carens (28-29) answers this question by saying that we do indeed have an obligation to admit entry to non- or illiberals, except when they pose an actual threat to our liberal institutions. It is unproblematic to Carens to refuse entry to those whom we have good reason to believe would threaten our institutions should they be admitted. Here, we encounter a breakdown in coherence similar to the one we noted in his first argument. Citizens in liberal states are not deported or ejected from the state if they are illiberal, but outsiders whom we judge to be illiberal are refused entry. Carens answers this objection by claiming that entry and exit are not the same thing, therefore coherence is maintained. He explains:

Under many circumstances, the right to leave is much more important than the right to enter any particular place. It is only in the limiting case where there is nowhere to go that the two become equivalent. ... Under many, perhaps most, circumstances the right to remain in a country where one is already a member is much more fundamental than the right to get in (29).

What grounds this difference, according to Carens, is that if one is already a member, one has connections and ties that one does not have in a place one is hoping to enter. So it is not justifiable to expel illiberal members, but it is acceptable to refuse entry to illiberal applicants. Even if Carens is correct in drawing this distinction (and I am not sure that he is), the fact remains that we would need to use illiberal measures to prevent the outsiders' entry. In baring entry, we are saying again that we think the applicant's political beliefs will make them harmful to the state. This is a strongly illiberal policing of attitudes. Neither Carens nor any other liberal would, as far as I
can deduce, find a citizen's political beliefs relevant to their membership status. And if beliefs are irrelevant for a citizen's membership, then how can it be coherent to make an outsider's beliefs relevant to his or her membership status?

Carens' final argument concerns the maintenance of public order. At its core, this is an argument about volume and absorptive capacity. Carens (30) contends that: “the number of those coming might overwhelm the capacity of the society to cope, leading to chaos and a breakdown of public order.” Since “the breakdown in public order makes everyone worse off in terms of both liberty and welfare,” exclusion is justified (30). This argument seems to serve to protect the interests of everyone, citizens and applicants alike. However, the refused applicant does not actually figure into Carens' picture. Imagine that an applicant's situation would be worsened should they be refused admittance. In that case, the citizens' position is improved (or at least not diminished, since public order is maintained), but the applicant is worse off. The extension of his argument is that it would be better for some to be excluded than for no one to be in a stable state. From a utilitarian point of view, this logic is sound as it maximizes benefits by allowing at least some people to enjoy the state, even if others cannot. From an equality perspective, though, one would have to argue that it is better for no one to be in a stable state than for some to be in and some excluded. In any case, the argument then becomes solely about protecting those who are already members, although I imagine this is not the position Carens wants to take.
Thus, the liberal egalitarian position has not gotten us any closer to the solution than the other liberal positions. The remaining response to the liberal membership dilemma is that coherence between internal and external principles is an impossibility. Liberal theory cannot supply us with a justification for membership restrictions. We now turn to this conclusion and contemplate its implications.

**Conclusion: Liberal Coherence is Impossible**

All of the attempts to reconcile the membership question with liberalism’s commitment to moral equality have been flawed. The flaw manifests as an incoherence between internal practices and principles and external ones. More specifically, with the solutions proposed above, those within the borders enjoy liberal practices, while those outside or at the border do not. Liberal theory, it seems, cannot provide a coherent justification for membership control.

This conclusion leads us to only consistently liberal solution: open borders. If there is no mode of membership control that is consistent with liberalism’s core tenets, then the only consistently liberal solution is to do away with membership controls. To be sure, it is a difficult conclusion to accept, particularly in the Westphalian system of states we are accustomed to. Yet liberals must either accept it or be prepared to rethink their commitment to the ideal of moral equality and universalism.

So what is the way forward? Specific recommendations and their implications are beyond my capabilities here, but one possible response would be to adopt a global approach to citizenship. The way out of the liberal dilemma may be to recast our
conception of citizenship, to shift from citizen-based rights to broader human rights. It may be necessary to transform citizenship from a concept embedded in state sovereignty to one embedded in the concept of international personhood. Individuals would be connected to the state through international human rights instruments, and not through the state's decisions.

Such a move would entail increasing the scope and powers of international codes of human rights. In fact, this shift is already underway. Human rights are not dependent on nationality, at least not in theory. International treaties, codes, and conventions declare that citizenship status can have no bearing on the awarding of human rights.\textsuperscript{7} This emerging human rights regime limits states' discretion towards aliens by not only protecting migrants, but also by granting them symbolic and actual rights that the state must execute.

I unhesitatingly admit that there is no real legal power in the international human rights regime, only a moral power of discourse. This moral power is better than nothing, but it lacks the influence needed to change our understandings of citizenship. Nevertheless, I believe that the way out of the liberal membership dilemma is to move towards protecting people through internationally recognized rights, and not through a dependence on rights conferred by states.

\textsuperscript{7} The treaties and conventions include the International Covenants on Civil and Political Rights, the International Covenants on Economic, Social and Cultural Rights, The European Convention in Human Rights, and more. These covenants are derived from the Universal Declaration of Human Rights, adopted by the United Nations in 1948. For a detailed description of the development and competencies of these conventions, see Jacobsen (1996, Chapter 4).
Thus far in this chapter, I have only been concerned with the distribution of freedom and justice. I have not addressed the distribution of property and other material goods, nor do I plan to now except to say that I acknowledge that my proposal will involve not only a fundamental rethinking of citizenship, but also a fundamental rethinking of distribution. I leave the hashing out of the details to economists. I will only say that if we want to embrace liberal values, we must be willing to accept a radically transformed philosophy that extends to all aspects of our lives.

If liberals cannot bring themselves to accept the call for open borders, and if they take their commitment to the philosophy seriously, then they must be prepared to think long and hard about what liberalism means. The universalist aspect of liberalism holds us to the principle that moral claims must be justifiable to any moral agent, whether or not they are affected by its application. Are liberals prepared to recognize that this principle applies to membership rules and thus to people beyond their own borders?

In this chapter, I have argued that the only reasonable and consistently liberal solution to the membership problem in liberal states is to allow for unlimited immigration and naturalization. In the next chapter, however, we will see that states do not pursue this option. Further, there is little convergence among states regarding the restrictiveness or inclusiveness of their laws. It is this reality that we examine in the rest of the dissertation.
CHAPTER 3:

NATIONALISM AND POSTNATIONALISM IN NATURALIZATION LAW

In the last chapter, I presented a normative defense of unrestricted naturalization. Arguing that no defense of naturalization restrictions met the requirements of liberal democracy, I concluded that liberal states should pursue the doctrine of automatic citizenship in order to maintain internal and external coherence. Yet no existing state pursues this path. Instead, a wide range of admission rules and naturalization requirements exists, resulting in considerable cross-national variation (which will be explored in the next chapter).

In order to understand which factors push policymakers away from an open policy, we must identify the determinants of the policies they follow. The goal is to explain why states pursue the naturalization laws they do. Why do some implement restrictive laws, while others are far more relaxed in their requirements? Despite the inevitable variation that arises in cross-national analysis, are there common patterns? Ultimately, the question is this: which factors push policymakers towards more open policies, and which push them away from the open ideal?

The extant literature on the determinants of immigration policy is marked by what Vink (2005, 2) calls a “Babylonian confusion.” Freeman (1998, 89) explains that “a variety of actors – transnational, subnational, quasi-governmental, and private
– have a hand in influencing, if not actually making, migration and refugee policy.”

The complexity and number of potential determinants creates a muddle of conflicting pressures and cross-pressures, and the work of immigration and citizenship scholars has reflected this messiness. The result is a cluttered literature in which competing ideas rarely speak to each other. The literature is replete with interesting ideas, but ideas that nonetheless contribute to conceptual confusion. As I read it, though, the argument centers on just two theses: national and postnational. The two perspectives differ in their emphasis on domestic versus transnational influences on state citizenship policy. National scholars focus their attentions on state-centric explanations, while postnational scholars give explanatory primacy to the international and transnational influences on state citizenship policy. ¹

In this chapter I use this distinction to make sense of the cluttered literature. I explore a variety of national and postnational arguments to understand how immigration and citizenship policy can be explained. Beginning with an overview of the two approaches, I detail the explanations based on national, or state-centric, factors: political explanations, historical and cultural factors, demographic, and economic characteristics. Postnational explanations follow, including the roles of international organizations and sending states. I conclude this chapter by explaining why naturalization law is an important test for the two theses.

¹ I use the term “national” not to describe the political ideology of nationalism, but as an identifier for the collection of ideas that refer to determinants at the national, as opposed to supranational, level. The use of “nationalism” here is not connected in any way to the political ideology of ethnic or cultural nationalism.
An Overview of the National and Postnational Theses

Whether they label it as such or not, a number of social scientists draw a distinction between national and postnational influences on the state's citizenship policies. Used by social scientists such as Galloway (2001) and Koopmans and Statham (1999), national influences refer to domestic, state-level explanations. These researchers contrast the national influences with postnational ones, which refer to global and systemic-level explanations. The debate between nationals and postnationals is rooted in a fundamental disagreement over the location of the determinants of immigration and citizenship policy and law.

Out of this debate over the location of the determinants comes the national-postnational divide. Determined that state power to regulate borders and establish terms of membership remains substantial, national scholars focus on explanations that originate domestically. This group points to differing factors that shape the law, but all of them agree that the state's control over entry and the granting of citizenship remains, if not absolute, as strong as it ever was. Proponents of this view variously point to political determinants of policy direction, such as partisanship (Joppke 2003; Howard 2006), interest group politics (Freeman 1995), and public opinion (Givens and Luedtke 2004); historical and cultural patterns that influence current policy (Barrington 2000; Brubaker 1992; Hammar 1990); and domestic structural and demographic characteristics (Breunig and Luedtke 2005; Bertocchi and Strozzi 2004; Weiner 1992/92; Foreman-Peck 1992).

For examples of research that explicitly employs the theses in empirical studies, see Aleinikoff (2000 and 2001), Aleinikoff and Klusmeyer (2002) and Kondo (2001).
In challenge to those who would claim that state control is not declining (at least not with respect to citizenship issues), the second group of scholars argue that with the spread of globalization, a new “postnational” form of membership is superseding traditional conceptions of citizenship that place authority in the hands of the sovereign state. These postnational arguments are led by students of international organizations and human rights regimes, who conclude that power is shifting away from the state and towards transnational powers and norms (Soysal 2000; Sassen 1996; Jacobsen 1996), as well as highlight the transnational influence of sending states (Itzigsohn 2000, Shain and Barth 2003).

The key distinction between the competing theses is that the two groups of scholars locate the sources of citizenship policies in two different places. For the national scholar, the sources remain rooted within the state. The postnational, by contrast, finds constraining influences on state power in the global order. The theoretical disagreement between the bodies of scholarship serves as the basis of my research design to test hypotheses regarding the determinants of naturalization law.3

The National Thesis

The national thesis argues that domestic-level variables direct state policies on citizenship and immigration. This thesis includes arguments by students of political parties like Breunig and Luedtke (2005) and Howard (2006); collective action scholars

---

3The reader may wish to note, however, that there is some crossover between these two schools. For analytical clarity, I have focused on the main arguments of the authors I review, but many of them accept a mix of domestic and international explanations of citizenship policy. The lesson to draw from the more nuanced approach is that the national/postnational divide is not a strict dichotomy, but a continuum.
like Freeman (1995); public opinion theorists such as Givens and Luedtke (2004) and scholars who investigate the role of the judiciary, such as Joppke (2003) and Aleinikoff and Klusmeyer (2002). These traditional political explanations are challenged by Barrington (2000), Brubaker (1992) and Hammar (1990), who instead argue that cultural and historical variables shape and reflect understandings of political membership. Finally, scholars such as Bertocchi and Strozzi (2004) focus on the effects of structural and demographic characteristics. This group emphasizes issues of political institutions, economic characteristics and population demographics. I turn now to a more detailed examination of the specific arguments.

Political Explanations

The first of the state-centric approaches centers on political explanations. Here, issues such as partisanship (Breunig and Luedtke 2005 and Howard 2006), client politics (Freeman 1995), political salience and public mobilization (Givens and Luedtke 2004) and the judiciary (Joppke 2003) are key to understanding immigration policy outcomes. Rather than studying historical and cultural patterns or structural characteristics, for example, the orientation is towards the politics of immigration. These researchers, therefore, focus on domestic political actors and processes.\(^4\)

\(^4\) It is important to note that most politically-oriented researchers do not flatly reject all other domestic approaches. They think, however, that something is missing from the other approaches. Howard (2006, 15-16) explains:
Migration scholars focused on domestic influences frequently point to issues of partisanship when they explain immigration and citizenship policies. The argument, as Joppke (2003, 454) summarizes, is that policies and laws develop into “different articulations according to who is in charge in a given time and place (the left or the right).” The important question is: Who has the political majority?

When parties of the left control the government, policies enacted during their leadership may be less restrictive than when parties of the right are in power. Breunig and Luedtke (2005, 7-8) argue that parties of the left are more likely to see immigrants as potential voters; thus, they are more likely than parties of the right to court the immigrant vote. They note, however, that the relationship may not hold, since where immigrants are permitted to vote, their participation rates remain low. Givens and Luedtke (2005) similarly argue that leftist parties cannot afford to risk the short-term popular backlashes for being “pro-immigrant” in the hope of future electoral gains from the immigrant electorate. Where these researchers focus on party preferences and instrumentalism, others focus on the ideological role of political parties.

What is missing from these structural, cultural, and institutional factors is the actual politics of citizenship. How have political actors navigated the potentially treacherous waters on this volatile issue? How have they dealt with pressures from interest groups, social movements, and public opinion? …Elites have pursued conscious strategies and fought open battles, and (it is likely) that these contingent political factors were decisive.
Joppke (2003) explains partisan differences by reference to ideological orientations. He finds that, most commonly, the left is the catalyst for changes to existing citizenship policies. Arguing that liberalized immigration reforms rarely garner many votes, Joppke (437) notes that changes in the law require an active campaign for reform. Political forces on the left, in his view, are more likely to undertake such efforts than are parties on the right. He reasons that this is attributable to the “universalist vocation” of the left, which stands in contrast to the political right’s emphasis on “being” rather than on “becoming” (432). Here Joppke is referencing the tradition in the political left to embrace change and reform enthusiastically, as well as the right’s traditional commitment to slow, ordered change. When trying to understand the forces for immigration and citizenship reforms, then, Joppke focuses on the political left, since he sees those parties as being more likely to push for change.

Howard (2006), on the other hand, is dissatisfied with Joppke’s approach. After examining 15 cases in the European Union, Howard concurs that the left-right balance of power in government does seem to be connected to whether liberalization of citizenship law occurs, but he adds that a leftist party in government only accounts for part of the variation (17). He suggests that a more significant factor may lie not in the political orientation of the left, but of the right (17). Empirically examining various cases, Howard finds that the political orientation of the left makes little difference in the restrictiveness of citizenship law. The political orientation of the right, however, correlates with the degree of restrictiveness of citizenship laws.
Moreover, it is not enough to ask about partisan control of government. While that does influence citizenship law, according to Howard, a more important issue may be whether a right-of-center government is actually mobilized against relaxing immigration and citizenship policies (17). If the right-of-center government is not mobilized on these issues, then one would not expect the left-right balance of power to matter for the outcome of citizenship laws.

In support of Howard, such mobilization is far from obvious. It cannot be assumed automatically that immigration and citizenship are contested priorities. Freeman (1995, 884-888) reminds us that immigration issues are not always sources of partisan division. In the settler societies (Australia, Canada, New Zealand and the United States), for example, immigration issues frequently – though not always – cut across partisan lines. With some important but localized exceptions, immigration is rarely used as a means of appealing for votes. In the traditional countries of immigration, it is more common for major political parties to approximate consensus on immigration matters. Further, Freeman tells us that new parties based strictly on immigration-related platforms are rare (although not unheard of) in the settler societies. He writes that even when right-wing fringe parties have won electoral support, their impact is minimized because “they have claimed few seats in national parliaments and have little or no chance of participating in or forming governments” (884). If we accept Freeman’s observations, then it seems that mobilization around immigration and citizenship is not a given. Thus, Howard (2006) is correct to point out

5 Despite a broad pattern of similarity, one should be careful not to overstate the similarities among the settler societies regarding immigration issues. There is still some difference among them, specifically when different races become new immigrants.
that we do need to determine whether the parties in government are mobilized on these issues. After all, the real issue for law-making is the impact of the positions of the established parties towards immigration and citizenship issues. If these issues are salient for the established parties, then we may expect an impact. If, on the other hand, these issues are not salient for the established parties, then there is little reason to expect citizenship issues to take a prominent place in the political arena.

Mobilization around immigration and citizenship issues may be more common in non-settler societies, however. Across Europe, post-war reforms in nationality law have politicized the issue and increased conflict. Even Sassen (1996, 69), a strong advocate of looking beyond the domestic explanations of policy choices, observes that “whole parties position themselves politically in terms of their stand on immigration, especially in some European countries.” Hansen and Weil (2001, 1) go so far as to cite the politics of immigration as “one of the main cleavages between European parties.”

The partisan orientations of governments may explain the ideological sources of citizenship laws and immigration policies. A second political explanation engages the maneuvering games that politicians play. In this approach, ideology matters far less than careful calculations over the distribution of power. More specifically, what

---

6 As for the cases studied in this dissertation, is post-communist Europe likely to follow the patterns of Western Europe? Joppke (2003, 432) believes so. He notes the difficulty of distinguishing between right and left after the demise of communism and argues, like Giddens (1994), that although the left-right distinction “may have become meaningless in other respects, with respect to the conflict ….(over) citizenship, …it still works rather neatly.”
drives immigration policy is the lobbying by organized pressure groups and the willingness of politicians to trade on particular groups’ interests in exchange for electoral support.

Freeman (1995, 885), who questions the applicability of the partisanship explanation in the settler societies, emphasizes the role of clientelism and interest group politics. His main claim is that the organized public dominates immigration policy. Policymakers respond to the demands of organized groups out of self-interest; they wish to remain in power, and thus they have an incentive to enact policies that the organized pressure groups want. One could imagine, then, that immigration and citizenship policies could shift over time and across countries, depending on the interest groups dominating politics. Certainly, shifts in policy do occur, but rarely are they dramatic. Freeman posits that the interest groups that win out are most likely to push for less restrictive policies. The key to this outcome hinges on varying abilities to organize and articulate opinions. He writes, “as it turns out, those who benefit from immigration in direct and concrete ways are better placed to organize than are those who bear immigration’s costs.”

This claim leads us to two questions: (1) who benefits from immigration; and (2) what incentives and resources do they have that make them more organized than those who do not benefit from (or even are harmed by) immigration. To answer these questions, Freeman examines economic relationships and family ties, and he points to the desire for cheap labor and reunited families as incentives to increase immigration intakes. Employers who need unskilled workers are one of the principal beneficiaries
of a less restrictive immigration policy. Real estate and construction businesses also benefit from immigration because, as Freeman explains, they are industries that profit from population growth. Moving away from the strictly economic realm, Freeman cites the kin of immigrants as another group of beneficiaries (885).

On the other hand, those who bear the immediate costs of immigration are those who compete with immigrants for jobs, housing and government services. This segment of the population lacks the resources to articulate its opposition to immigration. And those who bear the more general costs of immigration (such as increased social expenses and overpopulation) are spread throughout society. In Freeman’s (885) words, “the concentrated benefits and diffuse costs of immigration mean that the interest group system around immigration issues is dominated by those groups supportive of larger intakes, and, by implication, the organized public is more favorable to immigration than the unorganized public.”

Assuming that politicians are vote-maximizers, Freeman (886) suggests that it is in the interest of policymakers to accommodate the more organized and concentrated opinion groups. While popular opinion may be more restrictionist, it lacks the organization and articulation that the smaller, better-organized groups maintain. The nature of client politics, then, is conducive to an expansionist approach to immigration policy.

If one accepts Freeman’s arguments, one might expect all liberal democracies to have expansionist immigration policies. Yet this is not always the case. As this dissertation demonstrates, citizenship laws (one form of immigration policy) vary in
restrictiveness from country to country, even among liberal democracies. Freeman’s perspective also assumes that general public opinion is disorganized and unarticulated in a meaningful way. While this assumption may hold, it may also be questioned.

Givens and Luedtke (2004) attempt to do just that by examining immigration policies in the member states of the European Union. Drawing heavily on Freeman’s contributions, they find that client politics do lead to more liberal policies, largely because, as Freeman (1995; 2005) argues, groups facing concentrated benefits are able to organize more effectively than the more poorly articulated opinions of the general public, who face more diffuse costs. However, Givens and Luedtke (2004, 149) also find that this outcome holds only in cases where client politics alone determines immigration policy. They argue that “blockage” (restrictiveness) occurs in many cases precisely because it is not just client politics that determines policy – a multitude of other factors may counteract client politics. In other words, client politics does work just as Freeman posited, but only when it is the sole determinant, and this is rarely the case.

Introducing another variable, Givens and Luedtke (151-152) argue that the prominence of client politics is affected by the salience of immigration issues in public opinion. They define salience as “the level of attention paid to, or awareness of, the immigration issue” (150). In their view, client politics can lead to liberal immigration policy, as Freeman (1995; 2005) believes, but only when salience is low. A political climate of low salience of immigration issues allows governments the freedom to cater to pro-immigration clients, such as businesses that benefit from cheap labor. When
salience is high, conversely, more restrictive policies are the likely outcome. Calculations of electoral support from the general public become more important to vote-maximizing politicians. Givens and Luedtke (2004, 149) hypothesize that salience is higher under conditions of unemployment and economic recession. In such a situation, one can observe “a shift from client politics to a conflictual mode of policy making” (150). In short, political salience can override the impact of client politics.

Howard (2006) supports Givens and Luedtke’s (2004) findings. Like them, he argues that high salience leads to the mobilization of anti-immigrant public opinion. He writes that the mobilization of public opinion “trumps” liberalizing pressures and contributes to restrictive immigration policies:

And while international and domestic pressures to liberalize have been significant, and sometimes decisive, they have sometimes been held in check by the countervailing pressure of a mobilized public opinion that is latently hostile to immigrants. In fact, as the evidence in this article suggests, it appears that when public opinion gets activated politically, with a concrete sponsor or means of expression, liberalization is usually stopped, or an existing law becomes even more restrictive (21).

Neither Howard (2006) nor Givens and Luedtke (2004) discard Freeman’s (1995) arguments. Rather, they qualify his claims. The former agree that client politics has a liberalizing effect on immigration policy but add that it is not always the most powerful determinant of policy.

Scholars who focus on the varying effects of client politics sometimes face criticism from those who believe that the role of the judiciary is overlooked. The legal process is an important part of immigration and citizenship legislation. Courts increasingly hear cases that have been brought before them by immigrants as well as
by NGOS acting on behalf of immigrants. Adjudicating these cases, the courts have the practical power of modifying immigration and citizenship laws. Thus the legal output of the courts may be a key element for understanding immigration policy.

Jacobsen (1996, 106) adds that not only do the courts adjudicate national laws, but also that they pay increasing attention to transnational laws and norms. The way domestic courts interpret international and transnational norms can leave a lasting impression on national-level laws. Researchers argue that the judiciary is a liberalizing influence on nationality law, since it is shielded from populist anti-immigrant sentiment, unlike the political process (Joppke 1998, 271; see also Aleinikoff, 2001).

A contagion effect is also observable, as jurists are “amenable to copy each other's inventions across states” (Joppke 2003, 13). Bertocchi and Strozzi (2004, 3) argue that legal traditions lead to the transplant and adoption of citizenship law. Legal traditions are limited in number, so the outcomes are as well. Historical emphasis on the *jus sanguinis* legal tradition is thought to lead to higher barriers to naturalization, while the *jus soli* tradition leads to less restrictive naturalization regimes (Aleinikoff and Klusmeyer, 2002, 47). The notion of the importance of tradition leads to another explanation of citizenship and immigration policy: historical and cultural patterns.
**Historical and Cultural Patterns**

The legal process approach (particularly the branch dealing with legal tradition) hints at the second branch of the state-centric, or national, thesis: the importance of historical and cultural patterns. In this perspective historical events leave deep and enduring legacies on contemporary policies and laws. Past experiences establish lasting attitudes and perceptions in populations, including attitudes towards political membership. National self-understandings (Barrington 2000; Brubaker 1992; Hammar 1990), cultural patterns such as hostility to outsiders (Weiner 1992/93) and historical experience with immigration (Freeman 1995; Howard 2006) are therefore important explanations of immigration policy today.

Brubaker's (1992) analysis of France and Germany's immigration models is the most influential historical-cultural explanation to date.\(^7\) He explains the varying citizenship policy approaches and naturalization rates in the two countries by focusing on their distinct historical sequences. Their divergent paths of nation- and state-building eventually led them to different understandings of nationhood. In Germany, Brubaker explains, nation-building preceded state-building, resulting in an ethnocultural conception of nationhood. France, on the other hand, experienced state-building first, and this resulted in a more civic-based (as opposed to ethnic) understanding of nationhood. Once these conceptions were embedded in the societies, they came to be reflected in the states' citizenship policies. Germany adopted the *jus sanguinis* legal tradition, which ascribes citizenship on the basis of descent and can lead to more restrictive policies. France adopted the *jus soli* legal tradition, which

\(^7\)See Jacobsen (1996, 21-26) for an example of one of many works that continue in Brubaker's tradition.
establishes citizenship on the basis of birthplace and can lead to less restrictive policies. Brubaker argues that national self-understandings are stubborn and resistant to change; thus the laws and policies that stem from them are also stubborn and resistant to change. This argument suggests that the differences between countries' laws would survive over time, regardless of particular timeframes or politicians.

Similarly, Hammar (1990) employs the historical-cultural approach, also to the French and German cases, to explain denizen rights in Europe. He emphasizes the importance of cultural myths of nationhood in understanding citizenship policy choices. Whereas Brubaker (1992) focuses on ethnno-cultural vs. civic conceptions of nationhood, Hammar (1990) examines whether the state views citizenship as membership in the nation or membership in the state. For example, in France the state formed before the nation did. This developmental sequence led France to adopt an inclusive, multinational understanding of nationhood and citizenship. Conversely, the German nation preceeded the German state, leading to an exclusive, ethnically and culturally defined conception of citizenship. Barrington (2000) bridges both historical-cultural approaches outlined above to explain variation in immigrant incorporation regimes in the Baltic states. He claims the “ethnic versus political” and the “national versus multinational” to be important factors for understanding national identity and the corresponding incorporation regimes. Barrington argues that whether a nation is
ethnically or politically defined, and whether the nation is defined as a nation-state or a multinational state, together are decisive factors for the political incorporation of immigrants.

Brubaker (1992), Hammar (1990) and Barrington (2000) all focus on the connection between citizenship models and understandings of nationhood. Importantly, their arguments also suggest that the resulting differences in citizenship policies largely are preserved over time and governments. It is this claim that is more controversial to other scholars. At the same time that he acknowledges the merits of the 'politics of nationhood' approach, Vink (2005) vociferously criticizes the preservation claim. He focuses on Brubaker (1992) as the classic example and argues that while Brubaker may have been correct about the essential differences between citizenship policies, the argument should be bracketed by time and place. Vink (2005, 3) writes:

In particular, using the limited comparative data available in recent publications, a very preliminary quantitative analysis of such data show that indeed before 1990, and only within Western Europe, there is a strong correlation between a country's citizenship tradition...and its naturalization policy (whether it is relatively liberal or restrictive). This correlation, however, becomes much less stronger [sic] during the 1990s and especially in the early years of this century, and is also less valid on a global scale...

Vink grants more to Brubaker than other reviewers do; although he takes issue with the applicability of Brubaker's thesis, Vink (2005, 8) concedes that “cultural traditions do not necessarily become redundant as explanatory facotrs for cross-country variation.” By contrast, Weil (2002) and Joppke (2001) are less favorable to
Brubaker's arguments and criticize his versions of the French and German conceptions of nationhood, arguing that Brubaker's conceptual distinction between ethnic and civic is questionable at best. Weil (2002, 13) clearly states that “nationality law is not the reflection of a concept of nation.” In addition, Weil also points to trends in current citizenship policies that contradict Brubaker's predictions, and Joppke (2001) argues that transnationalism has rendered cultural understandings of nationhood far less powerful predictors of citizenship policies.

Another historical-cultural explanation of citizenship policies focuses on state and/or public perceptions of cultural distance and affinity to incoming migrant groups [Howard, 2006]. The claim is that states prefer immigrants who are culturally similar to their native populations over those who are culturally distinct. Immigration policies are likely to be both more contentious and restrictive when culturally distinct immigrants dominate the inflow (Weiner 1992/93, 197).

Although the cultural distance argument seems reasonable, it can be problematic. One weakness is that which cultural attributes matter is not always evident. Does ethnicity matter? Religion? Language? If the answer for a state is religion, what distinctions are made? Is the salient cleavage Christian versus non-Christian, for example, or would politically relevant distinctions be made among Christian denominations as in Northern Ireland's Catholic-Protestant divide? As for language, it may not be cultural affinity/distance that drives state preference for

---

Howard finds this approach less than helpful because of the vagueness and subjectivity of the claim. He finds similar problems with other cultural pattern explanations, such as levels of xenophobia and racism as well as hostility to immigrants (a test of the degree of openness or closure of a society), as measured by public opinion polls such as the Eurobarometer and the European Social Survey.
linguistic similarities between immigrants and the host populations. The state's preference may be of a more pragmatic origin: it could simplify the incorporation process of immigrants. The examples here are just a sampling of the sorts of weaknesses to which the cultural distance approach is susceptible.

An alternative explanation of citizenship and immigration policy concerns a state's historical experience with immigration. Freeman (1995) makes extensive use of this approach by examining the immigration histories of a variety of liberal democracies. Arguing that divergent immigration experiences lead to differing modes of immigration politics, Freeman classifies his cases into three categories of receiving states:

1. the English-speaking settler societies: US, Australia, Canada
2. European states experiencing mass migration only after World War II: France, Britain, Germany, Switzerland, the Netherlands, Sweden and Belgium
3. European states with “recent” transitions from sending states to receiving states: Spain, Portugal, Italy and Greece.

Freeman observes that the three classes of receiving state experienced their first major immigration waves under different timing and circumstances. He argues that the divergent immigration histories lead to differences in popular attitudes towards migration and thereby affect immigration policies. For example, Freeman explains, the English-speaking settler societies are “prototypical” countries of immigration. Consequently, immigration became a vital part of their founding and development and is integral to their founding myths. The “folklore of immigration,” then, is positive. As

---

9Freeman does not mention New Zealand, but it certainly could be included in this group.
a result, they stand alone in encouraging mass immigration for permanent settlement (887-888). Still, there is some opposition in these societies. The degree of encouragement, then, is relative but not absolute.

The second class of receiving state, in contrast, did not experience mass immigration as part of the founding of states. Because of postcolonial and guestworker migrations, these states had their first modern encounter with mass migration after they were already developed as nation-states. Immigration is not a part of the founding myth, nor is it a vital part of national identity. The result of this is that public attitudes towards immigration and immigrants are far less positive than in the English-speaking settler societies (889-891). Consequently, immigration and citizenship policy tends to be relatively restrictive.

Finally, the third category, the so-called new countries of immigration, experienced yet another history of immigration. Making the transition from sending state to receiving state only recently, these countries are dealing with migration pressures for the first time in their modern history. This transition occurs in a setting of “near complete absence of any institutional mechanisms or administrative experience as to planning or regulating immigration” (894). Consequently, their response to immigration is ambiguous, mixing inclusive measures with exclusive ones.

Following Freeman (1995), Howard (2006, 10) takes this explanation a step further, arguing that experience with immigration is important, but by itself it is not enough to understand citizenship policies. Howard argues that immigration history can
lead to different logics as far as immigration policy is concerned. Importantly, though, a second variable must be present: whether or not a country is a former colonial power. Further, this power must have been on a large scale, sustained, and outside of Europe. He writes, “What matters most, therefore, is whether a country had both a prior experience as a colonial power and a sustained experience with immigration, not just one of the two. And it is in these countries that one would expect to find the most liberal citizenship policies” (10).

It is, of course, possible that these detailed analyses of the historical-cultural patterns (as well as the political approaches described earlier) are working overly hard to explain what may actually be a simple and straightforward question. Weiner (1992/93, 91) advocates a move towards explanations that are more “obvious.” Perhaps the answer to “Why do some states have restrictive naturalization laws while others have liberal ones?” can be found in contemporary structural and demographic characteristics.

Structure, Economics, and Demography

This approach focuses on characteristics that are outside the direct influence of the actors who make decisions about naturalization law. Variables such as border stability, economic factors, population demographics, and political institutions may hold the key to understanding citizenship policy choices that legislators make.
Border stability is one potential explanation for choice of citizenship law. This hypothesis refers to various events that are capable of affecting state borders, for example regime transition. In a study investigating the implementation of *jus soli* and *jus sanguinis* citizenship laws, Bertocchi and Strozzi (2004, 17) cite four types of events affecting state borders:

1. state disintegration (as in the former Yugoslavia in 1991);
2. state transformation (Germany in 1990, Russia in 1992);
3. state demise (Germany 1945, East and West Germany in 1990, USSR 1991);
4. state creation (e.g., states created by independence from colonialism and those created after the fall of communism in Eastern Europe).

Bertocchi and Strozzi (18) argue that younger states tend to perceive their borders as unstable and prefer *jus sanguinis*, unless the young countries are democracies. Democratization has a tendency to encourage incorporation and integration, and thus young democracies are likely to adopt the more civic-based *jus soli*. Simultaneously dealing with nation- and state-building gives the younger states an opportunity to establish laws that incorporate a commitment to democratic civic ideals, which are not based on bloodline (Barrington, personal correspondence, April 2003).\(^\text{10}\) This explanation, however, stands on conceptually shaky ground. In Bertocchi and Strozzi's (2004) argument, it appears that democracy, not border stability, holds the real explanatory power. They ultimately use democratization to

\(^{10}\) Barrington does not investigate the effects of border stability or age of state in his studies in the Baltic regions. He merely means to suggest this as a potential explanation.
explain younger states' policy choices, not border stability. A second issue is that there is no theoretical reason to expect “new” states to adopt less restrictive laws. It is reasonable to suspect that state age influences changes in citizenship law, but there is nothing to suggest the directions the changes may take.

A second approach under this rubric investigates economic reasons for choice of citizenship law. Although an extensive literature search reveals no theoretical arguments for this explanation, there exists a sort of folk wisdom that immigration can harm a state's economy. For example, one predominant populist strain of criticism is that new immigrants compete, often successfully, with native workers, raising the unemployment levels of “home-grown” workers. Yet another common complaint is that immigrants serve as a drain on the social welfare system of host societies, benefitting but not contributing to the collective pot of social welfare benefits. If lawmakers believe immigration would harm the economy, perhaps they would be more likely to restrict immigration. For example, extensive social welfare programs could encourage restrictive laws, since there would be more people to support if new citizens are admitted. On the other hand, extensive social welfare programs could encourage less restrictive laws, since admission of people would mean more money would go into the system. Employment rates may also be influential. Conventional wisdom would suggest that countries facing high unemployment would not want to admit more people. Competition for employment would increase and exacerbate the situation. Bruenig and Luedtke (2005, 18) find that unemployment rates have a stronger impact on the admission of foreign-workers, but they are comparing
admission rates of foreign workers versus asylum seekers, not immigration policies, and not even admission rates in the aggregate. Further, they suggest that the impact of unemployment rates is driven by another factor, one that is still economic yet not structural: client politics involving business groups. One should note, however, that issues such as unemployment rates are short-term economic conditions, and it stands to reason that immigration policy would be responsive only to long-term conditions (i.e., structural conditions).

Political institutions are yet another structural explanation for citizenship law. Regime type, electoral systems and electoral thresholds are some of the possible explanations. Political institutions set the rules of the game for competing elements of society, and the structure of competition may influence policy outcomes.

Regime type (i.e., whether a country is a dictatorship or a democracy) is a political institution in that it sets the rules for how a state's policymakers are placed into power. Foreman-Peck (1992) argues that democracies are less permissive in their immigration policies than dictatorships. Peck's claim is based on an economic argument: immigration lowers wages, thereby harming the poor and benefiting the rich. He argues that because there are more poor people than rich people, politicians will follow the positions of the more numerous poor in order to gain votes. In dictatorships, there is no similar constraint on leaders' actions. Moreover, Peck writes that the rich determine policies in dictatorships, and since they benefit more from immigration than poor people do, they will press for permissive immigration laws.
It is interesting to note that Peck's argument is quite similar to Freeman's (1995) argument about interest group politics. The two researchers, however, differ very much in their logic. Whereas Peck (1992) believes the poor have a more powerful voice than the rich in democracies, recall that Freeman (1995) believes the opposite. He argues that the poor are less articulate and organized than the rich in their opinions regarding immigration. As a result, the rich shape permissive immigration policies. Both concur that wealthier people benefit more from immigration than those who are less well off, but they disagree over the role wealthy people can play in democracies. Both arguments follow convincing logics, but only one can be correct. The answer will only be found through empirical study.

More political institutions to consider include electoral systems and electoral thresholds. Both of these sets of rules affect the way political parties act. For example, a presidential system and higher threshold make it difficult for extreme parties to gain power. As a result, immigration policy is likely to be centrist (neither extremely liberal nor extremely restrictive). By contrast, proportional representation and lower thresholds make it easier for extreme parties to gain representation, and once in power these parties find it easier to implement more extreme policies since they need not maintain a plurality of votes. Yet since few extreme parties enter government, their influence is likely to be more indirect than direct. For example, other, less extreme parties may change their immigration policies to preempt future electoral losses.
Breunig and Luedtke (2005, 7) add that proportional representation and low thresholds help immigration to make it onto the national agenda. In these systems, they hypothesize, extreme parties concerned with immigration issues could place pressure on the mainstream parties to pay attention to immigration policy. Thus, immigration is placed higher on the political agenda than it would be in presidential and mixed systems.

Although Bruenig and Luedtke find support for the influence of political institutions on immigration policy, skepticism about the impact of structural factors is not difficult to find. The clearest rejection of such explanations is found in Howard's (2006, 9) quantitative analysis of citizenship policy in the EU:

Several plausible arguments could be presented, but most do not work out empirically. Structural factors such as rates of economic growth, unemployment, or immigration levels do not shed any light on the puzzle...And differences in political institutions, such as whether countries have parliamentary, presidential, or mixed electoral systems, different minimal percentage requirements to enter parliament, or various electoral rules and practices, explain very little as well...Even a cursory look at the grouping of countries shows that it has little or nothing to do with such standard structural factors as a country's territorial or population size, the configuration of its political institutions, or the performance of its economy.

Other researchers echo Howard's assessment. Even Weiner (1992/97, 197), who urges researchers to look for the “obvious” causes before investing resources into more complicated accounts of immigration policy, points out that structural, economic and demographic factors are of limited utility in explaining differences between countries' policies. More to the point, he argues that they are less than satisfactory in explaining the criteria that states use to decide who to admit. He offers the examples of Japan
and Israel to demonstrate the limits of such explanations: using this approach, one would expect Japan to welcome immigrants and Israel to reject them, when in fact the opposite is true (91). This comparison may or may not be a valid one, though, since Israel is such a unique case in its immigration policy. It may not be a meaningful comparison given the peculiarities of Israel’s citizenship laws. Nevertheless, the impact of structural factors is an empirical question and should be considered in an analysis of citizenship policy choices in other states.

Although the national scholars outlined above differ in their emphasis, they share a conviction that explanations of citizenship policies have predominantly domestic roots. A national analysis of naturalization legislation would cite domestic-level factors to explain the difference among states in naturalization requirements. In the face of increased transnational and international intervention into the domestic realm of the state, then, state-centric researchers remain convinced that sovereign authority remains as strong as it ever was in the past.

**The Postnational Thesis**

Largely within the past decade, numerous immigration researchers have begun to question the explanatory power of domestic determinants of immigration and naturalization rules. Postnational scholars turn away from the state-centric variables such as parties, political culture, demographics and economics, instead focusing on extra-national determinants of citizenship rules. For the postnationals, immigration and citizenship rules are a product of trans- and international influences. Specifically,
two core sets of external pressures direct state policy and laws: (1) pressures from international institutions and agreements; and (2) pressures from sending states’ governments.

The postnational thesis consists of arguments from a diverse set of scholars. International institutionalists Givens and Luedtke (2004), Jacobsen (1996) and Vink (2005) point to the persuasive powers that international institutions and organizations can hold over states, giving governments incentives and disincentives to pursue certain policy options. Other scholars, like Itzigsohn (2000) and Schain and Barth (2003) explain the ways that migrant-sending states are able to exert pressures on receiving states to adopt particular citizenship and immigration rules.

*International Institutions and Organizations*

The postnational thesis includes the idea that international organizations can constrain states' immigration and citizenship policies. Governmental and nongovernmental international organizations both attempt to influence policy because their members see such policies as affecting the international community. Citizenship laws and policies can influence migration routes and flow, potentially leading to interstate tensions, if not outright conflict.

Barrington (2000) explores the citizenship policies in the Baltic republics. He argues that the Council of Europe, the Conference for Security and Cooperation in Europe (now the Organization for Security and Cooperation in Europe), and Helsinki Watch helped shape the citizenship policies in the region. These organizations, he
argues, kept Estonia and Latvia's policies from being less discriminatory than they would have been otherwise. Further, until these states sought admission to or participation in these institutions, the organizations held little sway over state policies. In the case of Latvia, for example, the Council of Europe was ineffectual in influencing citizenship policy, until Latvia sought membership (289-290). Thus it was Latvia's foreign policy goals that gave the international organization power over their policies. The question that arises, then, is whether that power continues after Latvia becomes a COE member.

Vink (2005, 6) also looks at Latvia and Estonia and remarks that their "postindependence nationality laws are good examples of the liberal impact of international organizations such as the OSCE, the Council of Europe and the European Union." In these two cases, the existence of international organizations seem to have corresponded with a liberalization of citizenship laws and policies. Of course, one may wonder how generalizable such examples are. The experiences of Latvia and Estonia, for example, highlight the ability of international organizations to place forceful pressure on states, but are their experiences rather idiosyncratic? Empirical tests could shed more light onto this question.

It is not always clear, however, whether international organizations will have the liberalizing effect that Barrington (2000) and Sassen (1996) find. Consider the European Union: on one hand, the EU has contributed to a relaxing of immigration rules among the member states. These states are required to allow citizens of one member state the ability to not only work, but settle, in any other member state. This
increase in freedom of movement would seem to suggest that the EU has had a liberalizing effect. On the other hand, one result of this free movement requirement has been the strengthening of the external boundaries of the EU, creating what many scholars refer to as “Fortress Europe.” Because of the EU's permissive policies internally, member states feel pressure from other member states to restrict immigration from outside the EU. This pressure comes about in an attempt to prevent outsiders from gaining access to one member state, which would then give them free access to all the other member states. Freeman (1995, 894) writes that these “states are embracing an ambiguous mix of inclusive and exclusive measures.” So while the EU has loosened borders internally, the external borders have been strengthened in compensation (Jacobsen 1996, 92). This development holds for newer EU states as well as more established ones such as France.

For candidate states, the EU's influence may be less ambivalent. According to globalists, there is a great deal of pressure on states seeking admission to tighten their borders, making citizenship policy more restrictive (Freeman 1995, 895). The logic is the same as it is regarding the restricting influence on member states. Because those allowed immigration entry into one EU state can later move to any other, there is pressure to limit immigration to potential EU states.

While it may not always be clear a priori in which direction international organizations will push states, the literature suggests that the influence of an international human rights regime is unidirectional, pushing states to liberalize
whether the leaders want to or not. This global human rights regime is based in international treaties, codes, conventions and other human rights instruments.\footnote{The treaties and conventions include the International Covenants on Civil and Political Rights, the International Covenants on Economic, Social and Cultural Rights, The European Convention in Human Rights, and more. These covenants are derived from the Universal Declaration of Human Rights, adopted by the United Nations in 1948. For a detailed description of the development and competencies of these conventions, see Jacobsen (1996, Chapter 4).} The basic argument is that these global constraints force states to accept unwanted immigration and sometimes award citizenship status when they would not do so otherwise (Joppke 1998, 268).

Sassen (1996) argues that economic globalization has created an international human rights regime which constrains state sovereignty. Human rights are not dependent on nationality; citizenship status has no effect on the awarding of these rights. All residents may claim their human rights, regardless of citizenship status (Jacobsen 1996, 2). The state is constrained, however, because the international community expects it to implement such rights. State autonomy in immigration policy-making is reduced by challenges to its ability to define “the people” (Sassen 1996, 268; Jacobsen 1996, 4). Globalization limits states' discretion towards aliens by not only protecting migrants, but also by granting them both symbolic and actual rights that the state must execute. Sassen (67) writes that an “emerging de facto regime, centered in international agreements and conventions as well as in various rights gained by immigrants, limits the state's role in controlling immigration.”
Jacobsen (1996, 89) provides the detailed example of the European Convention on Human Rights. He acknowledges that while the convention does not explicitly recognize a right to nationality (citizenship), it does recognize it in a de facto sense. He explains this puzzling claim:

The commission has ruled that aliens do not have a right in and of itself to enter a member country. But in restricting the border control of states on the basis of universal (not national) criteria, and in recognizing the rights of aliens on the basis of an attachment they may not have to a territory (through marriage, for example), and not on the basis of citizenship, national-ethnic background, or ideological beliefs, the convention recognizes, in effect, a right to nationality as a human right (emphasis added).

Jacobsen is arguing that the idea of citizenship is being recast, transforming from a concept embedded in state sovereignty to one embedded in the concept of international personhood. In his view, an individual is connected to the state through international human rights instruments, and not through the state's decisions.

The global human rights regime argument faces criticism from scholars such as Joppke (1998, 293), who argues that this regime is “perhaps the single most inflated construction in recent social science discourse.” He contends that the regime, if it can be called that, lacks the legal powers necessary to “make states fear and tremble” (269). There is no real legal power in the international human rights regime, only a moral power of discourse. Joppke writes that this moral power is better than nothing, but it lacks the power that globalists ascribe to it. Globalists, in his view, are working from a false conception of state sovereignty that never truly existed. Freeman (1998, 89) echoes this sentiment when he argues that the “golden age of state control,” was very short-lived, if in fact it ever existed at all.
Furthermore, while Joppke (1998) does grant that there is an emerging international human rights regime, he is less eager to argue that this necessarily indicates a loss of state control (however low that baseline may be). His response highlights the importance of cross-national studies in this regard, as he suggests that although all states are affected by human rights instruments, they will respond to them in different ways. In his words, the question of the international human rights regime is “differently answered by different states” (2003, 431). Not all postnationals, then, are convinced of the active role of a human rights regime in determining or directing citizenship rules.

**Sending States**

“Few analysts have considered the role of the state in immigrant-sending societies; yet even a cursory review of recent history underscores its importance…” writes Massey (1999, 310). Migrant-sending states can exert pressure on receiving states to adopt particular citizenship rules. The key factors for this perspective are “transnationalism,” a term used to describe strong links and connections between immigrants and their countries of origin, and “diaspora,” groupings of emigrated citizens settled somewhere other than their home country.

Itzigsohn (2000, 1131) identifies several main institutional actors in transnational political activity. Two of these actors, on particular, are of interest in the question of sending states’ ability to influence naturalization law. First, the administrations of the sending states have several incentives that may motivate them
to attempt to influence citizenship, immigration and naturalization law in receiving states. According to Itzigsohn (1140), sending states want to “guarantee the flow of remittances; promote investment by migrants; (and) mobilize support of immigrants as lobbyists in host countries.” Secondly, political parties in the country of origin have similar incentives to act on behalf of the diasporic migrants. By mobilizing financial and political support among the migrants, the parties are adding yet another source of support to their base (Itzigsohn 2000, 1131, 1140).

One obvious way of earning the financial and political support of diasporic communities is to advocate on the immigrants’ behalf. If the diaspora members want easier access to citizenship, then it is in the interest of the sending states to act in support of the migrants. By pressuring receiving states to admit and embrace the migrants, sending countries may win the loyalty of the migrants, particularly in cases where dual citizenship is permitted. Loyalty can be returned in the form of valuable remittances to the home country. Many sending state economies are dependent on the influx of remittances, and thus it is in their interest to court their diasporas. Shain and Barth (2003, 454) write that “diasporas that achieve economic and political power can, and do, directly affect the policies of their homelands… Above all, they may achieve leverage at home by economic means, whether through investments in national projects or through political contributions.”
The literature presents a convincing argument for the incentives that sending states have to get involved. But how much power can a sending-state really place on a receiving state? Where does this power come from? In other words, how can a sending-state direct the citizenship policies of a separate sovereign state? Here, the extant literature is less clear than it is on the question of motivations for involvement. Beyond discussing vague “pressures,” scholars in this area of postnationalism offer little specificities about the mechanisms of these pressures.

I would hypothesize that there is little pressure the sending-states can bring to bear other than bilateral agreements (which, not insignificantly, the receiving states would have had to agree to). Further, Heisler (1985, 477) explains that “… bilateral agreements were generally vague in specifying post-recruitment issues (i.e., after migration),” leaving political, social and cultural issues of the migrants out of the agreements altogether. Even informal pressures based on economic carrots and sticks would not seem to be very powerful, since many sending states are less economically powerful than the receiving states. The impacts of sending states on host countries’ laws and policies, however, is untested and should be considered as one possible factor in the shaping of citizenship law.

**Conclusion: Naturalization Law as National or Postnational Outcome?**

The state's choice of naturalization laws is an important test of both the national and postnational theses. It tests the national thesis by presenting a challenge to the state's exercise of sovereignty over the composition of its population. It tests the
postnational thesis because the state nonetheless remains the principal institution for
the allocation of membership. State-level actors balance the pressures and cross-
pressures they face from a variety of sources, both within the state and without. State-
level actors ultimately decide what naturalization law looks like. While many
postnational researchers cite the increasing influence of transnationalism through
international organizations and sending states, the variation among the cases in this
dissertation raises doubts about the postnationals' explanations. How can states that
face the same set of transnational pressures adopt such divergent naturalization laws?

This is not to say that postnational influences are meaningless. Scholars on
both sides of the theoretical divide agree that many factors influence a state's choice of
naturalization law. Many of them are sensitive to each other's explanations. On the
national side, Freeman (1992; 1145; 1998, 89) argues that we must examine
international pressures in addition to national political dynamics. Barrington (2000)
explains variation in Baltic citizenship policies as a product of both national
perceptions and the influence of international organizations. On the postnational side,
Sassen (1996, 1996) emphasizes the shaping power of transnationalism and
international agreements yet concedes that immigration policy is “made and
implemented within settings ranging from national and local legislatures and
judiciaries to supranational organizations.” Likewise, Soysal (2000, 260) argues that
the importance of global, universalistic human rights is connected to specific state-
level exercises. The extent to which either national or postnational factors influence
naturalization law is ultimately an empirical question, as is the direction in which these influences push. What takes us away from the liberal ideal I set forth in the last chapter must be answered with data.

In the next chapter I clarify the hypotheses that develop from the various national and postnational approaches described in this chapter. I devise the measures I use to test the hypotheses and include a description of my dependent variable, restrictiveness of citizenship law. It contains a review of the methodological techniques used by other researchers, and I situate my approach within the extant literature. The hypotheses regarding citizenship law that I develop in the next chapter are not intended to be exhaustive. Rather, they are designed to capture possible explanatory factors in a diverse set of state-level as well as systemic political processes, including domestic politics, historical and cultural factors, structural and demographic characteristics, international organizations and human rights regimes.
CHAPTER 4:

NATURALIZATION LAWS IN CENTRAL AND EASTERN EUROPE

The central question of this dissertation has been as follows: why is it easier to naturalize in some states than in others? The rules for aliens who want to become full citizens vary dramatically from state to state. In some cases the formal legislation asks very little of applicants, while in others the laws require a great deal from prospective citizens. In the last chapter, I identified several possible explanations that fall under two larger theses, the nationalist and postnationalist. The explanations based on nationalist, or state-centric, factors include political explanations, historical and cultural factors, and structural characteristics. Postnational explanations include the role of international organizations and the global human rights regime. On a theoretical level, it seemed that while both sets of explanations held potential, neither thesis was fully satisfying by itself. Yet what about in practice? Like so many issues in political life, naturalization is a complex one, and it is extremely difficult to identify, measure and test all potential explanatory variables. Still, it is possible to assess some explanations and rule out others. In this chapter, I place some of the main explanations into the Central and Eastern European postcommunist context.
The Setting: Central and Eastern Postcommunist Europe

This study concentrates on Central and Eastern postcommunist Europe. Far from being an anomaly, population movements within Central and Eastern Europe after 1989 are significant and consequential, as I explained in Chapter One. It is no surprise to any scholar of the region that the pattern of migration after 1989 is significantly different from what it was under communism. Under the communist period, the official state policies in these countries discouraged migration. The communist governments, on rare occasions, occasionally would grant permission for permanent immigration and emigration but only in cases which were deemed to be “well-founded” (Salt and Clarke 2002, 24).

After the collapse of communism, the patterns of out-migration and impediments to international movement changed dramatically. As discussed in Chapter 1, West-bound transit migration continued and increased, but two significant new patterns developed. One new migration phenomenon was that the ex-communist countries experienced a tremendous increase in international movement within the region. Regional conflicts, ethnic relocations and repatriations, and employment migration contributed to a shifting of populations throughout Central and Eastern Europe. The second development was the nearly unprecedented influx from outside

---

1 There were three exceptions to the general pattern of low population movements: (1) ethnic migration of Jews moving to Israel, Turkish Bulgarians to Turkey, and ethnic Germans opting for repatriation; (2) labor migration from Yugoslavia to Western Europe under Tito as well as other “fraternal agreements” between communist states needing workers; and (3) Polish and Romanian authorized emigrations that can be traced to political pressures on the communist governments (Salt and Clarke 2002, 24-39).
the Central and Eastern European region. Family reunification and interrupted transit migration comprised a new class of migrants who settled in the Central and Eastern European countries.

Of course, not all – and possibly not even most – of the people in these new flows have opted for naturalization. In Chapter One, we addressed the many reasons why naturalization is chosen as well as why it is frequently not chosen by immigrants. Nonetheless, these migration flows paint an important picture showing us that citizenship policies, including laws on naturalization, became dramatically more important for these states after the collapse of communism. In responding to these new flows, the countries in this study chose different paths from each other. We now turn to the laws themselves.

**Permissiveness and Restrictiveness in Naturalization Law**

There are several components to naturalization laws, worldwide. Some common categories of requirements that prospective citizens must meet are: (1) absence of criminal convictions; (2) knowledge of the history of the host state; (3) knowledge of the culture of the host country; (4) renunciation of foreign citizenship; (5) proof of employment or sufficient income; and (6) a specified length of legal

---

2 During communist dominance, there was some immigration to the region from communist “brother countries,” particularly from Vietnam and Cuba, yet these numbers came nowhere near rivaling the influx after the collapse of communism.
residence. To the extent that a state requires fewer of these components, or it is theoretically easier for applicants to meet the requirements, we may say the law is less restrictive.³

It is worth noting that the designation of an unrestrictive naturalization law is somewhat nonsensical. By definition, all citizenship laws are restrictive and exclusive in some way. When a government defines who belongs, it is also defining who does not belong. It is, however, possible to identify some naturalization laws as being more or less restrictive than others in a relative sense. It is clearly easier to meet a residency requirement of five years than 10, for example, so such a condition would qualify as less restrictive – or more permissive – than a longer residency requirement.

Table 4.1 illustrates the requirements of the case countries. The sample cases exhibit a substantial amount of variation in naturalization requirements. Close to half of the sample refuses citizenship to applicants with criminal convictions. More than two thirds of the sample requires prospective citizens to have some knowledge of the language, and about a third requires applicants to have knowledge of the history and/or culture of the host country. In this sample, the majority of cases require applicants to renounce their foreign citizenship, but not all countries require such a renunciation. Finally, all countries except Kazakhstan have a residency requirement,

³ The important distinction between the “law on the books” versus the application of the laws should be remembered. As I discuss in the introductory chapter, this dissertation focuses on the “law on the books.” It should not be surprising if there is a significant and meaningful difference between the legislation and the processing of individuals by administrative organizations. While the implementation and application of naturalization laws are of undeniable importance, I focus on the “law on the books” here in order to facilitate a broader study in an attempt to identify patterns.
but the length of time required varies from a low of one year to a high of 15 years. The modal category is five years, and the mean residency requirement is 6.04 years.
<table>
<thead>
<tr>
<th>Country</th>
<th>Absence of Criminal Conviction</th>
<th>Knowledge of Language</th>
<th>Knowledge of History or Culture</th>
<th>Renunciation of Foreign Citizenship</th>
<th>Proof of Employment or Sufficient Income</th>
<th>Residence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>5 years</td>
</tr>
<tr>
<td>Armenia</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>3 years</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>5 years</td>
</tr>
<tr>
<td>Belarus</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>7 years</td>
</tr>
<tr>
<td>Bosnia-Herz.</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>8 years</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>5 years</td>
</tr>
<tr>
<td>Croatia</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>5 years</td>
</tr>
<tr>
<td>Czech Rep.</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>5 years</td>
</tr>
<tr>
<td>Estonia</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>5 years</td>
</tr>
<tr>
<td>Georgia</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>10 years</td>
</tr>
<tr>
<td>Hungary</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>1 or 8 years</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>0</td>
</tr>
<tr>
<td>Latvia</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>5 years</td>
</tr>
<tr>
<td>Lithuania</td>
<td>No</td>
<td>Yes, w/test</td>
<td>Yes, w/test</td>
<td>No</td>
<td>Yes</td>
<td>10 years</td>
</tr>
<tr>
<td>Macedonia</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>15 years</td>
</tr>
<tr>
<td>Moldova</td>
<td>No</td>
<td>Yes, w/test</td>
<td>Yes, w/test</td>
<td>Yes</td>
<td>No</td>
<td>10 years</td>
</tr>
<tr>
<td>Poland</td>
<td>No</td>
<td>--</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>5 years</td>
</tr>
<tr>
<td>Romania</td>
<td>No</td>
<td>Yes</td>
<td>Yes, w/test</td>
<td>No</td>
<td>No</td>
<td>5 years</td>
</tr>
<tr>
<td>Russia</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>3 continuous years, or 5 years total Missing</td>
</tr>
<tr>
<td>Serbia and Montenegro</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Missing</td>
</tr>
<tr>
<td>Slovak Rep.</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>5 years</td>
</tr>
<tr>
<td>Slovenia</td>
<td>Yes</td>
<td>Yes, w/test</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>5 years</td>
</tr>
<tr>
<td>Tajikistan</td>
<td>No</td>
<td>No</td>
<td>Missing</td>
<td>Yes</td>
<td>Missing</td>
<td>Missing</td>
</tr>
<tr>
<td>Turkmenistan</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>7 years</td>
</tr>
<tr>
<td>Ukraine</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>5 years</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>5 years</td>
</tr>
</tbody>
</table>

Source: See Appendix A for a complete listing of the laws used to create this table.

*a For members of an ethnic Hungarian minority of another country, the residency requirement is 1 year. It is 8 years for everyone else.
Table 4.1 also demonstrates that there is little correlation within cases regarding inclusiveness. That is, simply because a state is permissive in one area of its law does not necessarily correspond to permissiveness in other areas. Lithuania, for example, requires 10 years of residency (a comparatively strict requirement) but does not bar applicants with criminal convictions. Armenia, on the other hand, requires just three years of residency yet also requires applicants to demonstrate knowledge of the Armenian language and culture as well as a renunciation of foreign citizenship. A few countries, however, do stand out as particularly consistent across categories. One example is Georgia, which is restrictive in every dimension. Applicants for Georgian citizenship must have 10 years of legal residency, may not have criminal convictions, must demonstrate knowledge of the language and of Georgian history, renounce their foreign citizenship, and provide proof of sufficient income. On the other side of the spectrum is Russia. Applicants for Russian citizenship need only three years of continuous residency, or five years total – there are no other requirements. For most countries, however, the citizenship laws are a blend of some restrictive and some permissive requirements.

To create an index of restrictiveness, I classify the countries into three groups: one for the most restrictive countries, a second for those of intermediate range, and a third for the least restrictive countries. By assigning a value of one for each of the first five requirements from the table and a value of zero if a component is not required, I devise a simple score wherein a higher number indicates a higher level of restrictiveness. For residency requirements, the mean value (6.04 years) offers a
demarcation point such that countries with requirements below the mean are assigned a value of zero while those above the mean are assigned a value of one. These scores are summed to produce a raw score. The results from this calculation are shown in Table 4.2.

<table>
<thead>
<tr>
<th>Country</th>
<th>Score</th>
<th>Country</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>3</td>
<td>Lithuania</td>
<td>4</td>
</tr>
<tr>
<td>Armenia</td>
<td>3</td>
<td>Macedonia</td>
<td>5</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>2</td>
<td>Moldova</td>
<td>4</td>
</tr>
<tr>
<td>Belarus</td>
<td>4</td>
<td>Poland</td>
<td>1</td>
</tr>
<tr>
<td>Bosnia-Herz.</td>
<td>3</td>
<td>Romania</td>
<td>2</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>0</td>
<td>Russia</td>
<td>0</td>
</tr>
<tr>
<td>Croatia</td>
<td>3</td>
<td>Slovak Republic</td>
<td>2</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>3</td>
<td>Slovenia</td>
<td>3</td>
</tr>
<tr>
<td>Estonia</td>
<td>3</td>
<td>Turkmenistan</td>
<td>5</td>
</tr>
<tr>
<td>Georgia</td>
<td>6</td>
<td>Ukraine</td>
<td>4</td>
</tr>
<tr>
<td>Hungary</td>
<td>3</td>
<td>Uzbekistan</td>
<td>2</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>2</td>
<td>Serbia and Montenegro</td>
<td>2</td>
</tr>
<tr>
<td>Latvia</td>
<td>5</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Kyrgyzstan and Tajikistan are left out of this analysis due to missing information.

Table 4.2: Initial Scores for Inclusiveness Calculations*
Now that I have calculated a raw score, it is possible to divide the countries into categories of restrictiveness. I assign the states above the median score of 2.96 as “most restrictive,” the states that fall on the median as “intermediate” and the states below the median as “least restrictive.” Table 4.3 illustrates the final classification that is used throughout this analysis.

<table>
<thead>
<tr>
<th>Most Restrictive</th>
<th>Intermediate</th>
<th>Least Restrictive</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belarus</td>
<td>Albania</td>
<td>Azerbaijan</td>
</tr>
<tr>
<td>Georgia</td>
<td>Armenia</td>
<td>Bulgaria</td>
</tr>
<tr>
<td>Latvia</td>
<td>Bosnia-Herzegovina</td>
<td>Kazakhstan</td>
</tr>
<tr>
<td>Lithuania</td>
<td>Croatia</td>
<td>Poland</td>
</tr>
<tr>
<td>Macedonia</td>
<td>Czech Republic</td>
<td>Romania</td>
</tr>
<tr>
<td>Moldova</td>
<td>Estonia</td>
<td>Russia</td>
</tr>
<tr>
<td>Turkmenistan</td>
<td>Hungary</td>
<td>Slovakia</td>
</tr>
<tr>
<td>Ukraine</td>
<td>Slovenia</td>
<td>Uzbekistan</td>
</tr>
</tbody>
</table>

Table 4.3: Categorization of Countries According to Level of Restrictiveness

The table shows that there is a roughly even division of states according to level of restrictiveness. What we can take from this is a confirmation of the variation in laws. States have a range of options when it comes to deciding who can become a new member and who cannot, and they choose differently among these options. We are now ready to investigate why some states’ laws are more restrictive than others.
Chapter 3 describes the possible effects of partisanship on the level of restrictiveness of naturalization laws. Specifically, the hypothesized relationship is that when parties of the left control the government, citizenship laws tend to be less restrictive than when parties of the right are in the majority (Breunig and Luedtke 2005, 7-8; Joppke 2003). The categorization of right versus left is not particularly clear in our cases, however. Many scholars have noted the difficulty in assigning identities of “right” and “left” to political parties in Central and Eastern Europe. The fluidity of party stances in the region coupled with seeming paradoxes in party name and platforms make such distinctions muddy. For these reasons, in this analysis I avoid labels of right and left in favor of identifying party families based on broad similarities in platforms. Rather than a dichotomy of left and right, I look at a categorization of political party families: communist and socialist, post-communist, nationalist and populist, liberal and individualist and Christian democrat.

In this analysis, the expectation is that nationalist and populist parties, Christian democratic parties and, perhaps counterintuitively, liberal/individualist parties are most likely to push for restrictive naturalization laws. The position of nationalist, populist and Christian democratic parties is relatively straightforward. Nationalist and populist party leaders and members frequently point to immigrants as the source of a perceived decline in the host country’s culture and economy and an increase in crime rates. By restricting naturalized citizenship, according to nationalists
and populists, the state has a better chance of taking care of those who are already citizens. Christian democrats, similarly, place a great deal of emphasis on the state’s duty to care for its citizens. This duty, in their view, can be hindered by an influx of new citizens. Compounding this position is the fact that many of the new immigrants are from countries where Christianity is not the dominant religion, and the Christian democrats may see the arrival of people from Asia, Africa and the Middle East as contributing to the dissolution of Christian values. Even an infusion of Eastern Orthodox immigrants may be threatening to the Christian (i.e., mainly Catholic) democrats.

Finally, liberal/individualist parties are also expected to push for restrictive naturalization laws. This position may seem counterintuitive – at first glance, one might expect liberal/individualist party governments to enact liberal laws, including permissive naturalization laws. I argue, however, that liberal parties are less likely to push for permissive laws, particularly in the postcommunist region studied here. Eager to “(re)join the West,” liberal politicians may be convinced that the best way to be accepted is to demonstrate that their countries are stable. One means of signifying stability is by exhibiting control over one’s borders. Passing restrictive immigration and naturalization laws signals a commitment to controlling borders; in other words, it signals that these states are serious about control and stability, just like the West to be.

On the other hand, political parties such as communist, socialist and postcommunist parties are expected to be more permissive. While these parties are certainly not interchangeable, their shared internationalist stance might lead one to
expect them to be supportive of immigration and naturalization. Indeed, in the Fourth Congress of the Communist International (1922), this text on immigration warns of the dangers of restrictions on immigration:

The Communist Parties of America, Canada and Australia must conduct a vigorous campaign against restrictive immigration laws and must explain to the proletarian masses in these countries that such laws, by inflaming racial hatred, will rebound on them in the long run.

Couple this admonition with the Communist Party’s commitment to opposing the exploitation of workers, and I expect countries with Communist parties in government to have less restrictive naturalization laws. This may hold true in theory, but is it supported by the evidence? After all, communist and socialist parties are first and foremost parties of the worker, and if, at the national level, the parties aim to protect the workers who would vote for them, they may be pushed away from their internationalist stance and instead push for more restrictive naturalization laws. They may choose to fight for the jobs of workers by advocating heightened barriers to competition from foreigners (Moulier-Boutang 1985, 490).

Take, for example, Soviet citizenship law. Soviet law demonstrated the latter position more than the first. Christopher Osakwe writes (1980, 625):

… the Soviet government has slowly but steadily retrenched from the international to the national concept of citizenship. A state which only 61 years ago held itself out to the rest of the world as a haven for the oppressed toilers of all countries and as a free proletarian state in which all workers and peasants, regardless of citizenship, could come and enjoy the rights and privileges of Soviet citizenship, has now devised an extremely complicated network of
exclusionary rules that have… made it more difficult for
the proletarians of the world to acquire Soviet
citizenship…

Bearing in mind such potential complications, this chapter nonetheless takes as a
starting point the position that countries governed by post-communist, communist or
socialist parties are likely to have less restrictive naturalization laws. I take this
position because of the ideological bases of communism and socialism.

Plotting ruling political party type against level of restrictiveness reveals
nothing systematic about partisanship and stance on naturalization law.4 Communist,
post-communist and socialist parties in power were expected to lead to less restrictive
laws, but Table 4.4 shows us that they fall under all categories of restrictiveness. Most
notably, there are no states ruled by socialist parties that have lowest levels of
restrictiveness, and there are no states ruled by nationalist parties that have the highest
level of restrictiveness.

4 For more information on the ruling parties and timing of elections versus the timing of the
naturalization laws, see Appendix B.
Table 4.4: Ruling Parties and Level of Restrictiveness

<table>
<thead>
<tr>
<th>Level of Restrictiveness</th>
<th>Communist</th>
<th>Socialist</th>
<th>Post-Communist</th>
<th>Liberal/Individual</th>
<th>Christian Democrat</th>
<th>National.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>Azerbaijan Poland Russia</td>
<td>Romania Uzbekistan</td>
<td></td>
<td></td>
<td></td>
<td>Serbia Slovakia</td>
</tr>
<tr>
<td>Medium</td>
<td>Moldova Albania Armenia</td>
<td>Czech Republic Estonia* Slovenia</td>
<td>Czech Republic Estonia</td>
<td></td>
<td>Hungary</td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>Belarus Bulgaria Lithuania* Turkmenistan Ukraine Georgia Kyrgyzstan Latvia*</td>
<td>Latvia*</td>
<td>MacedonIa</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* These parties are also strongly anti-Russian.

How can we explain this? Why does partisanship not explain attitudes to naturalization? One explanation is that we have not considered opposition parties. If significant pro-immigrant parties existed, the parties in government might have felt pressure to accommodate some of these views. Yet no such parties were significant in any of the sample countries during the time of the debates and law adoptions. The more likely explanation relates to the nature of political party systems during the early to mid-1990s in Central and Eastern Europe. Party systems in that time and place are best characterized as lacking cohesion, and this lack of unity within individual parties includes divergent attitudes towards immigration and naturalization. The parties in this sample do not have a clear and cohesive stance on such matters. Further, facing the
challenges of building up viable institutions of governance, the political parties were likely to be focused more on immediate state-building than on issues which were seen as a future problem, if a problem at all.

A second perspective on political explanations concerns federal break-ups. Some states in the sample are breakaway states, once part of larger federations. The previous member states of the former Yugoslavia, the Czech and Slovak Republics and the Soviet Union show considerable range in their naturalization laws when compared to their former partner states. There is an interesting pattern in these breakaway states: ex-partners do not choose the same paths as each other. In other words, the former partners consistently have pursued different outcomes from each other. Whereas Russia has an extremely permissive naturalization law, most of the other former FSU states have among the most restrictive laws in the sample. The Czech Republic is more restrictive than Slovakia. As for the states that once comprised Yugoslavia, Serbia and Montenegro adopted less restrictive laws than did Bosnia-Herzegovina, Croatia and Macedonia.

How can we explain this phenomenon? Is it coincidence? Or have the states made purposeful efforts to reject the stances of their former federal partners? If it is not coincidental, could it be that they choose different paths based on their conceptions of themselves and of their former partners? We will return to this question in the next section, after a look at how states formulate their conceptions of national identity in their constitutions.
Historical and Cultural Patterns

As discussed in the previous chapter, much of the literature on citizenship argues that cultural idioms are the driving force behind citizenship policies. A country’s perceptions of its national identity are assumed to determine whether citizenship laws will be restrictive or permissive. This explanation is a seductive one, since, from a theoretical standpoint, it seems sound to assume that naturalization legislation would be steeped in tradition and historical experience. Does it, however, really help us understand why some countries’ naturalization laws are more restrictive than others?

One measure of a state’s perception of national identity can be found in its constitution. More often than not, some statement of national identity is given in the constitution, typically in the preamble. Where they exist, preambles serve as statements of the ideals and goals of a country. They are statements justifying the country’s very existence and setting forth the terms they intend to live by. By examining the preambles of the constitutions, I hope to reveal the framers’ attitudes toward inclusivity and exclusivity. These attitudes, in turn, may inform the restrictiveness of the states’ naturalization laws.

The preambles of the Central and Eastern European states do indeed contain language that can be classified as inclusive or exclusive. Inclusive language typically makes reference to the rights and freedoms of diverse ethnic and national minorities, while exclusive language references the historical standing and traditions of titular populations. Table 4.5 below offers examples of the preamble wording.
<table>
<thead>
<tr>
<th>Country</th>
<th>Inclusive Language</th>
<th>Exclusive Language</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>“… the centuries old aspiration of the Albanian people for national identity and unity…”</td>
<td></td>
</tr>
<tr>
<td>Bosnia-Herzegovina</td>
<td>“Inspired by… the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities…”</td>
<td></td>
</tr>
<tr>
<td>Croatia</td>
<td>“… the Republic of Croatia is hereby established as the national state of the Croatian people and a state of members of other nations and minorities who are its citizens: Serbs, Muslims, Slovenes, Czechs, Slovaks, Italians, Hungarians, Jews and others, who are guaranteed equality with citizens of Croatian nationality and the realization of ethnic rights in accordance with the democratic norms of the United Nations and countries of the free world.”</td>
<td>“The millennial national identity of the Croatian nation and the continuity of its statehood, confirmed by the course of its entire historical experience… based on the historical right to full sovereignty of the Croatian nation…”</td>
</tr>
<tr>
<td>Czech Republic</td>
<td></td>
<td>“… resolved to jointly protect and develop the inherited natural and cultural, material and spiritual wealth…”</td>
</tr>
<tr>
<td>Estonia</td>
<td></td>
<td>“… for the social progress and general benefit of the Estonian nation and its culture through the ages, the Estonian people adopted…”</td>
</tr>
</tbody>
</table>

Continued on page 118

Table 4.5: Examples of Preamble Language of Selected Countries
## Table 4.5 (continued)

<table>
<thead>
<tr>
<th>Country</th>
<th>Inclusive Language</th>
<th>Exclusive Language</th>
</tr>
</thead>
</table>
| Macedonia     | “… in which full equality as citizens and permanent co-existence with the Macedonian people is provided for Albanians, Turks, Vlachs, Romanics and other nationalities living in the Republic of Macedonia…”  
“… the provision of peace and a common home for the Macedonian people with the nationalities living in the Republic of Macedonia…” | “Taking as starting points the historical, cultural, spiritual and statehood heritage of the Macedonian people and their struggle over centuries for national and social freedom as well as the creation of their own state, and particularly the traditions…”  
“… Macedonia is established as a national state of the Macedonian people…”                                                                                                     |
| Kyrgyzstan    | “… in order to secure national revival of the Kyrgyz, the defence and development of interests of all nationalities who form together with the Kyrgyz the People of Kyrgyzstan…”                                                                 |                                                                                                                                                                            |
| Lithuania     | “… having preserved its spirit, native language, writing and customs… the land of their fathers and forefathers…”                                                                                                       |                                                                                                                                                                            |
| Moldova       | “Striving to satisfy the interests of those of its citizens that, while being of a different ethnic origin, are, together with the Moldovans, forming the Moldovan people…”                                                | “… historical and ethnic continuity in its statehood”                                                                                                                    |
| Serbia        | “Considering the state tradition of the Serbian people and equality of all citizens and ethnic communities of Serbia…”                                                                                                 |                                                                                                                                                                            |
| Montenegro    |                                                                                                                                                                                                                   | “Mindful of the historical right of the Montenegrin people to have its own state, acquired through centuries-long struggle for freedom…”                                         |
| Turkmenistan  |                                                                                                                                                                                                                   | “… expressing fidelity to the precepts of our ancestors to live in unity, peace and accord, possessing the goal of protecting our national values and interests, and securing the sovereignty of the Turkmen people.” |
| Ukraine       | “… on behalf of the Ukrainian people – citizens of Ukraine of all nationalities…”                                                                                                                                  |                                                                                                                                                                            |
Table 4.6 summarizes the style of language in the preambles of the cases.

Some of the preambles exhibit inclusive language, others exclusive, and still others a mixture of both inclusive and exclusive language.

<table>
<thead>
<tr>
<th>Inclusive language</th>
<th>Mixed language</th>
<th>Exclusive language</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belarus</td>
<td>Bulgaria</td>
<td>Albania</td>
</tr>
<tr>
<td>Bosnia-Herzegovina</td>
<td>Croatia</td>
<td>Armenia</td>
</tr>
<tr>
<td>Serbia and Montenegro</td>
<td>Macedonia</td>
<td>Czech Republic</td>
</tr>
<tr>
<td>Tajikistan</td>
<td>Kyrgyzstan</td>
<td>Estonia</td>
</tr>
<tr>
<td>Ukraine</td>
<td>Moldova</td>
<td>Georgia</td>
</tr>
<tr>
<td></td>
<td>Slovakia</td>
<td>Kazakhstan</td>
</tr>
<tr>
<td></td>
<td>Slovenia</td>
<td>Lithuania</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Poland</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Russia</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Turkmenistan</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Uzbekistan</td>
</tr>
</tbody>
</table>

Table 4.6: Summary of Inclusive and Exclusive Preamble Language

I expect that states with explicitly inclusive language would be more likely to establish less restrictive naturalization laws. Since the framers make a conscious effort to invoke inclusive language, one might expect that inclusivity is an important goal for them. Preambles with exclusionary wording, on the other hand, would correlate with exclusive naturalization laws. Table 4.7, however, shows us that these expectations are not confirmed. In some cases, the expected relationship exists. For example, Serbia and Montenegro have both less restrictive laws and inclusionary wording in their preambles. Similarly, Georgia, Lithuania and Latvia established more restrictive laws and exhibit exclusionary wording in their constitutional preambles. Croatia and
Slovenia, two states that fall in the intermediate range of restrictiveness, exhibit both inclusionary and exclusionary wording in their preambles. Other than these cases, though, the other states do not follow the pattern I expected. In fact, there is not much of a pattern at all.

<table>
<thead>
<tr>
<th></th>
<th>Inclusive Language</th>
<th>Mixture</th>
<th>Exclusive Language</th>
</tr>
</thead>
<tbody>
<tr>
<td>Least Restrictive Law</td>
<td>Serbia and Montenegro</td>
<td>Bulgaria Slovak</td>
<td>Kazakhstan Uzbekistan Poland Russia</td>
</tr>
<tr>
<td>Intermediate Law</td>
<td>Bosnia-Herzegovina</td>
<td>Croatia Slovak</td>
<td>Albania Armenia Czech Republic Estonia</td>
</tr>
<tr>
<td>Most Restrictive Law</td>
<td>Belarus Ukraine</td>
<td>Macedonia Moldova</td>
<td>Georgia Lithuania Turkmenistan</td>
</tr>
</tbody>
</table>

Table 4.7: Preamble Language and Restrictiveness of Naturalization Laws

One explanation for this result is that the symbolic language of the constitutional preambles often was directed more against the previous communist regimes and less toward the future make-up of their populations. Few – if any – of the politicians in the Central and Eastern European region expected immigration and naturalization to develop into the major issue it would later become. Thus, they focused their efforts on ideals and values that served as rejections of the previous communist regimes. The emphasis in some preambles on historical standing and long-standing national aspirations, then, can be seen as an establishment of credibility as
independent states. By pointing to past experiences with sovereignty and self-determination, these states are reclaiming their right to rule themselves, released from the “wrongful” yoke of communist rule and Soviet hegemony. For those that referenced inclusivity and acceptance of various ethnicities and nationalities, such language served as an acknowledgement of the diversity that communism tried to smooth over. In either case, both types of wording serve as rejections of the communist legacy more than any sort of statement about who might be admitted to the state in the future.

Other countries were less focused on the old communist rule but nonetheless focused on a rejection of past regimes. Earlier in this chapter, I mentioned the issue of federal breakups. Yugoslavia, Czechoslovakia and the USSR all ruptured some years after the collapse of communism. In these cases, seemingly exclusionary preambles may have served as symbolic statements of independence of national identity in opposition to the older, shared identities. Seemingly inclusionary preambles also may not be about future citizens, but rather a response to particular struggles in their own break-ups.

The Czech preamble, for instance, is rather exclusionary and restrictive when compared to other preambles. There is much focus on “time-tried principles,” “good traditions of the ancient statehood” and “renewal” of all things inherently Czech. The Slovak preamble similarly mentions “centuries of experience from this struggle for national existence…,” “historical legacies” and “spiritual heritage.” So both of these countries exhibit exclusionary language in their preambles – yet we know that the
Czech Republic is more restrictive than Slovakia in their naturalization law. I can only explain this puzzle by concluding that the exclusionary wording of the preambles serves as symbolic statements of independence from each other, rather than representing attitudes towards citizenship and belonging of future potential members.

Other examples of this phenomenon are the preambles of Serbia and Montenegro, Bosnia-Herzegovina, and Croatia. The preambles for these countries include strikingly inclusionary language. Serbia’s preamble discusses the “equality of all citizens and ethnic communities in Serbia.” The preamble of Bosnia-Herzegovina references the equality of people in national, ethnic, religious and linguistic minorities as well as the Bosniacs, Croats and Serbs as “constituent peoples.” Croatia, for its part, explicitly identifies as citizens of equal standing not just Croats but also “Serbs, Muslims, Slovenes, Czechs, Slovaks, Italians, Hungarians, Jews and others.” Are we to take from this that the states of the former Yugoslavia are welcoming of “others” enough that they will have permissive naturalization laws? While I expected the answer to be yes, this is clearly not the case. Bosnia-Herzegovina and Croatia both fall into the intermediate range of inclusiveness, while Serbia and Montenegro are among the more restrictive states regarding their naturalization laws. Again, then, it does not seem accurate to say that the preambles reflect politician’s attitudes towards
prospective citizens. Instead, I would explain the inclusionary language in their preambles as a reflection of their sensitivity to minority issues that stem from their violent struggles during the Balkan war.

In both types of cases (inclusionary preambles and exclusionary ones), the relationship I expected is not always evident. Some restrictive states set forth inclusive language in their preambles, and some permissive states set forth exclusionary language. I explain this unexpected result by saying that the preamble language has more to do with their experiences undergoing federal breakups than with their politicians’ attitudes towards naturalization and citizenship.

Shifting focus from the framers’ perspective to that of the public, I can also look at public opinion polls. This dissertation is not designed to explain public opinion, but if one accepts the assumption that politicians are influenced by the public, it is reasonable to take public opinion into consideration. Given the limited data available, I use public opinion as a proxy for issues that may have been important to legislators.

Debates over naturalization terms often refer back to issues of national identity. Therefore, differences in naturalization laws among countries are frequently considered a reflection of historical and cultural attitudes towards immigrants. One means of getting at these attitudes is to explore public opinion surveys that address the issue. For the time period under investigation, unfortunately, there is little available data for the Central and Eastern European cases. Nevertheless, three particular questions from World Values Surveys can provide a suggestion of how pervasive
either exclusive or inclusive attitudes are among the public in selected countries. I do not undertake a statistical analysis of these public opinion polls for several reasons, the most important of which is that the relevant questions simply were not asked in most of the cases in my sample. The survey results are nonetheless useful in that they provide a picture of a particular moment in public opinion in some of our cases. Thus, I want to be very clear that this section is not intended as a definitive analysis. I am not testing hypotheses of attitudinal data such as popular opinion toward immigration and naturalization, nor am I engaging in sophisticated statistical techniques. Rather, the intent of this section is merely to suggest that historically- and culturally-rooted attitudes toward outsiders can influence the restrictiveness of naturalization laws.

The World Values Surveys contain three questions that are relevant to this analysis:

1. On this list are various groups of people. Could you please sort out any that you would not like to have as neighbors? (more than a dozen groups are listed; the relevant response here is “immigrants”)

2. I’d like to ask you about some groups that some people feel are threatening to the social political order in this society. Would you please select from the following list the one group or organization that you like least? (more than a dozen groups are listed; the relevant response here is “immigrants”)

3. How about people from other countries coming here to work? Which one of the following do you think the government should do?
   a. Let anyone come
   b. As long as jobs are available
   c. Strict limits
   d. Prohibit people from coming
Table 4.8 displays the results from the cases in which question 1 was asked. The three cases that stand out as exceptionally high in their identification of immigrants as “bad neighbors” are Latvia, Montenegro and Slovenia. Only one of these states – Latvia – supports the notion that anti-immigrant sentiment is related to restrictive naturalization laws. With 30.8% of respondents identifying immigrants as people unwanted as neighbors, Latvia’s high restrictiveness is confirmed. Montenegro, however, has a permissive naturalization law but a 31.2% response of “immigrants.” Moreover, the 39.6% of Slovenian respondents who identified immigrants as unwanted neighbors is the highest percentage of all cases, yet the Slovene naturalization law is only intermediately restrictive. On the other end of the spectrum is Russia, with only 11.1% of respondents identifying immigrants as unwanted neighbors. This result is compatible with their extremely permissive law, but Moldova’s 13.2% is also low while the Moldovan law is restrictive.
On this list are various groups of people. Could you please sort out any that you would not like to have as neighbors?

<table>
<thead>
<tr>
<th>Country</th>
<th>Restrictiveness</th>
<th>Year of WV Survey</th>
<th>“Immigrants” as response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>Intermediate</td>
<td>1998</td>
<td>10.2%</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>Low</td>
<td>1997</td>
<td>19.9%</td>
</tr>
<tr>
<td>Belarus</td>
<td>High</td>
<td>1990</td>
<td>17.0%</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>Intermediate</td>
<td>1991</td>
<td>22.7%</td>
</tr>
<tr>
<td>Estonia</td>
<td>Intermediate</td>
<td>1990</td>
<td>17.1%</td>
</tr>
<tr>
<td>Georgia</td>
<td>High</td>
<td>1996</td>
<td>22.5%</td>
</tr>
<tr>
<td>Hungary</td>
<td>Intermediate</td>
<td>1991</td>
<td>22.2%</td>
</tr>
<tr>
<td>Latvia</td>
<td>High</td>
<td>1990</td>
<td>30.8%</td>
</tr>
<tr>
<td>Lithuania</td>
<td>High</td>
<td>1990</td>
<td>14.8%</td>
</tr>
<tr>
<td>Moldova</td>
<td>High</td>
<td>1996</td>
<td>13.2%</td>
</tr>
<tr>
<td>Russia</td>
<td>Low</td>
<td>1999</td>
<td>11.1%</td>
</tr>
<tr>
<td>Serbia and Montenegro</td>
<td>Low</td>
<td>1996</td>
<td>23.9% (Serbia); 31.2% (Montenegro)</td>
</tr>
<tr>
<td>Slovenia</td>
<td>Intermediate</td>
<td>1992</td>
<td>39.6%</td>
</tr>
</tbody>
</table>

Table 4.8: World Values Survey on Groups Not Welcome as Neighbors

The survey results presented in Table 4.9 are even less supportive of the hypothesized relationship. While it is true that Georgia, with the highest number of respondents who like immigrants the least out of all groups presented (22.5% of respondents chose immigrants), has a highly restrictive naturalization law, Moldova again stands out as an outlier. Despite their restrictive law, only 1.5% of Moldovan respondents identified immigrants as a threat to the socio-political order.
I’d like to ask you some groups that some people feel are threatening to the social political order in this society. Would you please select from the following list the one group or organization that you like the least?

<table>
<thead>
<tr>
<th>Country</th>
<th>Restrictiveness</th>
<th>Year of WV Survey</th>
<th>“Immigrants” as Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>Intermediate</td>
<td>1998</td>
<td>0.6%</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>Low</td>
<td>1997</td>
<td>2.7%</td>
</tr>
<tr>
<td>Georgia</td>
<td>High</td>
<td>1996</td>
<td>22.5%</td>
</tr>
<tr>
<td>Moldova</td>
<td>High</td>
<td>1996</td>
<td>1.5%</td>
</tr>
<tr>
<td>Serbia and Montenegro</td>
<td>Low</td>
<td>1996</td>
<td>2.7% (Serbia); 2.5% (Montenegro)</td>
</tr>
</tbody>
</table>

Table 4.9: World Values Survey on Threatening Groups

Finally, the question displayed in Table 4.10 asks respondents what they want the government to do about immigrant workers. The country with the highest number of permissive (“let anyone come”) responses is Armenia, and this result is compatible with Armenia’s permissiveness in naturalization law. Yet again, though, the next highest number of permissive responses (15.60%) is found in a country with a restrictive law, Georgia. Similarly, Ukraine’s exclusive attitude towards immigrant workers (15.80% of respondents said the government should prohibit people from coming) is compatible with its restrictive law, yet Russia’s low number of inclusive responses (only 9.8%) is at odds with its highly permissive law.
How about people from other countries coming here to work? Which one of the following do you think the government should do?

<table>
<thead>
<tr>
<th>Country</th>
<th>Restrictiveness</th>
<th>Year of WV Survey</th>
<th>Let anyone come</th>
<th>As long as jobs available</th>
<th>Strict limits</th>
<th>Prohibit people from coming</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>Intermediate</td>
<td>1998</td>
<td>11.10%</td>
<td>54.00%</td>
<td>17.70%</td>
<td>6.50%</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>Low</td>
<td>1997</td>
<td>17.90%</td>
<td>56.90%</td>
<td>16.30%</td>
<td>4.50%</td>
</tr>
<tr>
<td>Georgia</td>
<td>High</td>
<td>1996</td>
<td>15.60%</td>
<td>51.80%</td>
<td>21.70%</td>
<td>8.90%</td>
</tr>
<tr>
<td>Moldova</td>
<td>High</td>
<td>1996</td>
<td>11.60%</td>
<td>41.60%</td>
<td>28.40%</td>
<td>15.30%</td>
</tr>
<tr>
<td>Russia</td>
<td>Low</td>
<td>1999</td>
<td>9.80%</td>
<td>43.70%</td>
<td>28.00%</td>
<td>13.50%</td>
</tr>
<tr>
<td>Serbia and Montenegro</td>
<td>Low</td>
<td>1996</td>
<td>Serbia 19.9%; Montenegro 14.6%</td>
<td>Serbia 37.3%; Montenegro 31.2%</td>
<td>Serbia 26.4%; Mont 29.6%</td>
<td>Serbia 10.9%; Mont 13.3%</td>
</tr>
<tr>
<td>Ukraine</td>
<td>High</td>
<td>1999</td>
<td>8.60%</td>
<td>39.40%</td>
<td>24.80%</td>
<td>15.80%</td>
</tr>
</tbody>
</table>

Table 4.10: Government Response to Immigrants

Taken together, these survey results indicate that cultural attitudes towards immigrants largely are unrelated to the restrictiveness of naturalization laws. One interpretation of this outcome is that there is more to the story than these survey responses can reveal. For example, perhaps Moldova’s high number of respondents declaring that the government should prohibit immigrant workers has less to do with cultural attitudes towards outsiders and more to do with unemployment rates at the time.

An alternative explanation is that public opinion on this issue was not mobilized at the time the laws were drafted. Without public salience, lawmakers were unlikely to address the issues in detail, especially when faced with the more immediate concerns of political and economic transition that confront a new political entity.
It cannot be denied that culture and history are important in the development of naturalization laws. Yet, as I have shown in this section, they provide little help when comparing countries since they are idiosyncratic concepts by nature. National identity, furthermore, is shaped at least in part by political ideology and rhetoric. Even if historical and cultural patterns can help us understand the laws, it is not an explanation that can stand alone. In other words, the interaction between political identity and political actors is important. It is not identity that matters the most – rather, it is the actors’ reactions to these identities that should matter more. I will return to this very important topic in the next chapter.

**Demographic and Economic Explanations**

In the last chapter, I discussed the ways in which demographic and economic variables might affect the restrictiveness of naturalization law. Population demographics, unemployment rates and social welfare expenditures were three of the variables I included in my discussion. In this section I investigate the impact of these three categories of variables.

If a sort of population “supply and demand” relationship exists, it is plausible that a state’s population growth would play a role in naturalization laws. Where population losses occur, legislators may be more amenable to less restrictive laws. They may see applicants for citizenship as a source to “replenish the pool.” Conversely, lawmakers in countries facing population growth would not feel this
pressure to increase their population. Table 4.11 below tests this hypothesis by using population data from the most recently available censuses in the period preceding the passage of the naturalization laws in each country.

<table>
<thead>
<tr>
<th>Level of Restrictiveness</th>
<th>Population Loss</th>
<th>No Change</th>
<th>Population Growth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Least Restrictive</td>
<td>Azerbaijan, Kazakhstan, Poland, Romania, Russia, Slovakia, Uzbekistan, Serbia and Montenegro</td>
<td></td>
<td>Bulgaria</td>
</tr>
<tr>
<td>Intermediate</td>
<td></td>
<td>Czech Republic</td>
<td></td>
</tr>
<tr>
<td>Most Restrictive</td>
<td>Belarus, Georgia, Lithuania, Macedonia, Turkmenistan, Ukraine</td>
<td></td>
<td>Latvia, Moldova</td>
</tr>
</tbody>
</table>

Source: U.S. Census Bureau, International Database

Table 4.11: Net Population Growth and Level of Restrictiveness

The cross-tabulation of population growth/loss with the level of restrictiveness of the laws shows no discernible relationship between the variables. Looking at the data, we can see that the majority of cases underwent population losses in the ten-year period preceding the adoption of the naturalization laws in each state. In fact, only seven countries (Latvia, Moldova, Albania, Armenia, Bosnia-Herzegovina,
Hungary and Bulgaria) experienced a net gain in population. Because there is little variation in the explanatory variable, then, I cannot expect to find a relationship here.

An alternative means of testing the same logic is to examine the age of the population. Where a population is aging, there may be pressure to “replenish the pool” by initiating less restrictive naturalization laws in much the same way that a population loss would do. States with younger populations would not be in need of increasing their supply of citizens since their populations are not in danger of dying out or dwindling in the short-term future. This second population hypothesis is tested in Table 4.12.
<table>
<thead>
<tr>
<th>Country</th>
<th>Age 0-19</th>
<th>Age 20-64</th>
<th>Age 65+</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Least Restrictive</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>42%</td>
<td>52%</td>
<td>5%</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>24%</td>
<td>59%</td>
<td>15%</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>40%</td>
<td>53%</td>
<td>5%</td>
</tr>
<tr>
<td>Poland</td>
<td>30%</td>
<td>58%</td>
<td>11%</td>
</tr>
<tr>
<td>Romania</td>
<td>28%</td>
<td>59%</td>
<td>12%</td>
</tr>
<tr>
<td>Russia</td>
<td>25%</td>
<td>61%</td>
<td>12%</td>
</tr>
<tr>
<td>Serbia</td>
<td>29%</td>
<td>58%</td>
<td>12%</td>
</tr>
<tr>
<td>Montenegro</td>
<td>32%</td>
<td>57%</td>
<td>10%</td>
</tr>
<tr>
<td>Slovakia</td>
<td>33%</td>
<td>56%</td>
<td>10%</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>49%</td>
<td>45%</td>
<td>4%</td>
</tr>
<tr>
<td><strong>Mean</strong></td>
<td>33%</td>
<td>57%</td>
<td>10%</td>
</tr>
<tr>
<td><strong>Intermediate</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Albania</td>
<td>41%</td>
<td>52%</td>
<td>6%</td>
</tr>
<tr>
<td>Armenia</td>
<td>39%</td>
<td>53%</td>
<td>7%</td>
</tr>
<tr>
<td>Bosnia-Herzegovina</td>
<td>27%</td>
<td>62%</td>
<td>9%</td>
</tr>
<tr>
<td>Croatia</td>
<td>25%</td>
<td>60%</td>
<td>13%</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>29%</td>
<td>58%</td>
<td>12%</td>
</tr>
<tr>
<td>Estonia</td>
<td>28%</td>
<td>58%</td>
<td>13%</td>
</tr>
<tr>
<td>Hungary</td>
<td>27%</td>
<td>58%</td>
<td>13%</td>
</tr>
<tr>
<td>Slovenia</td>
<td>25%</td>
<td>62%</td>
<td>12%</td>
</tr>
<tr>
<td><strong>Mean</strong></td>
<td>30%</td>
<td>58%</td>
<td>11%</td>
</tr>
<tr>
<td><strong>Most Restrictive</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Belarus</td>
<td>30%</td>
<td>59%</td>
<td>10%</td>
</tr>
<tr>
<td>Georgia</td>
<td>30%</td>
<td>57%</td>
<td>12%</td>
</tr>
<tr>
<td>Latvia</td>
<td>27%</td>
<td>59%</td>
<td>12%</td>
</tr>
<tr>
<td>Lithuania</td>
<td>30%</td>
<td>59%</td>
<td>11%</td>
</tr>
<tr>
<td>Macedonia</td>
<td>32%</td>
<td>58%</td>
<td>8%</td>
</tr>
<tr>
<td>Moldova</td>
<td>34%</td>
<td>56%</td>
<td>9%</td>
</tr>
<tr>
<td>Turkmenistan</td>
<td>59%</td>
<td>45%</td>
<td>3%</td>
</tr>
<tr>
<td>Ukraine</td>
<td>25%</td>
<td>60%</td>
<td>14%</td>
</tr>
<tr>
<td><strong>Mean</strong></td>
<td>33%</td>
<td>57%</td>
<td>10%</td>
</tr>
</tbody>
</table>

Source: U.S. Census Bureau, International Database

Table 4.12: Age of Population and Level of Restrictiveness
Once again, the data do not support the hypothesis. No matter the category of restrictiveness, the age distribution is consistent across cases. There is no significant pattern here.

A second set of demographic explanations stems from the “perception of threat” hypothesis detailed in the previous chapter. Under this hypothesis, declining titular populations feel threatened by immigrants and push for more restrictive citizenship laws (Barrington 2000, Brubaker 1992, Weiner 1995). Fearful of being reduced to a demographic minority (or becoming even smaller if the group is already a minority), titular groups perceive immigrants as a threat to their cultural and political dominance.

To measure the size of the titular populations, I use the latest available census prior to the adoption of a country’s naturalization law. Splitting this independent variable into two parts by using the mean value as a divider, I cross-tabulate the size of the titular population with the restrictiveness of naturalization law. The result is presented in Table 4.13.
<table>
<thead>
<tr>
<th></th>
<th>Titular population percentage less than regional average</th>
<th>Titular population percentage greater than regional average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Least Restrictive</td>
<td>Kazakhstan, Serbia and Montenegro</td>
<td>Azerbaijan, Poland, Romania, Russia, Slovakia, Uzbekistan</td>
</tr>
<tr>
<td>Intermediate</td>
<td>Bosnia-Herzegovina, Estonia</td>
<td>Albania, Armenia, Croatia, Czech Republic, Hungary, Slovenia</td>
</tr>
<tr>
<td>Most Restrictive</td>
<td>Georgia, Latvia, Macedonia, Moldova, Turkmenistan, Ukraine</td>
<td>Belarus, Lithuania</td>
</tr>
</tbody>
</table>


Table 4.13: Size of Titular Population and Level of Restrictiveness

The data offer some support for the hypothesized relationship between size of titular population and restrictiveness of naturalization law. The modal categories match many of the most restrictive states with smaller titular populations and most of the least restrictive states with larger titular populations. This result confirms the hypothesis regarding perception of threat from the perspective of titular groups.
To pursue this promising relationship further, I also look at the change in the size of the titular group. It may be the case that, regardless of overall size of the group, shrinking groups may feel more threatened by applicants for naturalization than groups that are not declining in size. I examine the change in the size of titular populations in Table 4.14.

<table>
<thead>
<tr>
<th>Least Restrictive</th>
<th>Decrease in Size of Titular Population</th>
<th>No Significant Change</th>
<th>Increase in Size of Titular Population</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Poland</td>
<td>Serbia-Montenegro</td>
<td>Azerbaijan</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Kazakhstan</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Slovakia</td>
</tr>
<tr>
<td>Intermediate</td>
<td>Armenia</td>
<td>Estonia</td>
<td>Albania</td>
</tr>
<tr>
<td></td>
<td>Hungary</td>
<td></td>
<td>Bosnia-Herzegovina</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Croatia</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Czech Republic</td>
</tr>
<tr>
<td>Most Restrictive</td>
<td>Latvia</td>
<td>Moldova</td>
<td>Georgia</td>
</tr>
<tr>
<td></td>
<td>Ukraine</td>
<td></td>
<td>Kyrgyzstan</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Tajikistan</td>
</tr>
</tbody>
</table>

Source: CIA World Factbook, various years (up to ten years preceding law adoptions to one year before law adoptions)

Table 4.14: Change in Titular Population Size and Level of Restrictiveness

As the table shows, the data fail to support the hypothesis. Most strikingly, none of the cases for which data were available have experienced a decrease in the size of the titular population. With no shrinking groups, I cannot make any claims about the effect of changes in the size of titular populations and the level of restrictiveness. All of the states, moreover, fall into a roughly equal division across categories.
Moving from demographic explanations to economic ones, I consider the relationships between restrictiveness and social welfare expenditures. Social welfare is costly for governments. Most of the money spent on social protection is limited to citizens and permanent residents, who receive the funds in the form of healthcare, education, unemployment benefits, pensions and child-care allowances. Governments may wish to control these costs by controlling who receives the benefits. Table 4.15 presents the possibility that governments that spend more than others on social welfare would be unwilling to liberalize their naturalization laws because of the associated expenses.

<table>
<thead>
<tr>
<th></th>
<th>Social Welfare Expenditures Less than Regional Average^a</th>
<th>Social Welfare Expenditures Greater than Regional Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Least Restrictive</td>
<td>Azerbaijan, Kazakhstan, Romania, Russia</td>
<td>Poland, Slovakia</td>
</tr>
<tr>
<td>Intermediate</td>
<td>Albania</td>
<td>Croatia, Czech Republic, Estonia, Hungary</td>
</tr>
<tr>
<td>Most Restrictive</td>
<td>Lithuania, Moldova, Ukraine</td>
<td>Belarus, Latvia</td>
</tr>
</tbody>
</table>

^a The regional average is 16.8%.

Table 4.15: Social Welfare Expenditures and Level of Restrictiveness
The data do not support the hypothesis connecting higher social welfare expenditures with more restrictive naturalization laws. Although the countries that spend more on social protection are more likely to have intermediate-range levels of restrictiveness, there is no real pattern. Countries with varying expenditures are scattered throughout the scale of restrictiveness.

Another economic factor, unemployment rates, may influence the restrictiveness of naturalization laws. Perhaps governments facing high unemployment are unwilling to adopt permissive laws out of a fear of increasing the labor pool. An increased labor pool would introduce unwanted competition with those who are already citizens. Governments encountering low unemployment, on the other hand, may pursue less restrictive naturalization laws in order to attract needed workers. The results of a cross-tabulation between these two variables are presented in Table 4.16. I measure unemployment rates by the most recently available statistics from the U.N. prior to the adoption of a country’s naturalization law. The mean unemployment value is the divider between categories.
<table>
<thead>
<tr>
<th>Least Restrictive</th>
<th>Unemployment Rate Less than Regional Average</th>
<th>Unemployment Rate greater than Regional Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Azerbaijan</td>
<td></td>
<td>Bulgaria</td>
</tr>
<tr>
<td>Romania</td>
<td></td>
<td>Kazakhstan</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td></td>
<td>Poland</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td></td>
<td>Russia</td>
</tr>
<tr>
<td>Russia</td>
<td></td>
<td>Slovakia</td>
</tr>
<tr>
<td>Slovakia</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intermediate</td>
<td>Unemployment Rate Less than Regional Average</td>
<td>Unemployment Rate greater than Regional Average</td>
</tr>
<tr>
<td>Albania</td>
<td></td>
<td>Armenia</td>
</tr>
<tr>
<td>Czech Republic</td>
<td></td>
<td>Croatia</td>
</tr>
<tr>
<td>Hungary</td>
<td></td>
<td>Estonia</td>
</tr>
<tr>
<td>Slovenia</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Most Restrictive</td>
<td>Unemployment Rate Less than Regional Average</td>
<td>Unemployment Rate greater than Regional Average</td>
</tr>
<tr>
<td>Belarus</td>
<td></td>
<td>Latvia</td>
</tr>
<tr>
<td>Georgia</td>
<td></td>
<td>Lithuania</td>
</tr>
<tr>
<td>Moldova</td>
<td></td>
<td>Macedonia</td>
</tr>
<tr>
<td>Ukraine</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


Table 4.16: Unemployment Rates and Level of Restrictiveness

The table illustrates that the expected relationship does not exist. While some of the countries – most notably, Macedonia and the Baltic states of Latvia and Lithuania – do conform to the expected pattern, the rest of the countries are distributed throughout the categories. One explanation for this lack of relationship is that the states address unemployment concerns not through naturalization laws, but in the earlier phase of immigrant admissions. In most cases, one need not be a citizen to work in a country, therefore the restrictions are likely put into place for entry more broadly, not citizenship.

Overall, demographic and economic variables are less illuminating than I expected. What this outcome suggests is that, despite being the “obvious” explanations, these variables are of limited utility because legislators at the time in...
these cases were not focused on the long-term effects of immigration and naturalization. Other variables must hold the key to explaining the differences.

The Postnational Thesis in Context

The second set of approaches to understanding restrictiveness of naturalization laws looks beyond domestic issues and toward international and transnational explanations. In the last chapter, I described the possible effects that international organizations, international human rights regimes and globalization may have on the level of restrictiveness of a state’s naturalization law. This chapter focuses solely on the role of international organizations – specifically, one particular international organization, the European Union. In so doing, I am not suggesting that international human rights regimes and globalization have no influence. The trouble with these two potential explanations is that there is no satisfactory way to get at the relationships between them and the restrictiveness of the laws. One could measure the influence of human rights regimes by tallying which states were signatories to relevant international conventions (such as the European Convention on Human Rights), but this would not capture states that were nonetheless pressured to sign but did not. More importantly, it would not capture states that were not seriously invited to be signatories. So by examining those who were and were not signatories to certain international conventions, we would not adequately capture the story. Similarly, how does one measure the effects of globalization on naturalization law? In the literature, even proponents of the impact of globalization acknowledge that we have a difficult
task ahead if we ever want to move beyond a theoretical discussion. The opponents of
the role of globalization also argue that it is a conflated notion, and that we are better
served by investigating the impact of specific aspects of globalization, rather than a
vague idea of a concept. For example, one could argue that globalization means that
people are more likely to move around than they ever were in the past. We would then
want to measure migration rates and compare them to the naturalization laws of their
destination countries. This approach is a good one, but the problem is that it no longer
becomes a direct investigation of globalization. Instead, we are now examining the
effects of migration patterns and rates, which is a question of demographics, not
globalization.

Thus, in this chapter I restrict my focus to international organizations. I further
limit my analysis to the role of the EU. At the same time that borders are opening up
within the EU, the EU’s external borders are tightening. What effect might this have
on the border, immigration and naturalization policies of candidate states? Further,
many of the states in this sample had openly aspired to become EU members. Thus it
is plausible that the EU’s position on naturalization would affect the positions of the
states.

*International Organizations*

I expect that EU candidacy would push a state toward a more restrictive
naturalization law. The reasons for this expectation are twofold. First, while much has
been made about the free flow of money, goods and people throughout the EU, an
associated consequence has been the creation of “Fortress Europe.” Because of the EU’s permissive policies internally, member states feel pressure from other member states to restrict immigration from outside the EU. If a state is an EU candidate, its politicians would be well aware of this phenomenon and would likely aspire to have their laws fall in line with this view. Secondly, the EU candidate states of Central and Eastern Europe have been under intense pressure to “get their houses in order.” By demonstrating that they can control their borders, the candidates signal that they are as committed to stability as any Western state. Table 4.17 displays the relationships between EU candidacy status and the restrictiveness of naturalization law.
<table>
<thead>
<tr>
<th>Least Restrictive</th>
<th>EU Official Candidate Prior to Law Adoption</th>
<th>Not an Official EU Candidate Prior to Law Adoption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulgaria</td>
<td></td>
<td>Azerbaijan, Poland, Romania, Russia, Serbia</td>
</tr>
<tr>
<td>Slovakia</td>
<td></td>
<td>and Montenegro, Uzbekistan</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intermediate</td>
<td>Czech Republic</td>
<td>Albania, Armenia, Bosnia-Herzegovina, Croatia,</td>
</tr>
<tr>
<td></td>
<td>Estonia</td>
<td>Kazakhstan, Slovenia</td>
</tr>
<tr>
<td></td>
<td>Hungary</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Most Restrictive</td>
<td>Belarus, Georgia, Latvia, Lithuania,</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Macedonia, Moldova, Turkmenistan, Ukraine</td>
<td></td>
</tr>
</tbody>
</table>

* Candidacy date is established by the date a country signed the Europe Agreement and began the process of association.

Table 4.17: EU Candidacy and Restrictiveness of Naturalization Law*

The results of the cross-tabulation do not support the hypothesis. First, there were only five candidate states in the entire sample, so there is not much data to confirm any sort of relationship. Moreover, I expected candidate states to fall into the most restrictive category, but that was not the case. The candidate states are among the least restrictive and intermediate-level restrictive category of laws. As for the states that were not EU candidates at the time their naturalization laws were adopted, they are scattered throughout the categorization of restrictiveness. It seems, then, that a
state’s relationship to the EU had little bearing on its law. As the next chapter will suggest, it is not that the framers of the laws were not conscious of their relationship with the EU, but that other, more salient considerations took priority. For most of the states in this study, EU membership, if desired, was seen as a future endeavor, one that must take back seat to the more immediate concerns of state-building.

Discussion

Once again, the central question to be answered is: why is there variation in naturalization restrictiveness among countries? Put another way, why is it easier to become a naturalized citizen in some countries than in others? I have eliminated several promising explanatory variables, demonstrating that there is more to the story of naturalization laws than simple bivariate relationships can capture. The negative findings of this chapter are useful for showing the complexity of the naturalization issue, and they lead us to the importance of understanding the influences felt by lawmakers, which I address in the following chapter.

I am searching for decisive conditions affecting receiving countries which lead to more or less restrictive laws. By focusing on national factors (such as political parties, federal break-ups, national identities, and economic and demographic characteristics) and postnational factors (such as EU candidacy), I have learned that there is no truly systematic account of such variation. Unexplained differences between citizenship policy outcomes persist. Focusing solely on economics, demographics or membership in international organizations, for example, as
explanatory variables may be preventing us from fully understanding and explaining policy outcomes. What is revealed here and in the next chapter is that the story of naturalization laws is a very particular story, not a generalizable one. The answer to the central question is not found in one variable or another across the cases. Rather, the discretion of the lawmakers must play a major role.

The findings in this chapter, however, do not lead to the conclusion that the variables identified in this chapter make no difference at all. Indeed, if there is no evidence of an impact of these factors in the simple bivariate analyses presented here, these relationships may become more readily apparent through the perceptions of the political elites. Thus, I emphasize that the findings should not be taken to mean that the only explanations are idiosyncratic, with no systematic explanation possible. Rather, the findings presented here lead to the conclusion that to understand the variation in laws across countries I need a closer reading of the cases. In the next chapter, I do just that by exploring the cases of the Czech and Slovak Republics in greater detail. I will demonstrate that the political elites crafting the laws had considerable autonomy in their choices. Moreover, in the virgin territory of citizenship after communism, few politicians had any sort of grand plan for naturalization regimes. Understandably, given the setting, most legislators simply did not know what they were supposed to be doing. I turn now to chapter five, where I show that the “real story” lies in the calculations – and sometimes whims – of the political elites.
CHAPTER 5:

NATURALIZATION LAW IN THE CZECH AND SLOVAK REPUBLICS: DUAL HISTORIES, DUAL RESPONSES

You must have a strong will to stay in this country because the country isn’t interested in you being here.
- Lucie Sladková, Director of IOM Prague, on Czech citizenship laws

So far there has been no harm from the liberal approach.
- Stanislav Bečica, former Director of Internal Management of the Slovak Ministry of Interior, on Slovak citizenship laws

The previous chapter explored the variation in naturalization laws across 27 cases in Central and Eastern Europe. Based on the evidence, I concluded that simple bivariate relationships are inadequate to explain why some states choose more restrictive laws than others. The present chapter is designed to delve more deeply into possible explanations by focusing on two cases, the Czech Republic and Slovakia. What I reveal here is that the legislators had a great deal of autonomy in their choices, and many decisions were arrived at without deliberation. Where decisions were made more deliberatively, self-reflections of their particular state’s history pushed lawmakers to adopt a more restrictive law in the case of the Czech Republic and a less
restrictive one in the case of Slovakia. In other words, the backdrop to the adopted naturalization laws is the states’ responses to their historical experiences.

In the shuffle of redesigning and recreating political institutions after the Velvet Divorce, the issue of citizenship and naturalization rules fell to the bottom of the list of priorities. Intent on crafting new and workable state institutions, Czech and Slovak politicians initially ignored that very fundamental aspect of the state – defining the citizenry. It is interesting that such a basic element of design was overlooked, yet it should not be surprising. In the rush to build themselves anew as independent, functioning states, parliamentarians focused on crafting governmental frameworks and institutions, such as the judiciary, the parliament and electoral laws, rule of law, etc. Quite reasonably, the more immediate need to make the state function seemed more pressing than issues of extending citizenship. Lacking clarity on how to proceed in citizenship matters, politicians fell back on history. How things were done in the past, coupled with particular national cultures rooted in historical experiences, became the only guides in the process of creating naturalization law. There existed no leading principles, no grand visions or designs. Naturalization law in the Czech and Slovak Republics arose in an ad hoc and laissez-faire manner, only reshaped later by a more structured approach. At least initially, state responses to immigration have been multiple and often contradictory, especially in that ultimate demand for incorporation, naturalized citizenship. None of this is to say that citizenship and naturalization were ignored – indeed, they were not. Citizenship requirements were discussed in special parliamentary meetings and debated in the popular media. Yet the attitudes and
actions of the political elites reflected a peculiar sentiment that citizenship, that foundational element of statehood, could be taken for granted. In fact, the Czech Republic and Slovakia settled on very similar laws for very similar reasons, except for one key area that would demonstrate the importance of historical experience: dual citizenship.

Despite the importance of the subject, politicians did not seem to respond to it in purposeful and deliberate ways. On the surface of things, it would seem that the national and postnational theses described in earlier chapters played little role in the lawmakers’ calculations. Yet an examination of the dual citizenship question uncovers an almost unconscious tendency, in both countries, to respond to historical experiences. Though neither deliberately nor purposefully, Czech and Slovak politicians reinforced and responded to historical events and past experiences, ultimately choosing two different paths. The result of these processes was that the Czech Republic crafted a naturalization law to function as a tool of social exclusion, whereas the Slovaks crafted their law to serve as a tool of social inclusion.

In this chapter, I explore the ways in which naturalization law, particularly dual citizenship, is shaped by historical experiences. Sometimes such decisions are consciously and deliberately made; often they are not. In either case, the outcomes of the dual citizenship debates illustrate particular reactions to past events. Before presenting the story of dual citizenship, however, I describe the migration background
in the region and track the development of the naturalization regime that developed in both states. Both steps provide context for the decisions that the politicians ultimately made.

**Migration Background**

*From Mass Exoduses...*

Emigration, not immigration, characterized the Czech and Slovak lands for much of modern history. Further, the emigration patterns were intense and on a mass scale, resembling exoduses more than routine demographic shifts. The largest wave of emigration fell near the end of the Hapsburg rule, when the region lost nearly 850,000 people between the years of 1871 and 1914 (Milo 2004, 1). Estimates of total population loss from 1850 to 1914 surpass 1.5 million people (Horáková 1997, 4). The early mass emigrations of the Austro-Hungarian period largely consisted of Protestants fleeing to Hungary, Serbia, Romania and Croatia to escape religious persecution; subsequent out-migrations during the era were led mainly by impoverished farmers as well as urban residents facing high unemployment (Divinský 2004, 8). Most emigrants fled to the United States, but a significant number chose to settle in France, Belgium, Canada and Argentina (Milo 2004, 1).

The First Republic (1918-1939) represented a temporary break in the prevailing emigratory patterns of the region. After the declaration of independence, Czechoslovakia witnessed an upsurge in immigration (250,000 estimated immigrants) as former soldiers, war repatriates and Russian emigrants arrived via Austria and the
United States, seeking employment and improved living conditions. This minor reverse wave of the interwar period was temporary, however, and immigration during the First Republic remained lower than emigration, despite an influx of nearly 100,000 migrants between 1935 and 1939 (Horáková 1997, 4).

Net population statistics are difficult to track for the World War II years. Researchers estimate that Czechoslovakia received more than 200,000 German refugees – mainly Jewish. The Nazis forced even more Jews across the border into Czechoslovakia (Stola 1992, 330). Additionally, one researcher calculates that roughly half a million people migrated to Czech lands from occupied territories bordering Slovakia and Sub-Carpathian Russia (Horáková 1997, 4). The inflow of people, however, was overshadowed by the second mass wave of emigration that immediately followed the end of World War II.

The postwar years continued the dominance of emigration over immigration, as population losses continued during the Third Republic (1945-1948). Much of this population loss is attributable to the deportation of nearly 3 million Germans, an exchange of population with Hungary¹, and the forced expulsion of about 50,000 Ruthenians to Ukraine and other parts of the USSR (Drbohlav 2001; 213; Fassmann and Munz 1994, 522; Marešová, Drbohlav and Lhotská 1995, 13; Milo 2004, 2; Stola

¹ During this time, Czechoslovakia and Hungary signed an agreement for population exchange. Notably, the agreement was not reciprocal in terms of compulsion. The agreement provided for the mandatory expulsion of Hungarian minorities from Czechoslovakia, yet the Slovak minorities in Hungary were asked to voluntary repatriate. In other words, the agreement of 1946 was voluntary for Slovaks and compulsory for Hungarians (Stola 1992, 336-337).
Excluding forcibly displaced people, the time period netted an estimated population loss of 2.7 million people (Horáková 1997, 5). Table 5.1 illustrates this trend.

<table>
<thead>
<tr>
<th>Year</th>
<th>Immigrants</th>
<th>Emigrants</th>
<th>Net Migration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1945</td>
<td>35,000</td>
<td>1,177,000</td>
<td>-1,142,000</td>
</tr>
<tr>
<td>1946</td>
<td>45,000</td>
<td>1,630,000</td>
<td>-1,585,000</td>
</tr>
<tr>
<td>1947</td>
<td>51,100</td>
<td>1,300</td>
<td>49,800</td>
</tr>
<tr>
<td>TOTAL</td>
<td>131,000</td>
<td>2,808,300</td>
<td>-2,677,200</td>
</tr>
</tbody>
</table>

Source: Horáková 1997

Table 5.1: External Migration Estimates for the Czechoslovak Republic, 1945-1947

The Communist coup of 1948 started a 40-year period of severely restricted international migration to and from Czechoslovakia. Migration was minimal, and, in typical totalitarian fashion, immigrants who were permitted entry were largely from other communist countries, such as Vietnam, Angola, Cuba and Poland (Drbohlav 2001, 213; Marešová, Drbohlav and Lhotská 1995, 3). When it was permitted, migration frequently was restricted to family reunification or marriage (Horáková 1997, 6). Emigration, usually illegal, continued to outweigh immigration. Table 5.2 describes the migration losses that occurred during Communist rule. Most notable are two upsurges in the number of emigrants. These data suggest two major waves of emigration for this period: one corresponding with the Communist takeover, and one corresponding with the suppression of the Prague Spring in 1968.
The Czechoslovak communist era was characterized by a negative balance of migration. One estimate places the total number of emigrants during that time at over half a million people (Horáková 1997). Furthermore, because of totalitarian restrictions, immigration to Czechoslovakia was extremely low during the 1948-1990 period of communist rule. The Iron Curtain effectively sealed the state from significant migratory movements. The fall of communism in 1990, however, would lead to an unprecedented shift in the external migration patterns of the Czech and Slovak lands.

To Countries of Immigration

The opening of borders in January of 1990 represented a fundamental rupture in existing migration trends. New freedom of movement created a situation in which immigration dominates over emigration. A Czech migration scholar observes, “A completely new era in the migration process started in the 1990s” (Drbohlav 1994, 93). A Slovak sociologist similarly notes that “existing migration tendencies were
broken” (Milo 2004, 3). After centuries of negative migration statistics, Czechoslovakia finally experienced mass immigration, a trend that continues today.²

Both the Czech Republic and Slovakia evolved first from places of emigration, to transit countries, and finally to countries of destination in their own rights. This shift represents a qualitatively new migration situation in the region, created in part by a combination of geographic, economic and political factors. Advantageously placed geographically, the Czech and Slovak lands appealed to migrants who saw the region (along with Poland and Hungary) as a good stepping stone to Western Europe. As part of a “buffer zone” between Eastern and Western Europe, the Czech Republic and Slovakia attracted not only East-West migrants, but also people from China, Pakistan and various African countries (Haerpfer, Milosinki and Wallace 1999, 998; Kussbach 1992, 636). Tables 5.3 and 5.4 show the top 10 countries of immigration to the Czech Republic and Slovakia, respectively, from 1998 to 2002.

---
² The split of the Czech and Slovak Federal Republic in 1992 increased international migration statistics, as migration between the Czech Republic and Slovakia became international, not internal, migration. Even setting aside the migration exchanges between them, however, the share of immigration from other countries has been growing since 1990 and exceeds emigration rates (Horáková 1997, 23).
Table 5.3: Top 10 Countries of Immigration to the Czech Republic, 2001-2004

<table>
<thead>
<tr>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country</td>
<td>Imm</td>
<td>Country</td>
<td>Imm</td>
</tr>
<tr>
<td>Slovakia</td>
<td>3078</td>
<td>Slovakia</td>
<td>13326</td>
</tr>
<tr>
<td>Ukraine</td>
<td>2799</td>
<td>Ukraine</td>
<td>10742</td>
</tr>
<tr>
<td>Vietnam</td>
<td>2211</td>
<td>Vietnam</td>
<td>5691</td>
</tr>
<tr>
<td>Russia</td>
<td>726</td>
<td>Russia</td>
<td>2456</td>
</tr>
<tr>
<td>Germany</td>
<td>470</td>
<td>Germany</td>
<td>987</td>
</tr>
<tr>
<td>Poland</td>
<td>456</td>
<td>Moldova</td>
<td>848</td>
</tr>
<tr>
<td>U.S.A.</td>
<td>279</td>
<td>U.S.A.</td>
<td>836</td>
</tr>
<tr>
<td>Belarus</td>
<td>260</td>
<td>Bulgaria</td>
<td>729</td>
</tr>
<tr>
<td>Romania</td>
<td>245</td>
<td>Belarus</td>
<td>590</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>202</td>
<td>U.K.</td>
<td>489</td>
</tr>
</tbody>
</table>

Source: Statistical Yearbooks of the Czech Republic, 2003 and 2006

Table 5.4: Top 10 Countries of Immigration to the Slovak Republic, 1998-2002

<table>
<thead>
<tr>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country</td>
<td>Imm</td>
<td>Country</td>
<td>Imm</td>
<td>Country</td>
</tr>
<tr>
<td>Ukraine</td>
<td>268</td>
<td>Ukraine</td>
<td>180</td>
<td>Ukraine</td>
</tr>
<tr>
<td>Germany</td>
<td>93</td>
<td>Yugo.</td>
<td>110</td>
<td>USA</td>
</tr>
<tr>
<td>Russia</td>
<td>91</td>
<td>Germany</td>
<td>100</td>
<td>Germ.</td>
</tr>
<tr>
<td>Yugo.</td>
<td>87</td>
<td>Russia</td>
<td>86</td>
<td>Canada</td>
</tr>
<tr>
<td>Canada</td>
<td>74</td>
<td>Poland</td>
<td>71</td>
<td>Yugo.</td>
</tr>
<tr>
<td>Romania</td>
<td>65</td>
<td>Canada</td>
<td>59</td>
<td>Russia</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>56</td>
<td>USA</td>
<td>57</td>
<td>Roman.</td>
</tr>
<tr>
<td>Switz.</td>
<td>51</td>
<td>Bulgaria</td>
<td>56</td>
<td>Switz.</td>
</tr>
<tr>
<td>USA</td>
<td>45</td>
<td>Austria</td>
<td>39</td>
<td>Austria</td>
</tr>
<tr>
<td>Austria</td>
<td>39</td>
<td>Romania</td>
<td>32</td>
<td>Poland</td>
</tr>
</tbody>
</table>

Source: Stav a pohyb obyvatel’stv 1999-2003

Table 5.4: Top 10 Countries of Immigration to the Slovak Republic, 1998-2002

Added to factors of geographic chance are the pull of relative political stability and economic affluence, as compared to other states to the East and South. EU candidacy and now membership serves as yet another pull factor for migrants. Transit
migrants planning to move on to other states find themselves settling permanently in the Czech Republic and Slovakia. Others plan their migration with the express intent of settling in the region. Table 5.5 illustrates migration rates for the Czech Republic since 1993, and Table 5.6 does the same for Slovakia.

### Table 5.5: Migration Rates in the Czech Republic, 1993-2004

<table>
<thead>
<tr>
<th>Year</th>
<th>Immigration</th>
<th>Emigration</th>
<th>Net Migration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993</td>
<td>12,900</td>
<td>7,424</td>
<td>5,476</td>
</tr>
<tr>
<td>1996</td>
<td>10,857</td>
<td>728</td>
<td>10,129</td>
</tr>
<tr>
<td>1999</td>
<td>9,910</td>
<td>1,136</td>
<td>8,774</td>
</tr>
<tr>
<td>2000</td>
<td>7,802</td>
<td>1,263</td>
<td>6,539</td>
</tr>
<tr>
<td>2001</td>
<td>12,918</td>
<td>21,469</td>
<td>-8,551</td>
</tr>
<tr>
<td>2002</td>
<td>44,679</td>
<td>32,389</td>
<td>12,290</td>
</tr>
<tr>
<td>2003</td>
<td>60,015</td>
<td>34,226</td>
<td>25,789</td>
</tr>
<tr>
<td>2004</td>
<td>53,453</td>
<td>34,818</td>
<td>18,635</td>
</tr>
</tbody>
</table>


### Table 5.6: Migration Rates in the Slovak Republic, 1990-2002

<table>
<thead>
<tr>
<th>Year</th>
<th>Immigration</th>
<th>Emigration</th>
<th>Net Migration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>8618</td>
<td>10,940</td>
<td>-2,322</td>
</tr>
<tr>
<td>1991</td>
<td>9,076</td>
<td>8,861</td>
<td>215</td>
</tr>
<tr>
<td>1992</td>
<td>8,929</td>
<td>11,868</td>
<td>-2,939</td>
</tr>
<tr>
<td>1993</td>
<td>9,106</td>
<td>7,355</td>
<td>1,751</td>
</tr>
<tr>
<td>1994</td>
<td>4,922</td>
<td>154</td>
<td>4,768</td>
</tr>
<tr>
<td>1995</td>
<td>3,055</td>
<td>213</td>
<td>2,842</td>
</tr>
<tr>
<td>1996</td>
<td>2,477</td>
<td>222</td>
<td>2,255</td>
</tr>
<tr>
<td>1997</td>
<td>2,303</td>
<td>572</td>
<td>1,731</td>
</tr>
<tr>
<td>1998</td>
<td>2,52</td>
<td>746</td>
<td>1,306</td>
</tr>
<tr>
<td>1999</td>
<td>2,72</td>
<td>618</td>
<td>1,454</td>
</tr>
<tr>
<td>2000</td>
<td>2,274</td>
<td>811</td>
<td>1,463</td>
</tr>
<tr>
<td>2001</td>
<td>2,023</td>
<td>1,011</td>
<td>1,012</td>
</tr>
<tr>
<td>2002</td>
<td>2,312</td>
<td>1,411</td>
<td>901</td>
</tr>
</tbody>
</table>

Source: Vývoj obyvatel’stva 1992-2003
The shifts from countries of emigration, to transit countries, to destination countries have occurred: there is no question that the Czech and Slovak Republics are target countries now.

*The Future of Immigration to the Region*

The pull factors of geography, relative political stability, and economic affluence not only serve to attract migrants, but they also reduce emigration rates. Since 1990, as immigration rates have increased, emigration rates have declined (Horáková 1997, 8 and 22; Marešová, Drbohlav and Lhotská 1995, 14). Researchers and government officials alike predict the number of immigrants to continue increasing in the future. The Czech Ministry of Interior, for example, has stated that the Czech Republic is, “from the point of view of legal migration, a target country” (Horáková 1997, 23).

Other new EU members have experienced a growth in immigration after accession. Countries such as Portugal, Spain, Greece and Ireland experienced migratory shifts after joining the EU, partly as a consequence of economic growth. It is likely that the Czech Republic and Slovakia will follow this trend. Migrants seeking to escape conflicts and wars in Africa and Asia frequently head to EU member states and often aim for accession countries (Divinský 2004, *iii*). Other population increases will come in the form of labor migration, again partially in response to EU status (Drbohlav 2004, 39).
The growth of immigration means that naturalization laws will become more and more important. Many, although certainly not all, of the immigrants coming to the Czech Republic and Slovakia one day will want to apply for naturalized citizenship. Representative of the highest form of official membership in the state, the status of citizenship is seen as the ultimate in belonging. The Prague director of International Organization for Migration (IOM), an intergovernmental organization working with migrants and governments, described the situation in this way: “A foreigner dreams of citizenship as a Christian dreams of Heaven” (Interview, 15 October 2004). On a practical level, citizenship provides more security for the migrant than does permanent residency status. Although formally speaking many of the same rights that citizens enjoy are guaranteed to residents, the reality is not identical with legalities. The status of citizenship gives people the irrevocable right to remain in the country, while residency status for non-citizens may be revoked at any time. Setting aside any important psychological and social values, citizenship is one of the most important legal attributes in existence.

The Requirements of Citizenship

Historical Naturalization Regimes

It is difficult to speak of any sort of organized naturalization regime, or set of laws, prior to 1993. Austro-Hungarian rule did not create a strong citizenship law. More accurately, the legal regimes were separate from one another, thus there was no such thing as legal Austro-Hungarian citizenship (Liebich 2005, 4, footnote 10).
Political membership was determined locally, and the citizenship law that existed merely established residents as subjects of the emperor (Uhl 2005, 3). After the establishment of Czechoslovakia in 1918, citizenship rules focused not on naturalization, but on creating a civic conception of people as citizens rather than subjects. The major citizenship act of the era was not one of inclusion of immigrants, but of expulsion of Sudeten Germans (Vadura 2005, 19-20) (an act that would come back to haunt the Czechs as they lobbied for EU candidacy in the early 1990s).

Under communism, the official policy was to discourage migration. The government would grant permission to immigrate after detailed investigations and only then for reasons deemed to be “well founded” by the authorities (Salt and Clarke 2002, 24). Otherwise, all immigration was dictated not by a comprehensive citizenship regime, but through agreements with other countries, usually communist ones. Although a citizenship law was established during “normalization” after the Prague Spring, the 1969 law concerned only the federal citizenship of Czech and Slovaks. The law did not include any reference to the naturalization of foreigners (Staff of Commission on Security and Cooperation in Europe, 1996, 2).

Before the dissolution of Czechoslovakia, citizenship and naturalization was directed largely by bilateral agreements and treaties, a common approach in communist and early post-communist states. A comprehensive immigration policy did
not truly exist. Despite their long histories, it is not until the citizenship laws of 1993 that the Czech and Slovak Republics established any sort of comprehensive naturalization regime.

_Naturalization Laws Today_

The break-up of Czechoslovakia necessitated new laws concerning the acquisition of naturalized citizenship. By January 1993 the separated Czech and Slovak Republics had each passed new citizenship laws.\(^3\) Both states selected their criteria from among standard citizenship templates found in most other countries. The six most common naturalization requirements, worldwide, include:

(a) absence of criminal conviction;
(b) knowledge of the official language;
(c) knowledge of national history or culture;
(d) renunciation of foreign citizenship;
(e) proof of employment or sufficient income;
(f) residency requirements averaging five years (although this varies tremendously)

---

\(^3\) Unless otherwise noted, all discussion of laws in this chapter refer to Act No. 40/1993 on Gaining and Losing Citizenship of the Czech Republic and the Law of Slovak National Council of 19\(^{th}\) January 1993 Regarding Citizenship of Slovak Republic. Also, unless otherwise noted, quotations from parliamentarians and descriptions of their actions are from official transcripts of parliamentary proceedings.
Neither the Czech nor Slovak law requires historical or cultural knowledge, and neither requires proof of employment or of sufficient income. In all other respects the two states conform to the traditional requirements. The main difference between the Czech Republic and Slovakia’s laws concerns the issue of dual citizenship. In fact, this was the most contentious issue of the crafting of the laws, and it was differently answered by the two countries. I investigate the issue of dual citizenship later in the chapter, but first I present a closer look at each state’s law.

The Slovak law stipulates that foreigners may apply for naturalized citizenship upon meeting three conditions:

(1) continuous permanent residency in Slovakia for at least five years;
(2) proficiency in the Slovak language; and
(3) have never been prosecuted for “an intentional crime.”

The first two conditions created little controversy when the citizenship law was drafted. Unlike their Czech counterparts, for example, Slovak parliamentarians did not discuss, let alone debate, the residency requirement in the main council session on the law. As for the linguistic requirement, the only commentary came from two members of the Social Democrats (Strana demokратickej ľavice, or Party of the Democratic Left). Both parliamentarians advocated the inclusion of a language requirement and faced no opposition in the discussions. Similarly, the prohibition against naturalization for people prosecuted of “intentional” crimes provoked little debate in parliament or in
the news media. As one Slovak official explained, the requirements were set because there seemed to be little reason to object to these traditional requirements (Interview, 15 November 2004). We will see that the situation was quite different in the Czech Republic.

In addition to the three criteria discussed above, the following characteristics are not required of applicants, but may sway the Slovak state to grant citizenship:

(1) no citizenship in another state;

(2) documentation declaring the applicant’s renunciation of former citizenship.

Both of these characteristics concern the heated issue of dual citizenship, an issue that Slovak and Czech authorities differed on substantially. We will return to this important issue later in the chapter.

Regardless of an applicant’s ability to meet the above criteria, the Slovak Ministry of Interior may award naturalized citizenship at its discretion. This clause is usually reserved for foreigners who have married a Slovak citizen, who have “done something of benefit for the Slovak Republic,” or who have lost Czechoslovak citizenship because of a long absence from the territory or through marriage.
Czech citizenship law requires the same three criteria as Slovakia does for granting state citizenship:

(1) continuous permanent residency in the Czech Republic for at least five years;
(2) proficiency in the Czech language; and
(3) no sentencing in the past five years for a “willful punishable offence.”

Regarding residency, it is important to understand that the requirement actually amounts to 13-15 years. Before the five-year waiting period, an applicant must have established permanent residency for at least eight to 10 years. At that point, she may begin the clock on the five year requirement. In the Czech National Council, a Communist deputy pushed for the addition of another five years to the requirement, while a Civic Democrat (the right-wing party in government at the time the law was crafted) minister pushed for an additional three years. In the end, both were ignored and the official five-year period was established.
The director of the Prague office of IOM remembered the outcome as one that was too strict still. For ten years, she argued, potential citizens are excluded from the system. They work and live without security, knowing they could be expelled at any time. The director is especially critical of the lack of political participation these residents have access to:

They contribute just like everyone else, but they don’t get to participate, not even at the municipal level. You’ve lived there for nearly ten years and cannot help choose the mayor? There is a huge problem there.

She criticized what she saw as the absurdity of the “jump system” nature of the law, where one is excluded for ten years then suddenly expected to jump into the system and participate like any other Czech (Interview, 15 October 2004).

A deputy head in the Office of Government agreed that the residency requirement can be especially cumbersome, but explained:

The five-year requirement is okay – it gives applicants time to consider their decision. It is serious to break ties with your country. Nonetheless, it is vital that these people (non-citizen residents) be provided with rights. Okay, maybe they should not vote, and they do not vote, but on all other levels they are the same as a citizen. During that time before citizenship, legally, economically and socially, these residents are essentially on the same level as citizens. They just cannot stand in an election or vote. But most immigrants do not have political concerns. Rather they are concerned with employment and living situations. On these counts, their rights are as Czechs. The time they spend here is very important for them to learn to be as Czechs and to consider whether they make the right decision. To do this, they must first be here permanently, of that there is no doubt. (Interview, 18 October 2004)
The executive vice chairperson of an immigrants’ counseling center agreed that politics is probably not the main concern of most immigrants. She diverged, however, with the Deputy’s opinion that the residency requirement was of reasonable length:

The five years for naturalization doesn’t count the eight to 10 years of waiting to become a permanent resident, so it’s really eight to 10 plus five! Approximately 15 years! This is too much! The maximum, absolute maximum, should be ten years. This is what is suggested by the European Convention on Nationality. (Interview, 11 October 2004)

Regardless of the divergence of opinions sketched above, it is certain that these considerations played little role in the parliamentary debates surrounding the law. Other than a few deputies from opposition parties (who happened to agree that the length of time should be extended), there was no disagreement among the remaining ministers.

Like the Slovaks, the Czechs require language proficiency. This requirement created little debate in the parliamentary sessions, where only one deputy (a Christian Democrat) opposed the condition. He argued that a language requirement would create an unfair and impractical standard, especially given the already-granted Czech citizenship of people of Slovak and Hungarian ethnicity:

I consider this (condition) to be a mistake because citizenship and nationality (as ethnicity), and citizenship and language are different things. We should respect the civic view more properly and not mix it up with a different matter. What is more, I know from my experience that not all citizens are capable of sufficient communication in language. Now I mean the large Hungarian minority, in which communication in Slovak – let alone Czech – is very difficult to do.
Therefore I think we should not assume in law things we may not assume but to name the issues the way we see them. We suppose – and I think correctly – that all persons of the Slovak nationality (ethnicity) can speak their mother tongue properly… However, this may not be the same for citizens from other nationality who have learned Slovak as a foreign language. According to my experience, though they can speak and understand Slovak properly, these people find Czech as another foreign language they cannot speak. I think the bill should be modified to read: “The knowledge of the Czech language does not have to be proved by the claimant who proves he has sufficient knowledge of the Slovak language.”

While the minister’s argument was quickly glossed over by his fellow ministers, his way of thinking did not die out completely. Three years after the law on citizenship was passed one Czech constitutional expert returned to the Christian Democrat MP’s argument:

A key feature of the regime is the mandatory fluency in Czech. This is in direct contradiction with the civic and non-ethnic concept of the Czech state. The Czech Republic, in spite of being defined as a state of citizenry (according to the constitution), is really far from being a civic state and comes much closer to an ethnically defined state. Ascribing ethnic features to a civic society is just a fancy way to circumvent the contradiction between ethnic truth and civic normativeness. (Interview, 20 October 2004)

Other Czechs, too, criticized the provision. For example, an editorial in Mlada fronts Dnes (28 July 1994) read:

In order to profit from the influx of immigrants, like the US and some European countries did after the war, the Czech Republic should devise more liberal state citizenship legislation. There is no reason why the government could not attract distinguished scientific minds, for example, who do not know even a word of Czech. We should select
(prospective citizens) according to their abilities and their willingness to become part of our society and thus strengthen it.

Further, the vice chairperson of an immigrant’s rights NGO acknowledged the provision’s intent but criticized its application:

The requirement is that the applicant should demonstrate good knowledge of the language – be able to hold everyday conversation, able to read the newspaper. It’s very subjective, though – what’s “everyday” grammar? The fact of the matter is that it is easier for some applicants than others, and this goes against our liberal civic principles. Poles and Russians have an easier time of it than Asians and Africans, to give you an example. There are also a small number of applicants from Western Europe, and the US. It’s harder for them.

Yes, it’s important, but the criterion should be more standardized. There should be different rules to accommodate the old, the deaf, the blind, etc. Right now there is only one very broad requirement. This is not enough. (Interview, 11 October 2004)

Yet government officials were not swayed by these arguments. A Deputy Head in the Ministry of the Interior stressed that the requirement is a very reasonable one. Arguing that the condition is very straightforward and egalitarian, she said, “We don’t discriminate because of age, for example. And a housewife must do the same as an engineer. All are the same. (The requirement is) quite fair” (Interview, 12 October 2004).
Even the Director of IOM Prague found the requirement helpful, not just for the government but also for the applicant herself. The director commented:

This is absolutely useful – it shows a certain level of integration. It is useful not just for the government, not just for the country, but for the foreigner himself. Otherwise, he would have problems getting jobs, living in society.

She saw the requirement as one that safeguards immigrants by encouraging them to learn the language of their new country (Interview, 15 October 2004).

The Czech condition barring applicants who have been sentenced in the past five years for “willful crimes” resembles the Slovak prohibition against people who have committed “intentional crimes.” Whereas the Slovak condition generated no disagreements, the Czech case was somewhat more contentious, albeit after the fact.

During the drafting of the law, Civic Democratic Alliance (ODA, part of the ruling right-wing coalition) ministers voiced concern that the condition could further punish those persecuted arbitrarily under communism. One minister worried that the crimes counted against an applicant could “possibly concern also the crimes that have been exclusively political abuse in the era of totalitarianism, because such cases certainly occurred five years ago.” Another ODA parliamentarian seconded this concern, yet ultimately no concessions were made in the drafting of the law. The National Council’s eventual solution (in a 1996 amendment) was to allow the Ministry of Interior to waive that condition in cases of “exceptional relevance” (Citizenship Law Amendment 139/1996). The measure passed with little fanfare, belying the public controversy that would come of this requirement.
For example, a Czech human rights lawyer pointed out that the law created an unacceptable paradox. She explained that a person sentenced for theft would be ineligible for naturalized citizenship, yet a person convicted of war crimes after World War II would be eligible. She posed:

I ask you: which would we rather have as a citizen? I don’t want thieves here, but I more do not want war criminals. This law makes little sense. Sure, the Minister of Interior can waive this, but this is a meaningless concession. I can really tell you that he would not be inclined to do so. (Interview, 19 October 2004)

Members of the international community were also concerned by the criminality clause. Nearly a year after the law was passed, delegates from the United Nations High Commissioner for Refugees, the EU and the Council of Europe all attacked the law for its potential to impose retroactive penalties on people (Knox 1994). Since the prohibition against citizenship was not in force when alleged crimes occurred, such a prohibition amounts to a violation of international law [Article 7(1) of the European Convention on Human Rights and Article 40(6) of the Charter of Fundamental Freedoms]. A few weeks after the European complaints, the Helsinki Commission⁴ officially reprimanded the Czech Republic in a letter to Premier Klaus, arguing that “the present denial of citizenship in view of past criminal acts adds further punishment for the former acts, which did not exist at the time they were committed” (“U.S. Human Rights Committee Criticises Czech Citizenship Law”, CTK wire report. 1994; “State Citizenship Letter Sent to Czech Premier on Monday”,

⁴ Also known as the Commission on Security and Cooperation in Europe, the Helsinki Commission is a US human rights commission composed of nine Congressional representatives, nine senators and one member each from the U.S. Departments of State, Defense and Commerce.

The two opposition coalition parties, Civic Democratic Alliance (ODA) and the Czech Social Democratic party (CSSD) vocalized discontent with the requirement. An ODA parliamentary deputy said that the requirement is indicative of the fact that the Czech Republic “suffers from strong xenophobia” and that parliament “lacks the will” to remedy this situation. The deputy chair of the CSSD said it was parliament’s obligation to ensure that Czech laws correspond with international agreement ratified by the country. She said the requirement of a clean criminal record “is at variance with ratified international agreements and are thus invalid” (“Christian Parties Defend Tough Rules for granting Citizenship,” 3 November 1994, CTK News Wire).

Despite international and public dissatisfaction, various government officials continued to support the ban on criminality, mostly through appeal to ad populum arguments:

Everyone requires this – all states. Some rather look for a ‘moral’ standard, but it’s the same thing. (Interview, 15 October 2004)

It’s legitimate. It’s legitimate to the extent that it’s legitimate anywhere. (Interview, 19 October 2004)
The Christian parties were the most vocal in defending the ban on criminality. Both the Christian Democratic Union and the Czechoslovak People’s Party (KDU-CSL) and the Christian Democratic Party (KDS) supported the requirement for clean criminal records of applicants as being logical and constitutional. The head of KDS said that he could not “imagine how the CSCE would press somebody to admit people who were sentenced in the past five years.” Similarly, the KDU-CSL chairman released an official statement applauding the logic of the requirement and pledging to defend it (“Christian parties Defend Tough Rules for Granting Citizenship,” 3 November 1994, CTK News Wire).

Jiří Payne, then head of the Foreign Affairs Committee in parliament and conservative ODS member, dismissed the law’s critics as “misinformed outsiders.” He said, “I’m convinced (that) critics of the law don’t understand exactly how it is in our country” (Knox 1994).

Even some migrants’ rights watchdog groups seemed to have little disagreement with the ban on criminality. The executive vice chairperson of one such NGO argued that the law is legitimate for two reasons. First, it allows applicants to show their willingness to integrate into society by demonstrating compliance with the laws. Second, “non-intentional” crimes are not counted, so the chairperson believed the law to be very clear about excluding politically-motivated convictions (Interview,
The Director of IOM Prague concurred, and added that “the country has the right to choose the best people” (Interview, 15 October 2004). For her, it boiled down to state sovereignty and prerogative.

The Czechs also maintain a fourth requirement, one that diverges significantly from the Slovak approach. Czech law requires:

(4) proof that the applicant has lost his or her previous citizenship or that he or she will certainly lose it upon acquiring Czech citizenship.

This fourth stipulation is a much stronger position against multiple citizenships than the one taken by the Slovaks. Recall that the Slovaks make this not a condition of awarding citizenship, but a factor “in favor” of an applicant’s petition. This is such a weak formulation that it amounts to no requirement at all, if not an outright authorization to retain former citizenship. The Czechs, in contrast, absolutely and unequivocally require this condition. Later in this chapter, I explore this difference and show that it illustrates a key difference in national political identities between the two states.

A further condition of receiving Czech citizenship is that applicants must also recite the following pledge:

Upon my honour, I pledge fidelity to the Czech Republic. I vow that I will observe all laws and other generally binding legal regulations. I vow that I will fulfill all the obligations of citizen of the Czech Republic.

Such pledges are common conditions of naturalized citizenship in states around the world, and no visible opposition to the pledge was apparent.
As in Slovakia, the Czech Ministry of Interior may waive certain requirements. For example, if an applicant cannot be released from foreign citizenship, or their former state refuses to supply documentation of this release or if acquiring the documentation would lead to undue persecution, the fourth requirement may be waived at the discretion of the Czech Ministry of Interior (Act No. 4/1993 on Gaining and Losing Citizenship of the Czech Republic, December 29, 1992). The Ministry may also waive any of the requirements if it chooses to, based on any one of the following conditions:

(1) the applicant is married to a Czech citizen;

(2) the applicant was born on Czech territory (note that birth on the territory does not automatically confer citizenship; rather, it is a consideration the Ministry of Interior may make);

(3) the applicant has lived on Czech land for 10 continuous years;

(4) the applicant possessed Czech or Czechoslovak citizenship at some time in the past; or

(5) the applicant was adopted by a Czech citizen.

Neither the Czech Republic nor Slovakia are exceptional in their requirements, as compared to other states. There are no unusual criteria for applicants to meet, nor is it rare to allow waivers of requirements upon the state’s discretion. What is unusual about these two cases is that despite sharing a common history for some time, each
chose different paths regarding one key requirement of naturalization. In the next section, I give special attention to dual citizenship, an issue which proved to be the most divisive element of the laws in both countries.

**Dual Histories, Dual Responses**

The Czech Republic categorically prohibits dual/multiple citizenship in the case of naturalization; the Slovak Republic does not. This is a significant difference for many reasons, not the least of which is that it demarcates the restrictive Czech regime from the liberal Slovak one. Nevertheless, Slovak Premier Mečiar attempted to downplay the divergence, arguing that there is no controversy, only a difference in standpoint (BBC, 13 October 1992, “Czech Parliamentary Leader Visits, Holds Talk on Dual Citizenship”). His claim of mere disagreement, however, was refuted by Czech Premier Klaus, who later stated that “there is no room for compromise in this case” (BBC, 20 October 1992, “Czech Premier on Czech-Slovak Relations, Citizenship, Role of National Council”). On this issue, at least, Mečiar was wrong: there is more than a difference in standpoint at work here – there is a fundamental rift between two competing ideas of belonging. This particular clash created an “acute form of citizenship conflict” (Iordachi 2004, 117).

Dual citizenship is a contentious issue in many different types of states all over the world. It can be used as a tool to integrate aliens and denizens, a rhetorical device to polarize populations, a way to privilege diaspora communities, an acceptance of the vague forces of globalization and the concomitant increase in migration, and much
more. Dual citizenship encounters intense political debates in a variety of settings, where part of the population faces it with stiff resistance while another part embraces it. In the Czech Republic and Slovakia, the issue took on additional importance when it emerged as the last showdown between the formerly unified states, one that was reflective of their divergent historical experiences.

The Czech Republic and Slovakia, although once pushed together into a common state, redefined their identities differently after their breakup. The Czech national identity is historically rooted, drawn from a somewhat mythic sense of uniqueness and longevity, and it is relatively secure, stable and confident. The Slovak national identity, in comparison, is less solidified and more fraught with insecurities. These contrasting characteristics played no small role in their decisions regarding dual citizenship.

Even before joining together as a common state, the Czech Republic and Slovakia experienced events and situations that would later feed into their distinct political identities. True, they shared a similar (although not identical) language, a common religion and ethnic heritage, and they were neighbors. These similarities, however, veil important differences – differences that have everything to do with the powers in control of the Czech lands and Slovakia. Kraus and Singer (2000, 1) summarize the important relationships thusly: “By the end of the tenth century, that

---

5 Catholicism is shared by the Slovaks and Czechs, but their experiences with it differed. The Protestant Reformation came to the Czech Lands in the early 1400s, and Protestantism reigned in both Bohemia and Moravia for around 200 years. The Czech Lands of this time are often referred to as the “cradle of Protestantism.” During the Counterreformation Catholic Austrians invaded and crushed the Protestant Czechs in 1620, and Catholicism was restored (forcefully). Thus, while there is a common link of Catholicism in both countries, the Slovak version is more traditional and largely uncontested. For a more thorough treatment of the religious differences and similarities, see Hermann (1975) *A History of the Czechs* and Lettrich (1955) *History of Modern Slovakia*. 
empire was divided between the Germans and the Hungarians, setting the neighboring
Czechs and Slovaks on two separate paths of political development for the next
millennium.”

Prior to the fifteenth century, the Czechs had established an empire while
Slovakia was part of (and subordinate to) Hungary. The Czech Lands became the seat
of the Holy Roman Empire in the fourteenth century, raising the prestige of the region.
Prague became a “great city of Europe”; most Czech cities had industrialized and were
relatively modern. Bohemians and even Moravians were celebrated by Europe as
cultured and cosmopolitan, and this status did not diminish under Austrian rule. In
contrast, Slovakia was under Hungarian rule for almost a thousand years. The rural
and underdeveloped country was largely made up of Slovak peasants, lacking an
aristocracy and professional middle class. Cutler and Schwartz (1991, 512) note that
“Slovaks were essentially a source of cheap labor for the Hungarians.” This
arrangement essentially meant that the Slovak middle-class was nonexistent.

The division of power in the Austro-Hungarian Empire that ruled from 1867-1918 further fueled the differences between the Czech lands and Slovakia. Disparities
in the regions’ economies, main cities, middle classes and political environments were
reinforced by Austrian control over the Czech lands and continued Hungarian
dominance over Slovakia. The Austrian part of the empire was more economically
developed and more politically tolerant than the Hungarian part (Leff 1997, 7). Czechs
retained a distinct identity, while “within the empire there had been no identifiable
political entity one could designate as Slovakia” (Leff 1991, 11). These characteristics
led to significant and ongoing differences in many aspects of the Czech lands and Slovakia. For instance, in Slovakia, magyarization policies closed off Slovak access to schools, which in turn severely limited access to career opportunities and professional advancement, especially since Magyar was the only official language for public life. The Czechs, on the other hand, maintained a strong middle class under the more tolerant Austrian rule. Social mobility for Czechs was no different than it was for the Germans. Additionally, the main cities of the Czech territory were centers of trade and culture, whereas the Slovak cities never were. The economy of the Czech lands, subsequently, was heavily commercialized and better performing than the peasant-based subsistence agriculture economy of Slovakia. Differences in political efficacy also were present: “A higher level of economic development and a more literate and economically active population both nurtured political action… By comparison with Austrian policy, the Hungarian regime was much more repressive of Slovak national aspirations and the means thereto” (Leff 1988, 25). Added to this was the demographic fact that the Czech population was growing faster than the German population in the Czech lands, whereas Slovaks found their numbers shrinking at the turn of the century. Thus, the two neighbors found themselves in drastically different circumstances that would leave long-lasting effects on their national identities and self-perceptions in the centuries to come.

By the nineteenth and early twentieth centuries, Slovak nationalists had had enough of the “Magyar yoke,” and the Czechs were ready to assert their own identity themselves. While the Slovaks were motivated by the desire for national self-assertion
in order to prove themselves, the Czechs were motivated more by the secure sense that they were strong enough to not need the Austrians. When World War I erupted, the two neighbors seized their chance, and after some struggles formed the new Czechoslovakia, a union born out of expediency and self-preservation. Hungarian minorities in Slovakia were seen as a threat to Slovak identity, and to a lesser extent, Czechs felt threatened by their German minorities. Kraus and Singer (2000, 2-3) make the following argument:

The creation of the common state in 1918 was rooted, at least in part, in the perception that the two related Slavic nations would be in a better position together, rather than each on its own, to contend with the long-standing external threats to their existence.

By joining together, the Czechs and Slovaks would find strength in numbers against their former masters. The Czech-Slovak alliance was a “useful demographic counterweight to those very minorities” (Leff 2000, 31), and a state was born out of complementing self-interests.

Despite their alliance, a common history could not be manufactured convincingly enough to unite the two territories. The fact was that the Czech lands and Slovakia had different histories, and no amount of nation-building would change that. “Czechoslovakian” was a manufactured identity of recent vintage, and it was not an identity that “took.” Leff (1997, 27) explains, “Czechs and Slovaks not only lacked a common history before 1918; they even seemed to be living in separate histories in the
present, since they viewed that present in such a different light.” Czechoslovakia of
the First Republic (1918-1938) did remarkably little to unify the Czechs and Slovaks.
Old insecurities were intensified now that the two were ostensibly one.

Once their common history officially began in 1918 with the Treaty of
Versailles, the national differences that they had agreed to set aside proved stubborn
and problematic:

Slovaks saw themselves as separate from the Czechs not only
in cultural but also in political terms. To understand the so-called
“Slovak Question”, the conflict over the position of Slovakia
within the common state with the Czechs, it is crucial to examine
this division in political identity. (Hilde 1999, 649)

The arranged marriage of the two states went through periods of mutual annoyance. It
was, by all accounts, an unequal partnership. The Czechs felt burdened by what they
saw as the ungrateful and unpredictable Slovaks, and the Slovaks felt resentful of the
unbalanced power in the relationship.

From the very beginning, Slovaks resented what they recognized as a general
pattern of discrimination wherein the Czechs dominated the common state. In their
rush to rid themselves of the “Magyar yoke,” the Slovaks failed to create a consensus
with the Czechs over the rules of the game. As a consequence, there was “no basis for
the Slovaks to act as a coequal negotiating partner” (Leff and Mikula 2002, 299). The
new state was imbalanced from the start, and the Slovak political deficit was
highlighted in many ways. The Czechs had superior political assets in the relationship:
more people, superior organization, greater political experience and more resources
from their advanced economy. Outnumbered by more than two to one, the Slovaks
found themselves in a minority in more than just the actual sense: symbolically and institutionally, the Czechs ran the show (Cox and Frankland 1995, 79; Cutler and Schwartz 1991, 517). One of the numerous Slovak grievances was that the central administration in Prague did not understand, could not understand, the specific problems of Slovakia (Hilde 1999, 655). Czechs saw such complaints as “gross ingratitude for Slovakia’s rescue from Hungary and for the Czech ‘subsidization’ of the weaker Slovak partner” (Leff 1997, 26). For their part, Slovaks were stung by the popular belief that the Slovaks needed the Czechs more than the Czechs needed the Slovaks (Leff 1988, 36).

These problems were put on hold temporarily during World War II, when Czechoslovakia was erased from the maps of Europe. With Bohemia and Moravia under the Third Reich and Slovakia set up as a client state of Nazi Germany, Czechoslovakia would not be restored until the mid 1940s. Once again, the Czechs and Slovaks found themselves under the rule of others. After Nazi occupation, the Communist era took over, leading to the creation of the Czechoslovak Socialist Republic of 1948-1968 and the socialist federalization of the Czech Socialist Republic and the Slovak Socialist Republic after the Prague Spring, an arrangement that lasted until the collapse of communism. Leff (1988, 275) describes the situation in this way: “For most of their histories, Slovakia and the Czech lands have been vassals to the dominant power in central Europe; this was no less true after 1918
than it had been before.” Even when the territories ruled themselves, it had not been with full sovereignty. After thousands of years of domination by outside powers, Slovaks felt this lack of sovereignty more keenly than the Czechs and thus were highly sensitive to any perceptions that the Czechs were exerting power over them.

After 1968, an “asymmetrical” federative structure was established in an attempt to boost Slovakia’s role in the unified state. The reality was that it only served to alienate further the Slovaks from the Czechs. Like all federal systems, state institutions were constructed out of two levels: (1) a federal government with specific duties; and (2) the regional level charged with other duties. Unlike other federal arrangements, however, in the Czechoslovak system only one state (Slovakia) was assigned the regional level of government; the Czechs had no corresponding level of government. On the surface such an arrangement appears to grant the Slovaks more points of access to the government. Yet this asymmetrical arrangement actually hurt the Slovaks. Czech interests, with no other locus of administration, were always represented federally, while Slovaks were relatively powerless at the federal level (despite the presence of Slovaks in the federal government, such as President Husák). The Slovaks argued that the asymmetrical structure “rendered the Slovak government and party apparatus impotent” and that “the power structure granted them symbolic rather than real autonomy” (Cox and Frankland 1995, 78). It is argued that the Czechs themselves believed the federation should be an extension of the Czech state. Former Czech Prime Minister Pithart affirmed this, even if, as he said, “no one said so openly” (Pithart 1993, 14).
The problems of the asymmetrical structure were reflected in the way policy issues were handled. Policy debates consistently addressed concerns over the balance of power in the asymmetrical federative structure (Cox and Frankland 1995, 84). In addition, it is no small matter that the institutional setup meant that the Czechs effectively served as gatekeepers to participation in government cabinets (Leff and Mikula 2002, 303).

These Czech-Slovak strains continued after the establishment of the Czech and Slovak Federal Republic after communism. Havel (1992, 27) recognized that Slovaks had come to identify Prague as the “oppressor” and the federation “as almost a Czech intervention and a Czech con game, aimed at limiting Slovak autonomy.” Slovak Prime Minister Mečiar noted that “a system of isolation between the Czechs and Slovaks has been created [so] that we in fact do not know each other” (as quoted in Hilde 1999, 650).6

Chairman František Mikloško of the Slovak National Council articulated this frustration: “The Slovak Republic feels that the central bodies are too far away and that the bureaucratic apparatus does not represent its interests” (as quoted in Hilde 1999, 655). Further, this grievance was compounded by the fact that the majority of

---

6 Such sentiments belie the expressions of an equal partnership evidenced in the Federation’s constitutional preamble, in which the Czech Lands and Slovakia are described as “two equal, fraternal nations” and a “voluntary bond of equal national states… based on the right of each of these nations to self-determination.” The clearest and most direct statement of partnership comes in paragraph four of the preamble: the two republics are to have “equal position.” Judging from both Slovak and Czech responses, it seems that neither “partner” took these declarations to heart.
federal administrative positions in Slovakia was filled by Czechs (Felak 1992, 143). Cutler and Schwartz (1991, 517) write that “Slovaks developed a feeling that they were being disdained and exploited” by these arrangements.

The Czech response did not help matters, as far as the Slovaks were concerned. Acutely aware that the Slovak half of the federation was less developed economically and politically\(^7\), the Czechs believed that the union was benefiting the Slovaks and that they should be thankful for what Czechs saw as their elevation. From the Czech perspective, they had done nothing but help their “little brother” throughout the twentieth century, and they took exception to the Slovak desire to assert autonomy, autonomy that was possible only because, Czechs believed, the Slovaks had learned from the Czechs and wanted to trade on their association with them. For example, when the possibility of EU candidacy was discussed, many Slovaks pushed for a separate star and seat if Czechoslovakia was let in to the Union. Many Czechs saw this as an attempt to gain “Slovak independence with a Czech insurance policy” (Miroslav Macek, as quoted in Hilde 1999, 659).

Economic imbalances also strained the Slovaks’ attitudes towards the Czechs. Unemployment rates in the heavy industry-based economy of Slovakia rapidly outstripped unemployment rates in the Czech part of the country, and the Slovak economy in general was much weaker than its Czech counterpart (Cox and Frankland 1995, 83; Cutler and Schwartz 1991, 520). The Slovak half of the federation also felt that the Czechs were taking advantage of them financially, without reciprocating. One

\(^7\) An illustration of this belief is that Slovaks and Czechs alike referred to Slovakia as the “little brother” of the partnership (Hilde 1999, 660).
example of the sense of Slovaks “paying for” the Czech relates to infrastructure advances. Of the 230 kilometers of roadway and 1000 kilometers of railroad tracks planned during one year, only 18 kilometers of roadway and 180 kilometers of track were to be built in Slovakia (Hilde 1999, 654). Moreover, Slovaks believed that they were the victims of economic shock therapy – therapy that as healing the Czechs at the Slovaks’ expense (Leff 1997, 136). The Slovaks resisted the economic transformation, and this move further alienated Czech leaders.

Dissident Czech writer Ludvík Vaculík (1990) argued that the Czechs were responsible for building up Slovakia’s industry and intellelgentsia, a belief shared by many Czechs. He summarized this “help” and the perceived ingratitude of the Slovaks:

Lacking a foil to vindicate their maturity, the Slovaks have chosen us. But whereas we know you don’t get anything for nothing, they know they can pump something out of us again, which is why when things started easing up a bit this year and they started casting about for a harmless enemy, they hit upon us. Is that what we need?

[…]

My friend Milan Šimečka – who, though Czech, is a long-time resident of Bratislava – has written to us that our little Slovak brother wants a crib of his own and expects his big Czech brother to give it to him. But we know our little brother all too well: he’ll want it near the window in summer and near the stove in winter. You don’t want a crib, little brother; you want a cosy little cottage.

[…]

From our standpoint dissociation from the Slovaks, which is completely in our hands, will mean – judging from past experience – the loss of certain economic losses. Politically, it means the loss of the Hungarian and Ruthenian minorities and problems they entail. It will
mean the gain of a border between us and the Soviet Union. It will mean we have a single government and can at last deal with matters quickly and efficiently without special attention to the Slovaks. If we don’t need to worry about nationality squabbles, we may be able to put through our democratic reforms more speedily. We will certainly catch up with the more developed countries more speedily. We will have more room to find a way of life that can stand up to aggressive market techniques and consumerism. If we devote the twenty years wasted in federation with Slovak [emphasis added] to fruitful relations with Austria, we may come to a functional federation or union whose members will be wise enough to refrain from holding up operations with their depressions, complexes, and recriminations.

In addition to the resentment of the ingratitude of the Slovaks, there was a sense that Slovakia was not only unappreciative of Czech assistance, but also a liability and drain on the Czech half of the union. Evidence of this reaction is found in the Vaculik quotation above, especially when he discusses how much Czechs could accomplish if they were not burdened by the Slovaks. “Little brother” was more than just a burden – he was a real liability. Czechs pointed to example after example of the dangers of association with Slovakia: political immaturity as evidenced by the attack on President Haval’s motorcade in Bratislava in 1991, negative coverage of Slovakia in the international press, anti-Semitic movements, the controversy over the treatment of ethnic Hungarians, reluctance on the part of foreign investors, the dispute over the Gabčikovo-Nagymaros dam on the Danube, and more (Hilde 1999, 660-662).
One scholar neatly summarized the situation: “The political situation in Slovakia was perceived to be obstructive to the fulfillment of Czech political goals” (Hilde 1999, 662). A commonly held Czech sentiment was to let Slovakia go – we are better off without them. A Czech journalist would later write:

> When the split came, the Czechs got rid of all the bad parts, we got rid of the old weapons factories, we got rid of unemployment, we got rid of the old Soviet frontier. We got rid of all our problems, and we gave them to the Slovaks.

The “Hyphen War” of 1990 is a striking example of the ongoing power struggle and strain between the two constituent parts of the Federation, played out on a symbolic level. After the collapse of communism, the Czechoslovak Socialist Republic needed to change its name to reflect the new order. Havel suggested simply that the word “Socialist” be dropped, making the federation the Czechoslovak Republic. Thus began a war fought over one small, yet immeasurably important, punctuation mark. Slovak politicians objected to Havel’s suggestion, instead wanting a name that emphasized Slovakia’s symbolic equality in the partnership. They demanded that the common state be dubbed “Czecho-Slovakia,” underlying the value of both republics in the federation. Czech politicians objected on the grounds that the hyphen was unnecessary, redundant and inelegant. Yet both the hyphen and the capitalization of “Slovakia” were of great symbolic value to the Slovaks, and they were unwilling to accept a name that emphasized Czechness over Slovakness. A temporary solution was to hyphenate but drop the capitalized “S,” but this only served

---

8 In Czech, as in many Slavic languages, the “o” serves the same function as a hyphen, such as in the word “Serbocroatian.”
to inflame further the public on both sides. The end result of this bitter struggle was a compromise: “The Czech and Slovak Federal Republic.” While the “war” may seem trivial to observers, it was anything but to the Czechs and Slovaks. President Havel writes: “All of us know that this ‘hyphen’, which seems ridiculous, superfluous and ugly to all Czechs, is more than just a hyphen. It in fact symbolizes decades, perhaps even centuries, of Slovak history” (as quoted in Hilde 1999, 654).

When the Czech and Slovak Federal Republic eventually separated, the Velvet Divorce signified to many Slovaks that Slovakia had grown up, had reached maturity. In their view, they no longer had to do as they were told; they were no longer unequal partners in a superficially equal relationship. They did not have to live under the shadow of the Czech Republic anymore. As a consequence of these sentiments, they wanted to be different. Permitting dual citizenship in naturalization was one way of showing their difference. Admittedly, it is probably too simplistic to liken Slovakia to a rebellious dependent, striving hard to be as unlike its parental figure as possible. Certainly there are more complex issues at play, issues which I will turn to in a moment. Yet there is something worthwhile to this idea of Slovakia wanting to demonstrate its independence, and this simplistic metaphor highlights the main reason for the Slovaks’ choices when it comes to dual citizenship. Alienation and resentment appeared to be a key element of the Slovak national political identity.

---

9 The “Hyphen War” is covered in many histories of the region. For one detailed study, see Hugh Agnew’s (2004) book, *The Czech Lands of the Bohemian Crown*. Shorter summaries of the affair are found in many other sources, including Peter Martin’s (1990) RFE/RL article, “The Hyphen Controversy.”
The Czech Republic, on the other hand, was already full grown – and had been for quite some time. Drawing on myths of their glorious and strong history as an “old” state, Czech political elites referenced their established independence, maturity and specialness time and again. The Czech Lands were the home of a native aristocracy, a place that bred kings and emperors. Their constitution speaks of a “renewal” of independence, as if their time under Austrian and the Communist control, as well as their time with Slovakia, were mere blips in an otherwise autonomous past. The constitutional document resolves to “protect and develop the inherited natural and cultural, material and spiritual wealth… , to abide by all time-tried principles of our law-observing state (Preamble, emphasis added). For as much as they discussed a desire to “return to Europe,” Czech politicians also made it clear that they were beholden to no one. As a nation, they were long grown, fully-functioning, well-adjusted adults; they could make any decisions they liked. If they wanted to prohibit dual citizenship, then they would.

The debate over dual citizenship became one arena in which the identity differences of the two countries were played out. In a setting where nearly every decision is fraught with tensions about identity and historical experience, dual citizenship becomes a natural battleground for such issues. Residence, language abilities, income and the other common requirements lack the self-definitional punch of dual citizenship: given enough time, nearly anyone can meet the other criteria; the same cannot be said about dual citizenship. Of the common requirements, only dual citizenship allows the state to define, once and for all, how far it is willing to extend
itself to foreigners. It cuts to the heart of divergent attitudes towards membership and belonging in a way that the other common criteria cannot. National sentiments are such that the Czechs already “belong,” have belonged in their place for hundreds of years, and have no wish to expand that membership. The Slovaks, on the other hand, have strived for decades, if not centuries, to prove that they have a place to belong to. Part of this process, for them, is defining new membership in a way that is sensitive to the need for “belonging,” and it also lies in their intense desire to split symbolically from the power that had overshadowed them for decades. Dual citizenship is the ultimate criterion that divides inclusive naturalization regimes from exclusive ones. By defining the other (those who will never belong), they define themselves and reflect their unique historical experiences.

While the national identity and historical aspects of the Czech and Slovak decisions are illuminating, they should not be overplayed. As after many divorces, practical, cold calculations of self-interest also played a role in both countries. Added to the issues of identity discussed above were issues of self-preservation and expediency. Pragmatism gave the Czech lands and Slovakia incentive to join together in 1918; so too did practicality figure into their decisions regarding dual citizenship. In 1918, as I explained, both the Czech and Slovaks came together in order to increase their numerical strength against the former dominating powers. In the five months prior to the Velvet Divorce, as the two territories scrambled to write their constitutions, politicians made decisions again based on demographic issues of self-preservation. Czechs were secure both in identity and in the strength of their numbers;
Slovaks were not. If a state perceived a population threat, one response would be to shut down its borders – yet Slovakia took the opposite approach. Once more, the reason for this tactic boiled down to numbers. Slovakia wanted to bolster its population, and one way to do so was by recognizing dual citizenship, a move aimed primarily at expatriate Slovaks in the Czech Republic but applicable to all. The Czechs, in contrast, tightened their borders. Why? After all, they did not feel the same threats the Slovaks did. Again, it is explainable by the issue of population numbers. The Czechs were secure in their demographics. They were, by far, the dominant ethnic group in their nation (at 94% in 1992). Moreover, there was the troublesome question of the Slovaks and Roma in their lands. By shutting down citizenship in a way that would effectively exclude these minorities, the problem would be solved, as far as they were concerned. The Czechs did not need these groups to bolster their numbers, and frankly, they saw these groups as more trouble than they were worth.

An example of such calculations is evidenced in a long-buried confidential Czech document that revealed that the government projected that thousands of Slovaks, many of Romani descent, intended to descend onto Czech Lands after the split. They did not want to be the recipient of the mass exodus from Slovakia, particularly not if most of the émigrés were Roma, as was expected. Although most Roma were unaware of it, arrangements had been made to define them, by law, as Slovak citizens. If the Czech Republic had to recognize dual citizenship, they would have to recognize Roma as Czech citizens (Siklova and Miklusakova 1998, 3).
For their part, the Slovaks also made calculations based on self-interest. Showing particular concern for their diaspora communities, particularly those in the Czech lands, Slovak politicians accommodated their nationals outside Slovakia by permitting dual citizenship, a condition most easily set forth in naturalization law (Liebich 2005, 4). This move was no trivial gift to their kin in other states – counts of ethnic Slovaks who are citizens of other states are up to half a million in Central and Eastern Europe and two million in the countries of the West (Iordachi 2004, 131). By permitting dual citizenship in naturalization law, the Slovak government selectively could attract qualified workers from abroad in an effort to stem the “brain drain” they experienced. A former Director of Internal Management at the Slovak Ministry of the Interior who attended the negotiations of the 40/93 citizenship explained: “There are one million Slovak citizens living in the Czech Republic alone. We took a liberal approach because we didn’t want the Czechs obstructing these Slovaks. That’s why Slovakia accepts dual citizenship” (Interview, 16 November 2004). A Slovak MP from Movement for a Democratic Slovakia (the leading coalition party for most of the 1990s, led by populist Prime Minister Mečiar) spoke at the parliamentary debates and said that allowing dual citizenship was a “sign of maximal humility and willingness from the Slovak Republic,” implying that the Czech refusal to recognize dual citizenship was yet another example of Czech arrogance.

Thus, out of both practical and symbolic concerns, the Czech Republic felt no need to reach out and extend its claims by recognizing dual citizenship. Many issues were involved in the dual citizenship decisions, but it stretches the imagination too far
to accept that such potent national differences played a less than important role in the decisions over dual citizenship. Relative to Slovaks, the Czech were secure in their status and felt neither the desire nor the need to bring in what they saw as outsiders. The Slovaks, long eager to prove their autonomy, were quite willing to diverge from the Czech path in this respect. Furthermore, significant practical considerations encouraged the Czech Republic to close off dual citizenship and Slovakia to allow it. In this way, the Czech Republic came to prohibit dual citizenship in naturalization while Slovakia did not.

**Discussion**

For the most part, non-deliberative, ad hoc decisions created the naturalization laws that we see in the Czech and Slovak Republics today. In parliamentary debates as well as in public discourse, it appears that little true deliberation occurred. Even when the provisions of the law were debated, it was carried out in a cursory fashion, as evidenced by the multiple times when the only references to citizenship law proposals were side-comments that largely went unchallenged by other parliamentarians. In the absence of pressing and immediate political interest, the very definition of who makes up the state is left aside.

The dual citizenship question, settled as it was by diverging attitudes and reactions to past experiences, was the only citizenship issue not shoved aside. It became such an important and divisive issue precisely because it cut to the heart of what it means to be a citizen of a state, of what it means to belong, officially and
unequivocally, as a member. Can one fairly and honestly divide up loyalties, parceling out a bit here for one national community and a bit there for another? Or is such division of loyalty an impossible endeavor? Moreover, do states want to grant citizenship in a way that is truly a *grant*, and not a requirement that is based on a candidate’s merit or achievement? Do their national identities and political cultures lead to laws of exclusion or active inclusion? The Czech and Slovak Republics answered these questions differently because they had experienced different pasts. On one side, the Czech Republic felt complete in itself, leading legislators to decide that dual citizenship was ill-suited to their vision of Czechness. On the other, the Slovaks, sensitive to issues of belonging, concluded that dual citizenship was indeed reflective of their values.

Dual citizenship became politicized much more than the other dimensions of naturalization not solely because of logistical and practical calculations. It became such a hot-button topic because it cut to the very essence of what belonging means. And what belonging means, it turns out, is shaped by what it has meant in the past. For the Czechs, it is something that has long existed for them, already settled and established. For the Slovaks, the issue of membership is less decisive. Regarding the focus on dual citizenship, there is little reason for politicians to spend a great deal of time debating the intricacies of residency and language requirements when there is another issue that can serve as a reflexive lens, as a tool that illuminates what people mean when they discuss political belonging. The non-deliberative nature of the rest of
the naturalization debates is less a function of apathy, complacency or institutional inertia and more the result of the existence of a more powerful issue, dual citizenship.

Without focusing on dual citizenship, it would be tempting to conclude that the laws were shaped not by any national or postnational explanation, but by happenstance and carelessness. While it is likely that elements of accident and neglect were involved in the process, such a conclusion misses the point that past experiences in both countries helped determine the outcome of the laws in very real ways. It is only when one concentrates on where the difference lies between the two states’ naturalization laws that the reason for the difference becomes clear. History, one particular aspect of the national thesis, underlies every single aspect of why the Czech Republic is more restrictive than Slovakia in terms of naturalization law.
CHAPTER 6:

CONCLUSIONS

Why do some states pursue restrictive naturalization laws while others pursue more inclusive naturalization laws? This question is the one I began with, and it is the question I pursued throughout this study. The research to date on naturalization laws is incongruent with the importance of the topic. To overcome this deficiency, I developed a framework that addresses the restrictiveness of naturalization laws in postcommunist Central and Eastern Europe. My intent in employing this framework was to accomplish the following: (1) to explain why states create the naturalization laws they do; (2) to develop a normative theory of what naturalization laws should be; and (3) to fill an unwarranted gap in citizenship research and Eastern European area studies.

With some qualifications, I have succeeded on all three counts. In general, I have shown that naturalization laws in these states can largely be explained by ad hoc, nondeliberative decisions. At the same time, however, some naturalization issues (such as dual citizenship), are more politicized than others and thus are not shoved aside to be solved by happenstance. My concluding observation is that national self-interest and idiosyncratic historical experiences play a significant role in the development and outcome of naturalization laws, particularly when it comes to

187
controversial issues such as dual citizenship. What did not account for naturalization laws were international, demographic, economic and political explanations.

Furthermore, I discovered that citizenship issues are frequently pushed aside until after other more immediate institutional concerns are resolved in newly democratizing countries.

This final chapter evaluates the merits of my study, including my research design and findings. I have divided the chapter into three parts. The first presents the strengths of my endeavor and reviews what I believe are the significant findings of the project. The second section takes a more critical view of the research project by pointing out the weaknesses in the research design and by offering suggestions for how this effort could have been improved. Finally, I situate this dissertation within a larger research agenda focusing on the implications of my research and findings. In doing so, I explore possible avenues of future research that could link the empirical research with the normative argument I set forth.

**Findings and Significance**

Turning now to my findings, the main relationship I set out to examine is that of the national and postnational theses and naturalization law. These theses were derived from extant literature, and despite the lack of positive findings, my study is valuable since it represents a systematic test of these propositions. The evidence and the arguments I have presented throughout the dissertation are unsupportive of most of
the claims of the two theses, and thus provide support for the notion that the
determinants of naturalization law are complex enough to warrant deep case studies.
More specifically, the “large”-N research I conducted revealed little support for the
hypotheses. On the dimension of dual citizenship in the Czech and Slovak Republics,
however, the historical dimension of the national thesis was supported.

In terms of more specific findings, the larger study I detail in Chapter Four as
well as the case studies of Chapter Five both present a picture of laws created through
a process that is largely nondeliberative and ad hoc. Such a reading, however, does not
give a complete picture of the reasons why governments adopted their laws. While
most of the hypotheses I tested resulted in negative findings, they are unable to capture
the symbolic and historic weight of dual citizenship. It is only in case studies that the
significance of dual citizenship is revealed.

Looking at the results for the cases throughout postcommunist Central and
Eastern Europe, it is no wonder that my initial reading of the findings leads me to
believe that nothing really explains the laws. I consistently found that the data did not
support any of the hypotheses I set out to test. Regarding the national thesis, neither
partisanship, history, culture, economic, nor demographic explanations were supported
by the evidence. Similarly, the evidence I considered did not support the postnational
thesis, either. While this was frustrating, I also understood that negative findings are
important because they give researchers an opportunity to rule out some explanations
and spend their efforts focusing on more satisfying explanations. Even more
importantly, the results confirmed the importance of conducting detailed case studies.
Based on the literature, I suspected that partisanship would play a role in determining naturalization laws. I hypothesized that when parties of the left are in power, the resulting laws would be less restrictive. More specifically, I wanted to test whether it was true that if the parties in government were nationalist, populist, Christian Democratic or Liberal/Individualistic, then the law would be more likely to be restrictive. I also wanted to determine whether communist, socialist, and postcommunist parties in power would lead to less restrictive laws. The result of the analysis indicated that there was no relationship between the laws and the ideological leanings of governmental parties.

In the category of history and culture, I tested the hypothesis that states whose constitutional preambles included explicitly inclusive language would create less restrictive naturalization laws than those with exclusionary language. Focusing on constitutional preambles as a statement of national identity, I found that the data did not support the hypothesis. No pattern existed between national identity as I measured it and naturalization laws. I also examined data from World Values Surveys to ascertain whether popular attitudes regarding national identity were related to restrictiveness of naturalization law. Again, I found no pattern. From the public opinion reflected in the surveys, I determined that cultural attitudes towards immigrants are unrelated to the restrictiveness of naturalization laws.
In the category of demographics and economics, the pattern of negative findings continued. I expected there to be a connection between declining populations and naturalization law restrictiveness, but this was not the case. After testing the relationship two different ways (once for population losses and then for age of population), I found no relationship. It was not the case that states experiencing population losses were less likely to have restrictive laws than states experiencing population growth. It was also not the case that states with aging populations were more likely to open up their naturalization laws than states with younger populations.

I also expected that states with declining titular populations would have more restrictive laws than states whose titular population were not declining. While the data supported this hypothesis, I found no support for the extension of this hypothesis: that states with aging (and thus shrinking) populations would have more restrictive laws that states whose titular populations were growing or static.

I then tested two economic hypotheses, and again, I did not find that the data supported them. Expecting that states with higher social welfare expenditures would be more likely to have restrictive laws than states with lower social welfare expenditures would be, I found that there was no relationship between the variables. I also expected that states with high unemployment rates would have more restrictive laws than those with low unemployment rates. The results of the analysis demonstrated no relationship between unemployment rates and restrictiveness.
Lastly, I tested the hypothesis that European Union candidacy would lead to more restrictive laws. The findings, once again, did not support the hypothesis. From the limited cases that fit this categorization, it was clear that a state’s relationship to the European Union had no bearing on its law.

The results of my analysis to that point led me to suspect that a closer reading of the cases was necessary to understand why I discovered no positive findings in the “large”-N study. It could not be the case that nothing determined the law, could it? I decided that I must have been missing something by looking at such a wide range of cases from far away. The closer case studies, as it turns out, were where I saw the most illuminating explanation of naturalization law outcome. Without the case studies, I would have been tempted to conclude that there is no logic to explain whether a state would pursue a restrictive or permissive law. The close examination of the Czech Republic and Slovakia, however, reveals that not all aspects of the laws were adopted without deliberation.

Following the pattern revealed in the “large”-N study, the determinants of the naturalization laws in the Czech and Slovak Republics were largely unexplained by factors suggested by the two main theses. Little deliberation occurred in parliamentary debates or public discourse. What the larger regional study missed that the case studies revealed, however, was one important naturalization dimension that was not simply cobbled together without much thought: dual citizenship. Interestingly, dual citizenship was the only naturalization dimension on which the two countries diverged, with the Czech Republic prohibiting it and Slovakia permitting it.
My research revealed that two main issues led to the resulting laws. First, politicians in both countries based their positions on calculations of national self-interest. Fearful of an unwanted influx of Roma of Slovak citizenship, the Czech Republic refused to recognize double citizenship. This move had the effect of closing off Czech citizenship to the Roma, who historically lacked the resources to sever their legal ties with Slovakia. The Slovak politicians, on the other hand, recognized dual citizenship in an effort to accommodate their diasporic communities, which were of significant number.

The second determinant of the Czech and Slovak positions on dual citizenship concerned political culture and historical experiences, one element of the national thesis. Czech legislators decided that dual citizenship did not fit with their vision of what it meant to be Czech. For them, “Czechness” was built on myths of their glorious and strong history as an old state – a state that has always been, in their eyes, mature and unique. Slovak legislators, in contrast, were less secure in Slovakia’s status as an independent state and were eager to showcase their autonomy. Diverging from the Czechs allowed the Slovaks a symbolic means of establishing themselves as sovereign and independent. More significantly, because of their national history, Slovaks were particularly sensitive to the need to “belong,” and thus they created a law that would be sensitive to this need for their diasporas.
Based on these results, I conclude that this framework is valuable for ruling out some of the main explanations the literature has relied on to explain citizenship regimes. It is also helpful in highlighting the need for case studies that are able to delve into the historical and cultural intricacies of countries. On the other hand, it is less helpful in understanding naturalization laws in situations where citizenship is not politicized because of a preoccupation with more immediate concerns, such as state- and institution-building. The 27 states in my sample were crafting their laws at a time of significant political, economic and social transformation. While it understandable that some issues would take precedence over others in such a tumultuous time in a state’s history, it is perplexing that a foundational aspect of the state was neglected. Who belongs in the state is a question that must be solved. This study does not shed light on the reasons why that question was neglected.

Through my project, I have made a contribution by providing some raw data on several issues. First, my work is the only study that compiles naturalization laws for the postcommunist Central and Eastern European region. I also have compiled data from multiple and disparate sources regarding the region’s population statistics, economic conditions, and more. Although it is only a snapshot of a specific time, these data provide an instructive glimpse into the issues surrounding the politics of naturalization legislation by highlighting the importance of historical experience, political culture, and calculations of self-interest. This step is a contribution for Central and Eastern European area studies in general and specifically for research involving Czech and Slovak citizenship issues in the postcommunist era.
In addition, the finding that these states focus not on citizenship but on more immediate issues in institutions and state-building is significant, although perhaps not surprising. I have discovered that new states and “reconstructing” states first focus on developing their institutions, setting aside questions of membership as less important. It is far from clear, however, that these questions should be set aside. As politicians guide their countries through their “founding moments,” leaving out questions that determine the composition of the state is a risky decision that could lead to future problems as the laws are challenged later.

The results of my dissertation contribute to citizenship research in several ways. Ultimately, by using this research design, comparisons and evaluations may be performed on other states. Such a large comparative project would go a long way towards clarifying why states pursue the laws they do and would enhance citizenship research. In the most general sense, I have supplied empirical evidence in support of the hypothesis that history, political culture, and self-interest matter for whether a state pursues a restrictive naturalization law or not. The findings are important in that it stands as a first step towards linking historical patterns and experiences to naturalization law choice.

Last but not least, although I focused on laws constructed in the early 1990s, the issues I raise continue to be topical. A quick survey of recent years of Radio Free Europe/Radio Liberty Newsline reveals that naturalization and citizenship issues are timely. In the postcommunist Central and Eastern European region alone, there were several stories about these issues. For example, one report explained that the Bosnian
Security Ministry was reviewing the Bosnian citizenship status of hundreds of people who had been granted Bosnian naturalization in exchange for fighting in the war (November 19, 2007). Another story reported that the Georgian president called for a simplification of the naturalization process for Russian citizenship-holders (October 16, 2006). A third reported that the Bulgarian government toughened their naturalization laws (March 14, 2001). More stories regarding naturalization and citizenship abounded. Issues of membership, then, are not resolved once and for all once the laws are established; they continue to be important far after the laws are made.

Thus far, I have argued that my dissertation has contributed in some degree to three types of research: (1) Central and Eastern European area studies; (2) cross-national citizenship research; and (3) historical and political cultural analyses of politics. There are also, however, some limitations and weaknesses that surfaced in this research design. Having evaluated the contributions and strengths of this project, I now turn to its limitations.

**Limitations and Potential Improvements**

An evaluation of my project would be incomplete without a frank and critical discussion of its weaknesses. As I see it, the weaknesses are largely confined to the research design, and none represent fatal flaws to my conclusions. By outlining these weaknesses and limitations, I hope that avenues for improvement can be discovered to aid future research that also employs the framework I used in this dissertation.
My greatest concern with the research design is the number of elite interviews. I am unhappy to report that the interviews were limited due to constraints of time, money and access. This fact is a weakness in that I base my conclusions on a limited number of responses, which risks responses that are ungeneralizable. I would have been more comfortable with a greater number of responses from officials.

Another limitation of my interviews is that I am not convinced the questions I asked to obtain information for various hypotheses were adequate. As with any cross-national research, problems of communication and external validity are present. In particular, I am not sure that I asked the most appropriate questions to get at the issues that held the most interest for me. This weakness highlights the importance of conducting pre-tests and multiple visits, which I did not do but would recommend for future research in this vein. For example, I did not specifically ask questions about self-interested calculations, but in reviewing the responses, I saw that this issue cropped up multiple times. Had I caught this tendency earlier, I could have revised my questions to explore self-interest in a more systematic manner.

Specifically, I would have focused on the potential role of diasporas in calculations of self-interest. By asking respondents to discuss their communities abroad, I might gain insight on the extent that this factor influenced policy. Similarly, I would like to have asked whether the existence of foreign diasporas within their borders played a role in legislators’ decisions. A second set of questions would have concerned the political culture hypotheses I have already set forth. I did not ask respondents to comment on issues of national identity or political culture, yet as I
have shown, these factors seemed to explain a good deal of the variation in naturalization law. Finally, I would also include some questions regarding their choices about dual citizenship specifically. Most of my questions focused on the naturalization law writ large, but it quickly became apparent that the real politics occurred in the area of this particular dimension of naturalization law. It would have been useful to learn more about dual citizenship decision in particular.

On a positive note concerning the interviews, the respondents were representative of a wide spectrum of players. As I reported in previous chapters, each informant was able to give me a glimpse into particular aspects of the law-making process and the motivations of the players. I was pleased with the range of respondents I was able to interview, and I found all to be forthright and helpful. My concerns about interview quantity and the quality of the questions are unfortunate, but in retrospect I see that it would not be difficult to avoid these problems in the future. To remedy both of my concerns about the interviews, I would suggest that future investigation into the issue consist of at least two research trips. I conducted one such trip, and I think it would have been more productive to visit once to conduct preliminary interviews and make contacts, and then a return trip to follow up.

A second weakness of my research design involves the operationalization of my independent variables. I believe I have identified reasonable hypotheses, but I am less sure that I selected appropriate variables to test the hypotheses. It would have been helpful to test out a larger variety of variables for each hypothesis to ensure that I indeed was measuring the relationships I wanted to measure.
Finally, I have been frank that I did not engage in sophisticated statistical techniques in my analysis. For the most part, cross-tabulations were all that were necessary given my repeated findings signifying the lack of relationships between the dependent and independent variables. This would not be troublesome if I were confident in my operationalizations. Yet, as I explained previously, I am not convinced the variables were operationalized in the best way.

In highlighting the limitations and weaknesses of this project, my hope is that I have illuminated potential improvements for future research. My dissertation, although providing limited findings on several of the dimensions under examination, has served as an important first step in generating systematic empirical research linking historical variables to citizenship policy outcomes. My objective is not to offer the definitive word on the subject, but to provide some useful tools with which to continue the exploration of this important and interested research agenda. It is to these potential avenues of research that I now turn.

**Implications and Recommendations for Future Research**

Two main sets of implications result from my work. The first set revisits the normative argument from Chapter Two, and the second consists of recommendations for future research. First, I return to the claims I make in Chapter Two in light of my discoveries in the subsequent chapters. Next, I explain the implications that my findings have for future research in this field.
Earlier in my dissertation, I explained that naturalization regulations pose a special puzzle for liberal states’ commitment to moral equality. I argued that the only consistently liberal solution to this membership problem is for liberal states to allow for unrestricted naturalization. Since no state pursues this approach, what do my claims mean for real states?

Although some states pursue naturalization laws that are less restrictive than others, no state in existence chooses not to regulate naturalization. So what does it matter, then, if they should have unrestricted naturalization but do not? For states that are openly uncommitted to liberal ideas, my claims do not matter. Illiberal practices pose no philosophical problem for illiberal governments. Yet for states that are either claiming to be liberal or striving for liberal status, my claims matter a great deal. They are claiming to be something they are not: coherently liberal. The danger in claiming this characteristic when it is not attained is that it devalues what it means to be a liberal state.

Have my claims for unrestricted naturalization “solved” the liberal dilemma of moral equality and naturalization rules only by pushing back the decision to an earlier “gate”? In other words, by arguing for unrestricted naturalization laws, have I merely succeeded in encouraging governments to relax the naturalization laws while closing off either permanent residency or immigration? If so, then I have defeated my purpose. I argued that states must relax their naturalization laws if they want to be in keeping with liberal philosophy. This claim suggests that it is not just the naturalization laws that should be compatible with the spirit of liberal philosophy, but all laws, policies,
and regulations that lead to citizenship. The frank response is that perhaps I have constructed an argument encouraging relaxation of naturalization rules at the expense of encouraging stricter rules at the other gates to citizenship. Perhaps if states adopt unrestricted naturalization, they would seek to limit the number of new citizens in some other way. Realistically, such a move would be unsurprising. This type of action, however, would violate the spirit of liberal philosophy concerning membership. The implication I see here, then, is that similar decision rules must determine permanent residency and immigration laws as well.

A logical extension of the normative elements of this dissertation would be to find out what would encourage states to open up their naturalization laws. To do so, the first step would be to focus on the variables that tend to lead to less restrictive laws. For example, in light of my findings concerning the determinants of the laws, if national self-interest and historical experiences shape naturalization laws, then how can we encourage states to pursue the liberal path? Are factors such as national understandings of history ones that can be encouraged in such a way that naturalization laws could be relaxed? If so, how? Another necessary step would be to demonstrate that political communities (in this case, states) can be sustained without limiting citizenship. Since most of objections concern practical matters, I would focus on the economic and social effects of unlimited citizenship. It should also be demonstrated that civic and cultural identities would not be adversely affected. At the same time, a frank acknowledgment of the difficulties unrestricted naturalization
would pose is also necessary. Once it is convincingly demonstrated that liberal states can function without closure, a possible application of this research would be to contribute to policy development in this area.

If, on the other hand, I should find that there is merit to the objections, then I may need to scale back my claim. Without abandoning my commitment to open citizenship, I would revise the claim into a weaker version of the argument. I would argue that in principle, the claim should always be in force, but in cases where it is demonstrated that significant adverse consequences would affect the existing citizenry, then some deviation from the normative ideal would be morally permissible. If the principle of moral equality must be trumped, however, we should always regard those cases with regret.

Moving from the normative to the empirical, I suggest a study that increases the number of cases through replications of this research design applied to other countries and regions. This extension would enhance citizenship research by making the findings both more conclusive and more comparative. Such replications would add to the pool of raw data and help determine how generalizable my findings are. This step is an important one to take if we want to apply the model in other cases. Are my findings legitimate for just the cases presented here, or only for countries undergoing political transitions, or for all countries, everywhere?
Another useful extension of this project would be closer case studies of other states from the sample. I advocate such a step because of the importance that case studies played in my conclusions. Without the case studies, I would have concluded that all aspects of the naturalization laws in the Czech and Slovak Republics were determined by happenstance. The studies revealed an important explanation for the laws, and I suspect that this sort of discovery would be found in other states as well. Without further research, though, it is impossible to know the answer.

I also suggest that future research delve into understanding why citizenship rules are not the focus of newly independent states. I have argued that determining the state’s membership is a foundational aspect of creating or reconstructing a state, yet the cases in my sample did not focus on the issue. Why do politicians take this crucial element of state- and nation-building for granted? Further research could clarify whether this is a practical decision based on questions of immediate needs, or whether it is an oversight that ought to be avoided.

In light of my findings that the existence of Slovak diaspora communities contributed to the less restrictive laws of Slovakia, I would also suggest a deeper examination of diasporas of other countries. A relatively simple first start would be to compile information regarding the size of diaspora communities for each country. By cross-tabulating these data against the restrictiveness of the laws, one would be able to judge whether it would be worthwhile to further pursue this line of inquiry. If there is indeed a correlation between the existence of diasporas and the restrictiveness of
naturalization laws, then I would encourage a case-by-case study of these relationships. The Slovak example suggests that diasporas do matter, but is it generalizable? Further research could answer this question.

My final suggestion returns to the discussion of the “gates” I introduced in the first chapter. The bulk of my findings have been negative ones, which may suggest that the real political decisions are being made at a point other than the third gate (naturalization). The lack of deliberation at this level may indicate that politicians believed the matter of expanding membership had already been settled by laws focusing on immigration and permanent residency. I maintain that naturalization is the ultimate signal of membership, but it is possible that the first and second gates are more important in the eyes of lawmakers. I suggest that future research investigate this possibility by parsing out the gates, examining each one across the cases. The template I have provided in this dissertation could serve as a model for exploring the first two gates.

In summary, my efforts here provide some significant insights into the determinants of naturalization law in postcommunist Central and Eastern Europe. For the most part, the naturalization laws in these cases were established in the absence of prolonged, reflective deliberation. Historical experiences, political culture and national self-interest nonetheless play important roles in determining important aspects of the laws in the Czech and Slovak Republics. The next step is to determine whether the same holds true in other states, through research projects such as those described
above. I have demonstrated that the establishment of naturalization laws is an important step in the transformation of newly independent states. In itself, understanding that step is a long-overdue advancement in both studies of citizenship and regime change, which have for too long neglected this aspect of state- and nation-building.
APPENDIX A

CITIZENSHIP LAWS USED IN THE ANALYSIS


Bosnia-Herzegovina: Citizenship law of Bosnia-Herzegovina (1997)


Croatia: Law on Croatian Citizenship (1991)


Macedonia: Citizenship Act of the Former Yugoslav Republic of Macedonia (1992)

Georgia: Citizenship Law of Georgia (lastly amended in 1997)


Kazakhstan: Law 1017-XII on Citizenship (1991)


Poland: Polish Law on Citizenship (1962)

Romania: Citizenship Act (April 1991)


Slovenia: Citizenship Act (1991)


Turkmenistan: Citizenship Law (1992)

Ukraine: Law on Ukrainian Citizenship (2001)

Uzbekistan: Citizenship Law of Uzbekistan (1992)

¹ Please note that the legislation in February 2003 changing the name “Yugoslavia” to “Serbia and Montenegro” did not alter the citizenship laws.
## Appendix B

### Ruling Party Data

<table>
<thead>
<tr>
<th>Country</th>
<th>Restrictiveness</th>
<th>Year of Law</th>
<th>Prior Parl Election</th>
<th>Ruling Party</th>
<th>Seats</th>
<th>Type of Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Armenia</td>
<td>Med</td>
<td>1995</td>
<td>1991</td>
<td>Armenian Revolutionary Foundation</td>
<td></td>
<td>Socialist</td>
</tr>
<tr>
<td>Belarus</td>
<td>high</td>
<td>1991</td>
<td>---</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bosnia-Herz</td>
<td>med</td>
<td>1997</td>
<td>1996</td>
<td>Party of Democratic Action</td>
<td>19</td>
<td>Nationalist</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>low</td>
<td>1989</td>
<td>---</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Croatia</td>
<td>med</td>
<td>1991</td>
<td>1990</td>
<td>HDZ [Croatian Democratic Community]</td>
<td></td>
<td>Nationalist</td>
</tr>
<tr>
<td>Estonia</td>
<td>med</td>
<td>1995</td>
<td>1992</td>
<td>Nati Coalition, Pro Patria</td>
<td>29</td>
<td>Lib/individual (anti-Russian)</td>
</tr>
<tr>
<td>Georgia</td>
<td>high</td>
<td>1997</td>
<td>1995</td>
<td>Citizens' Union</td>
<td>107</td>
<td>Socialist</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>low</td>
<td>1991</td>
<td>1990</td>
<td>Democratic Party</td>
<td></td>
<td>Post-comm</td>
</tr>
<tr>
<td>Kyrgyz Rep</td>
<td>high</td>
<td>1993</td>
<td>1990</td>
<td>Kyrgyzstan Democratic Movement</td>
<td></td>
<td>Post-comm</td>
</tr>
<tr>
<td>Country</td>
<td>Restrictiveness</td>
<td>Year of law</td>
<td>Prior parl election</td>
<td>Ruling party</td>
<td>Seats</td>
<td>Type of party</td>
</tr>
<tr>
<td>------------------</td>
<td>-----------------</td>
<td>-------------</td>
<td>---------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>-------</td>
<td>------------------------------</td>
</tr>
<tr>
<td>Latvia</td>
<td>high</td>
<td>1994</td>
<td>1993</td>
<td>Latvian Way Union</td>
<td>36</td>
<td>Lib/individual (anti-Russian)</td>
</tr>
<tr>
<td>Lithuania</td>
<td>high</td>
<td>1991</td>
<td>1990</td>
<td>LKP</td>
<td>46</td>
<td>Comm (anti-Russian)</td>
</tr>
<tr>
<td>Macedonia</td>
<td>high</td>
<td>1992</td>
<td>1990</td>
<td>Intl Macedonian Revolutionary Organization - Democratic Party for Macedonian National Unity (VMRO-DPMNE)</td>
<td>38</td>
<td>Christian-Democrat</td>
</tr>
<tr>
<td>Moldova</td>
<td>high</td>
<td>2000</td>
<td>1998</td>
<td>PCM (Communist Party of Moldova)</td>
<td>40</td>
<td>Nationalist</td>
</tr>
<tr>
<td>Poland</td>
<td>low</td>
<td>1962</td>
<td>---</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Romania</td>
<td>low</td>
<td>1991</td>
<td>1990</td>
<td>National Salvation Front</td>
<td>92</td>
<td>Post-comm</td>
</tr>
<tr>
<td>Russia</td>
<td>low</td>
<td>2002</td>
<td>1999</td>
<td>KPRF (Communist Party of the Russian Federation)</td>
<td>113</td>
<td>Comm</td>
</tr>
<tr>
<td>Serbia &amp; Mont</td>
<td>low</td>
<td>1996</td>
<td>1993</td>
<td>Socialist Party of Serbia</td>
<td></td>
<td>Nationalist</td>
</tr>
<tr>
<td>Slovenia</td>
<td>Med</td>
<td>1991</td>
<td>1990</td>
<td>ZKS-Party for Democratic Reform</td>
<td></td>
<td>Lib/individual</td>
</tr>
<tr>
<td>Tajikistan</td>
<td>high</td>
<td>1995</td>
<td>1990</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Turkmenistan</td>
<td>high</td>
<td>1992</td>
<td>---</td>
<td></td>
<td></td>
<td>Regional parties</td>
</tr>
<tr>
<td>Ukraine</td>
<td>high</td>
<td>2001</td>
<td>1998</td>
<td>KPU</td>
<td>124</td>
<td>Comm</td>
</tr>
</tbody>
</table>
APPENDIX C

CONSTITUTIONAL PREAMBLES USED IN THIS ANALYSIS


Croatia: Croatian Constitutions, December 1990.

Czech Republic: Constitution of the Czech Republic, 16 December 1992

Estonia: Estonian Constitution, 28 June 1992


Hungary: Constitution of the Republic of Hungary, 20 August 1949

Kazakhstan: Constitution of Kazakhstan, 30 August 1995


2 The Romanian Constitution was not used in this analysis because it does not have a preamble.

Moldova: Constitution of the Republic of Moldova, 29 July 1994


Russia: Constitution of the Russian Federation, 12 December 1993


Slovakia: Constitution of the Slovak Republic, December 1992


APPENDIX D

CZECH INTERVIEW SCHEDULE

List of subjects in Czech in-depth interviews

<table>
<thead>
<tr>
<th>Institution/Expert by employer or position</th>
<th>Interview Identification Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Officials:</td>
<td></td>
</tr>
<tr>
<td>Office of Government of Czech Republic, Human Rights Dept.</td>
<td>1</td>
</tr>
<tr>
<td>Office of Ombudsman of the Czech Republic</td>
<td>2</td>
</tr>
<tr>
<td>Ministry of the Interior Consultative Body on Administration</td>
<td>3</td>
</tr>
<tr>
<td>Ministry of Education, Youth and Sports</td>
<td>4</td>
</tr>
<tr>
<td>Office of Government of Czech Republic, Government Legislative Council</td>
<td>5</td>
</tr>
<tr>
<td>Ministry of Foreign Affairs, Council for National Minorities</td>
<td>6</td>
</tr>
<tr>
<td>Experts:</td>
<td></td>
</tr>
<tr>
<td>Counselling Center for Citizenship, Civil and Human Rights</td>
<td>7</td>
</tr>
<tr>
<td>International Organization for Migration</td>
<td>8</td>
</tr>
<tr>
<td>Multicultural Center</td>
<td>9</td>
</tr>
<tr>
<td>Institute of Sociology, Academy of Sciences</td>
<td>10</td>
</tr>
</tbody>
</table>
## APPENDIX E

### SLOVAK INTERVIEW SCHEDULE

List of subjects in Slovak in-depth interviews

<table>
<thead>
<tr>
<th>Institution/Expert by employer or position</th>
<th>Interview Identification Number</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Officials:</strong></td>
<td></td>
</tr>
<tr>
<td>Director of Migration Office, Ministry of Interior</td>
<td>11</td>
</tr>
<tr>
<td>Manager of Western Slovakia, Ministry of Interior</td>
<td>12</td>
</tr>
<tr>
<td>Director of Migration Office, Prešov, Ministry of Interior</td>
<td>13</td>
</tr>
<tr>
<td>Former Director of Internal Management</td>
<td>14</td>
</tr>
<tr>
<td>Department of Organizational and Legal Affairs, Migration Office</td>
<td>15</td>
</tr>
<tr>
<td><strong>Experts:</strong></td>
<td></td>
</tr>
<tr>
<td>International League for Human Rights</td>
<td>16</td>
</tr>
<tr>
<td>International Helsinki Federation for Human Rights, Slovakia</td>
<td>17</td>
</tr>
<tr>
<td>Counseling Center for Citizenship, Civil and Human Rights</td>
<td>18</td>
</tr>
</tbody>
</table>
APPENDIX F

Interview Questions

Project Description

I am interested in naturalization law in Eastern and Central Europe. Specifically, I am interested in the choices states make when deciding how immigrants can become citizens. I am also interested in the factors politicians consider when they craft naturalization law. [Please use the Citizenship Act of 1993 (Czech Republic)/Law of 1993 Regarding Citizenship (Slovakia) as a guide to your answers.]

Before we begin, I want to make sure that you are comfortable with the publication of your responses.

1. Do you have any concerns about having your comments available to the public?
2. Do you feel that your responses may damage your political support?

If you have any reservations about making your responses public, I can ensure confidentiality. If you like, I can change your name and make sure there are no identifying characteristics connected to your comments.

3. Would you like me to ensure confidentiality, or do you feel comfortable with using your real name?

Question Area 1: Citizenship and Naturalization

Now that we have that out of the way, let’s begin by talking about what it means to be a citizen of the Czech Republic (Slovakia).

1. What characteristics would you say are important to being a citizen of the Czech Republic (Slovakia)?

   A. What is a Czech (Slovak) citizen like?
   B. Should a citizen be Czech (Slovak) by blood, or are there other factors that make a Czech a Czech (a Slovak a Slovak)?
   C. Are there any ideals that Czech (Slovak) citizens should uphold, in your opinion?
2. Now that I have some sense of what is important for Czech (Slovak) citizenship, can we talk about immigrants who want to become citizens?

A. Are there any characteristics or qualities that immigrants who want to naturalize should demonstrate?

B. In your opinion, what criteria should immigrants who want to naturalize meet? For example...
   - Absence of criminal conviction?
   - Knowledge of the Czech (Slovak) language?
   - Knowledge of Czech (Slovak) history?
   - Renunciation of foreign citizenship?
   - Proof of employment or sufficient income?
   - Residency requirements?

C. Are there any people – or type of people – who would make especially good naturalized citizens? Can you describe why or why not?

D. Are there any people – or type of people – who should not try to become Czech (Slovak) citizens? Can you describe why or why not?

E. Would you say it is easy or difficult to become a Czech (Slovak) citizen? Why do you think this is the case?

**Question Area 2: Cultural Factors**

I want to change direction a little and focus on what may or may not have influenced politicians when they drafted the citizenship law. Please use your own experience as a guide.

1. In terms of historical experience with naturalization, would you say naturalization is a new issue for the Czech Republic (Slovakia), or not?
   - Do you think this mattered for the decisions that were made?
2. Can you describe any trends in public opinion that were influential?
3. What about groups in Czech (Slovak) society? Were there any groups who attempted to influence the law? In what way?
**Question Area 3: Economic Factors**

Now I’d like to explore if there was any connection between the economy and the citizenship law.

1. Can you tell me whether the state of the economy influenced the law that was made?
   - How was the economy performing at the time?
   - Do you think there was a connection between this and the law?
2. Did unemployment rates factor in to the decisions? How?
3. Were social welfare expenditures discussed when the law was being considered?
   - Can you describe in what sense?

**Question Area 4: Political Factors**

Let’s talk now about some things that are more directly political.

1. Thinking of political parties, can you tell me who was vocal in the debates about the law?
   
   A. Which parties supported the law, and which parties were opposed?
   B. Why do you think they took the positions they did?
   C. What about your own party – what was your party’s stance, and why?

2. Do you recall any lobbyists or interest groups who tried to influence the drafting of the law?
   - If so, how?

**Question Area 5: International Factors**

It seems that citizenship law is something that each state must determine for itself. That said, I would imagine that there may be some pressure from outsiders to adopt certain types of policies.

1. Is this an accurate perception?
2. Which international actors, if any, influenced your choices?
   For example, did you feel pressure from…
   - The European Union?
   - International treaties or agreements?
   For example…
   United Nations Declaration of Human Rights?
   International Covenant on Civil and Political Rights?
The European Convention on the Protection of Human Rights and Fundamental Freedoms?
The Charter of the United Nations?
The Convention of the Hague?
• Other countries?
• Anything else?

3. Can you describe the influence felt by these external forces?
(Repeat choices from above)

Conclusion:

1. Thinking about what the Czech (Slovak) population looks like today, does it look like what you envisioned it would when the law was drafted? In what ways?
2. What other observations or comments would you like to make about the topics we have discussed?
3. Do you have any questions for me about my project?
4. May I follow up with you by email if I have a few brief questions later?
5. Would you please recommend two other people that you think I should talk to about this issue?
REFERENCES


