Convergence and Divergence: French and German Immigration Policy Since WWII

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AMASA SMITH

CONVERGENCE AND DIVERGENCE: FRENCH AND GERMAN IMMIGRATION POLICY SINCE WWII

Department of International Studies
Convergence and Divergence: French and German Immigration Policy Since WWII

Submitted to the Department of International Studies of Allegheny College in partial fulfillment of the requirements for the degree of Bachelor of Arts.

APRIL 12th, 2017

I hereby recognize and pledge to fulfill my responsibilities as defined in the Honor Code and to maintain the integrity of both myself and the College community as a whole.

___________________________________
(Signature)

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ABSTRACT

This research seeks to understand the connection between conceptions of citizenship, citizenship policy and immigration policy, as well as discover if there has been convergence in French and German immigration policies since the end of WWII. The historically different French and German immigration models have stemmed from differing conceptions of citizenship. France’s *jus soli* model of citizenship and expansive immigration regime has been praised by scholars and used as a model by other liberal democracies, while Germany’s *jus sanguinis* model has been criticized for its ethnocultural conception of citizenship and more restrictive immigration policies. Previous research on the subject has noted convergence since 2000; however, this project demonstrates that there have been similarities in the immigration policies of France and Germany since WWII. This project analyzes three moments in immigration policy in France and Germany to evaluate whether there has been convergence or divergence in immigration policies since WWII. The results show that there has generally been a trend toward restrictive immigration policies in both France and Germany, while the citizenship policies of the two countries have converged toward each other.
ACKNOWLEDGEMENTS

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INTRODUCTION

Since the creation of the modern nation-state, defining who has membership in the state and the privileges that come with that membership has been and continues to be a key question for governments. As Rogers Brubaker asserts, “Citizenship is a universal and distinctive feature of the modern political landscape. Every modern state formally defines its citizenry, publicly identifying a set of persons as its members and residually designating all others as noncitizens or aliens. Every state attaches certain obligations to the status of citizenship.”\(^1\) How this citizenship is defined in a given state is dependent upon the historical context in which this process is or was occurring. The historical, cultural and political environment within a country leads to the creation of different models of citizenship. With the establishment of a definition of citizenship must also come policies regarding how to classify foreigners who already live in that state and how to handle those seeking entry. In the early stages of defining citizenship and immigration policy, the primary concern was determining the distinction between a foreigner and a citizen, which is primarily informed by that states’ conception of citizenship. Therefore, states create immigration policies which are influenced by their history, political system, and need for labor, all within the context of their conception of citizenship.

In today’s globalized world enabling increased transnational movement, immigration has become a more pertinent issue in nation-state priorities, and states have seen a rise in anti-immigrant public sentiment. In the United States, we have created a liberal paradox with our policies related to immigration. The U.S. needs immigrant workers to fulfill its demand for labor; however, at the same time, immigrants are blamed as the reason for many problems, such as

unemployment or crime. Contradictory policies encourage trade of capital and goods, while prohibiting the movement of labor. Meanwhile, workplace sanctions for employers who hire undocumented workers are not strongly enforced, encouraging a continued flow of undocumented immigrants into the country. With the rise of more extreme right-wing politicians who use undocumented immigration as a call to arms, we have seen an increase in media coverage in the U.S. about immigration, especially in regard to undocumented immigrants from Latin America. This increased focus on immigration has been evident in the past several U.S. presidential elections. In 2008, 54 percent of registered voters cited immigration as a very important factor in their vote, and 41 percent cited this in 2012. However, in the 2016 U.S. presidential election, according to a Pew Research Center Report, 70 percent of registered voters said that immigration was very important. Trump supporters held immigration to be even more important with 79 percent citing this as very important, making it the third most important factor to those voters after the economy and terrorism. While the economy remains an essential issue to voters consistently, immigration has been a dramatic, rising concern in recent years, not only in the U.S., but in Europe as well.²

In Europe, now more than ever, immigration and asylum policy on both the level of the nation-state and on the supranational level of the European Union (EU), have been at the forefront of debate as the current crisis continues.³ Tensions have been rising within the EU as the need to create a common immigration policy to deal with the ongoing crisis becomes even more apparent. The Migratory Institute reported that before 2000, immigration was rarely cited


as an important issue in the U.K.; however, over the past couple of years, it has constantly been one of the top five important issues. In addition, over seventy-five percent of U.K. respondents were in support of immigration being “reduced a lot” or “reduced a little.” These negative opinions toward immigration vary based on the type of immigrant that is being considered. The British as a whole are more concerned about low-skilled workers, asylum-seekers and extended family. This increased negative sentiment toward immigration has been cited as one of the main push factors for the Brexit vote resulting in the U.K. beginning its process to leave the EU. Developed, liberal democracies are attempting to address the current issues of immigration they are facing in a variety of ways. Such as by withdrawing from greater supranational organizations to decrease the influx of immigrants and reassert state sovereignty. Other states are experiencing an upsurge in alternative right-wing political movements with strong xenophobic sentiments. It is difficult to tell what the long-term effect of these recent restrictionist actions in the field of immigration will be, but regardless, immigration will continue to be an important issue on the minds of voters and policy makers alike in years to come.

Several factors have shaped my interest in immigration policy. First, in 2015 I studied abroad in France during the height of the refugee crisis in Europe. I observed and gained perspective on the struggle in France between humanitarian sentiment and a distrust of foreigners and their assimilation into French culture. Throughout Europe, countries were handling the crisis differently based on their own immigration and refugee policies while experiencing external pressure from the EU to create a uniform response. Second, I wrote a research paper for my Junior Seminar which focused on the right of freedom of movement within the EU and how the

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protection of this right was selectively enforced, or more accurately, not enforced in regards to the Romani people. This subject peaked my interest in the different policies of countries within the EU, which by being members of that supranational structure are intended to share economic and political harmony. While the task of defining citizenship and immigration policy has remained under state sovereign control, the different policies in place among countries create confusion and tension within the EU.

To gain deeper insight, it is useful to observe how conceptions of citizenship have shaped both immigration and citizenship policies in individual countries within the EU. Through analyzing moments of change in immigration law, this comprehensive project seeks to discover whether there has been a convergence or divergence in immigration policy since World War II (WWII) in France and Germany and what the the relationship between citizenship and immigration policies in these two nations are. As is revealed in the literature, there has been a noted convergence in immigration policy since 2000; however, prior to that point, the discourse has been primarily one of divergence. France’s model of immigration has been considered to be an ideal model by many political scientists, while Germany’s was seen as outdated and unsophisticated. This project analyzes to what extent this assessment is accurate, if there were indeed true divergence, or if there were aspects or moments of convergence. I expect to find that there have been points of convergence in the immigration policies of France and Germany that have not been highlighted by scholars due to the narrative of divergence between the two countries and the precedent set by France’s idealized model. In addition, I expect to find a correlation between citizenship and immigration, where restricting access to citizenship will also lead to more restrictive immigration policies within a country.
In order to answer this question about the convergence of immigration policy, I have chosen to complete a case study of France and Germany, because these two states are both developed and powerful European countries. Furthermore, though their histories may not be identical, both countries have struggled through conflicts and have emerged as liberal democracies. Moreover, both of these countries have resisted being labeled as “countries of immigration,” as much of their history has involved emigration. Yet in the past hundred years, both countries have seen large waves of immigration, though stemming from different sources. France’s history of colonization created colonial relationships that transformed into immigration in the twentieth century. Since Germany did not have the same colonial past, its immigration has mainly been due to guest worker programs and immigration of ethnic Germans, but Germany faced similar immigrant flows to France after WWII. France and Germany are both founding members of the European Union and have remained powerful and influential forces within this supranational organization. They each possess twenty-nine votes, along with Italy and the United Kingdom, which is the highest number of votes a country can hold in the EU. In the research about countries within the European Union, France and Germany are often compared as two similarly large, successful and powerful countries, but with different political views on many issues. In this analysis, I look at three moments of change in immigration law in France and Germany since WWII to observe whether there has been convergence or divergence in recent immigration policy and its relation to citizenship.

Chapter One consists of a summary of the methods used to analyze this question of convergence and divergence and establish a base of understanding for policy convergence. It also contains a review of existing literature that addresses the conceptualization of citizenship that
many of these policies are based upon and the divergence between the French and German conceptions of citizenship. Going forward this project is divided into three additional chapters. Chapter Two consists of the French case study. I summarize the history and development of French citizenship through the French Revolution and the creation of the *jus soli* method of citizenship which is defined by its expansive, assimilationist and state-based nature. I explain how this links to France’s immigration policies, and I examine three points in France’s immigration law. First, I observe the shift that occurred in the mid-1970s resulting from closing the border to Algerians and which then brought about the Family Reunification Laws. Second, I analyze the Pasqua Laws of the mid-1980s. Finally, I examine the immigration reform completed in 2006.

Chapter Three consists of the German case study and follows a similar format. I first discuss the historical context of German citizenship. The ethnocultural model, or *jus sanguinis*, was born out of a lack of stability or consolidation of the German state. It is considered to be more restrictive than the French model and originally was based on a cultural or ethnic conception of nationhood rather than a politically based one. Second, I analyze three moments in immigration law. The first is the end of guest worker recruitment in 1974, the second are the restrictions of the early 1990s, and the third is the immigration reform that occurred in the mid-2000s. In Chapter Four I analyze these two case studies. As mentioned above, there has been a consensus that since 2000 there has been convergence in immigration policy between France and Germany. I determine if there have been resemblances in these two cases since WWII which show convergence prior to 2000. I also look at the connection between citizenship and immigration policies and examine to what extent these reflect each other. In my final section, I
consider the shortcomings of the project and discuss opportunities for further research in this area.
CHAPTER ONE: CITIZENSHIP, IMMIGRATION AND CONVERGENCE

In this project, I discuss the connection between conceptions of citizenship, citizenship policy and immigration policy, and analyze if there has been convergence of these policies. To grasp this, it is essential to first explain how citizenship has been understood in the context of France and Germany. Citizenship is not a stagnant concept, but is constantly evolving and changing based on the historical, political and social context in which it is developing. Conceptions of citizenship have changed significantly from the Roman Empire to medieval Europe to the French Revolution to the contemporary world. The way in which scholars understand and analyze citizenship can differ greatly. Once conceptions of citizenship are examined, this chapter discusses why this is a compelling connection to investigate conceptions of citizenship as a basis for citizenship and immigration policies. Lastly, this chapter provides an study of the relevant literature on convergence policy theory to better understand what convergence is, the methods used to measure it, and the research existing about convergence in immigration policy.

Literature Review: Conceptions of Citizenship

Citizenship has long been examined by scholars as it is a key concept in many fields, especially in the disciplines of political science, history and sociology. Writing in Great Britain in the mid-twentieth century, T. H. Marshall emerged as an authority on the subject. His seminal work, *Citizenship and Social Class*, and then his book, *Class, Citizenship and Social Development*, became essential works in the field of citizenship research. Marshall divides citizenship into three parts: first, civil citizenship, which includes individual rights such as
freedom of speech, religion and the right to own property; second, political citizenship, which permits the right to vote and hold office; third, social citizenship, which encompasses rights such as the right to economic welfare and security and “to live a life as a civilized being.”

Originally, these three aspects of citizenship melded together, but as the world became more complex and nation-states consolidated, these aspects separated into distinctly different entities. Two things instigated this change. The creation of a royal justice system shifted civil rights from the local to the national level, and economic change shifted so that social rights were no longer based on local membership. Each of Marshall’s types of citizenship have been prominent at different times in history. In the eighteenth century, civil rights were reinforced. In the nineteenth century, political rights were expanded and extended to sections of the population who had not previously had them. The twentieth century marks the height of social rights as welfare states began to be established. Social rights had been absent from citizenship but were invigorated through the development of the public education system and citizens’ rights to education. Marshall defines citizenship as follows:

“Citizenship is a status bestowed on those who are full members of a community. All who possess the status are equal with respect to the rights and duties with which the status is endowed. There is no universal principle that determines what those rights and duties shall be, but societies in which citizenship is a developing institution create an image of an ideal citizenship against which achievement can be measured and towards which aspiration can be directed.”

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6 Marshall, *Class, Citizenship and Social Development.*, 84.
Marshall focuses on the social aspect of citizenship in his narrative. The rights associated with social citizenship are a way of combating the injustices created by the capitalist market and coincided with the growth of the welfare state. He goes on to explore the relationship between the legal definition of citizenship and the social structure of society.

While Marshall’s contribution is cited in primary studies about citizenship, many authors have recently criticized parts of his argument. A common critique is that Marshall was not aware of the broader context of the development of social rights and citizenship. Another criticism is that he focuses solely on the U.K., which demonstrates only one example of this theory, and suggests that it is potentially not a universally applicable theory. Michael Mann presents an updated theory of citizenship that attempts to correct some of the flaws in Marshall’s theory. He seeks to move away from this U.K. centered, evolutionary conception of citizenship through a series of six counter theories. First, Mann criticizes this narrow focus on the U.K., explaining that it ignores other advanced industrial countries, which have different political and state structures: “The British strategy of citizenship described by Marshall has been only one among five pursued by advanced industrial countries. I call these the liberal, reformist, authoritarian monarchist, Fascist, and authoritarian socialist strategies.” Mann emphasizes for each of these political structures the importance of the ruling class, which he defines as “…a combination of the dominant economic class and political and military rulers.” He goes on to state that the ruling class has the most power within societies and therefore has the greatest influence on the social structure of a society, including social movements. Mann’s fifth counter theory highlights

the importance of tradition and devalues the transformitory effect that many scholars attribute to the Industrial Revolution. Finally, he highlights the importance of geo-politics as a key factor for the resilience of certain strategies over others and asserts that wars have an especially large impact on the success of particular strategies. For example, the results of WWII favored the success of liberal strategies over Fascist regimes going forward.

Brian Turner defends Marshall in light of these common critiques in his article, “Outline of a Theory of Citizenship.” He argues that Marshall had an understanding of the greater context and simply saw the U.K. as an exemplary illustration of the process. Moreover, he asserts that, “it is not clear that Marshall’s theory in fact requires an evolutionary perspective.”

Turner gives a new perspective on Marshall’s work as examined from past authors, but he remains critical of certain aspects. He finds as a fundamental flaw in Marshall’s argument, a lack of clarity in describing the relationship between capitalist societies and social rights. Turner commends Mann’s update on Marshall’s theory as an “important contribution to the historical process of citizenship formation.”

Nevertheless, Turner identifies three central flaws in Mann’s theory. Mann fails to take into account ethnicity, race or nationalism which are prominent in the development of modern citizenship, and recognizes citizenship solely as a class relationship in which the state is responsible for maintaining social stability. Mann fails to address Christianity and the impact of this religion and the culture surrounding it. Christianity has, on one hand, encouraged discussion in political public space, but at the same time disapproved of conferring rights through citizenship. Religion, in general, has the potential to greatly impact societies, but

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Christianity has been especially politically involved and influential in the definition of public space.\textsuperscript{11} Lastly, Mann’s ruling class strategy only considers citizenship as being developed from above, being conceived and handed down from the state to the people. This neglects citizenship as conceptualized by the people and realized through revolution, such as through the French Revolution.\textsuperscript{12}

Turner presents four contexts in which citizens’ rights have evolved that address the limitation he sees in Marshall’s argument. These contexts are created by two comparisons: first, the amount of public versus private space in which citizens can be politically active; second, whether citizenship has developed from above, as active citizenship, or below, as passive citizenship, as illustrated in Figure 1.

![Figure 1: Citizenship and Public Space\textsuperscript{13}](image)

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<th>Citizenship from above</th>
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<td>More Public Space</td>
<td>Less Public Space</td>
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<td>Passive Democracy — Passive English case</td>
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Turner asserts that these two dimensions, public space and where citizenship originated from, explain the distinctly diverse ways that citizenship rights have been developed in different countries. Overall, Turner argues that some aspects of citizenship literature are now rendered irrelevant with increasing globalization and attempts to update theories of citizenship laid out by Marshall and Mann.


\textsuperscript{13} Turner, “Outline of a Theory or Citizenship,” 200, 209.
Brubaker presents an alternative conception of citizenship to that of Marshall and those who expanded on his work. In his article, “Immigration, Citizenship, and the Nation-State in France and Germany: A Comparative Historical Analysis,” Brubaker lays out the ways in which different conceptions of nationhood have led to different definitions and models of citizenship in France and Germany and in turn affect immigrants’ chances of obtaining citizenship. There is no universal, overarching method for how to determine membership or citizenship in a state. The process for naturalization and obtaining citizenship varies by country. More expansive policies such as those of Canada, make it easy to naturalize once an immigrant is eligible. However, other states are more restrictive and do not promote or make the process of naturalization simple or accessible to immigrants.\textsuperscript{14} Brubaker argues that today’s policies of citizenship are based on traditions of nationhood: “What exists are particular nation-states, formed under particular historical circumstances, leaving even today the stamp of these distinctive historical origins….”\textsuperscript{15} To understand current conceptions of citizenship in France and Germany, first it is important ask how each country understood the meaning of nationhood, and what the rhetoric was around creating this identity. For France this identity was born out of the French Revolution and was based on a political, universalist and assimilationist understanding of citizenship. On the other hand, Germany’s initial understanding of nationhood was not based on a territorial or political state, but rather on a common origin and culture leading to an ethnocultural understanding of citizenship.\textsuperscript{16}


\textsuperscript{15} Brubaker, “Immigration, Citizenship, and the Nation-State in France and Germany,” 385.

In his book, *Citizenship and Nationhood in France and Germany*, Brubaker elaborates on his theory of citizenship. He asserts that one cannot oversimplify the basis for nationhood in France and Germany as universalism versus ethnoculturalism. He insists that there is an indispensable opposition between the two understandings of nationhood and that the base definition of citizenship has remained rooted in these understandings.\(^{17}\) When he was studying this during the 1990s, Brubaker argues that the deep-rooted conceptions of nationhood of each country established each state’s citizenship policy, which in turn has affected each state’s policies toward immigrants. For example, France’s expansive definition of citizenship, which allowed second-generation immigrants to become citizens, proves the government’s faith in its ability to assimilate immigrants, which for the most part, the country had successfully done through the educational system and military. On the other hand, Germany’s restrictive conception of citizenship reflects the government’s lack of confidence in its ability to assimilate. This was reinforced by the failure to assimilate indigenous Poles in Prussia into German culture, therefore encouraging Germany to be wary of non-German immigrants. The extent to which this assertion remains accurate today will be expanded upon in Chapter 4.\(^{18}\)

Many of these differences in the understanding of nationhood are rooted in the history of the two countries. Brubaker claims that the French Revolution “invited both the nation-state and the modern institution and ideology of national citizenship.”\(^{19}\) It was not invented overnight, but rather built on the foundation of the state-membership of the *ancien régime*. During this time,


\(^{18}\) Brubaker, *Citizenship and Nationhood*, 16-17

\(^{19}\) Brubaker, *Citizenship and Nationhood*, 35
rights were based on privilege, so there was no practical or ideological reason to have a separation between citizens and foreigners.\(^{20}\) The democratic context of the French Revolution equated political rights to citizenship rights, bringing the jurisdiction of rights from the regional level and being based on privilege, to the jurisdiction of the nation-state and being based on a person’s status as a citizen. The rights that come with the status of citizenship in turn require a certain level of obligation between the citizen and the nation-state. Uniting citizenship with political identity and state membership forms the basis for France’s conception of citizenship.

The German state was not consolidated as early as the French state, and therefore, had no nation-state or political frame necessary for the creation of a national citizenship until 1871. In addition, there was no major turning point in German history, such as the French Revolution, that crystallized the idea of citizenship.\(^{21}\) The beginnings of citizenship were first established by the Prussian monarchy through the destruction of the Stände system and creation of an internal sovereignty. Membership was based on domicile which caused issues with an increasingly large, transient, impoverished population. This pushed Prussia to make domicile based on membership rather than the other way around.\(^{22}\) In turn, this created the need to define who was a subject and who was a foreigner and these definitions formed the foundation for citizenship. German citizenship law was inconsistent, caught between an older territorial citizenship and a newer model of citizenship based on descent, until the 1913 law, which “severed citizenship from residence and defined the citizenry more consistently as a community of descent.”\(^{23}\) This law


\(^{21}\) Brubaker, *Citizenship and Nationhood*, 50.

\(^{22}\) Brubaker, *Citizenship and Nationhood*, 70.

was inclusive toward emigrants, allowing Germans not residing within the country and their descendants to continue to have German citizenship, but exclusive towards immigrants and their descendants who were not able to naturalize even after extended residence within Germany.  

Immigration is the policy area where the effects of traditions of nationhood and the conception of citizenship are most easily perceived. “For the distinctive and deeply rooted French and German understanding of nationhood have remained surprisingly robust. Nowhere is this more striking than in the policies and politics of citizenship vis-à-vis immigrants” France’s republican conception of citizenship that is rooted in a universalist, secular and political understanding of nationhood, has resulted in expansive citizenship that allows second-generation immigrants to become citizens and has a strong focus on assimilating immigrants into French culture. The German ethnocultural conception of citizenship, based on a more ethnic and non-political understanding of nationhood, led to openness to ethnic German immigration and naturalization, but to extremely restrictive citizenship for non-German immigrants until 2000.

Patrick Weil challenges Brubaker’s ideas of French and German conceptions of citizenship as too simplistic. He argues that the change from *jus sanguinis* to *jus soli* in Europe occurred primarily when countries accepted themselves as countries of immigration, and their perception of immigration shifted. Citing an article by Jurist Georges Gruff, Weil suggests that France and Germany were drawn respectively to *jus soli* and *jus sanguinis* due to their migratory situation. Germany and Italy were more inclined towards *jus sanguinis* because they were countries of emigration and many of their inhabitants had emigrated to surrounding countries. In

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order to reincorporate them, basing immigration on an ethnic origin was more advantageous for Germany than basing it on an individual’s country of birth. This established the connection to an ethnic or racial conception of citizenship and *jus sanguinis* in the minds of the French, making supporting *jus sanguinis* racist in a German manner and therefore made it an unacceptable option for the French government. 

*Jus soli* benefited France because it was a country of immigration with many residents who were not ethnically French but who had been born there.

Weil further denies the link between *jus sanguinis* and an ethnic conception of nationhood at the outset of Germany’s creation of citizenship. “The comparative history of German and French nationality law thus does not show an equivalence, any directly causal link between *jus sanguinis*, an ethnic conception of the nation, and Germany on one hand, or between *jus soli*, a civic or elective conception of the nation, and France on the other hand.”

Prussian legislation in 1842 was, in fact, quite similar to French legislation at that time. It was based on *jus sanguinis* that had no ethnic dimension. Weil goes on to argue that the development of immigration law was influenced primarily by the legal tradition and jurists of the time, and secondarily by the national perception of immigration. Therefore, the conception of nation and nationality laws have developed independently of each other. Weil cites past immigration, the consolidation of borders and liberal democratic norms as three factors that have led to liberal, non-discriminatory citizenship laws. This explains the anomaly of Germany that many other scholars have not been able to account for. Since Germany was behind other European states

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28 Weil, *How to be French*, 191

29 Weil, *How to be French*, 192
both in consolidating borders and becoming a liberal democracy, it took longer for German to liberalize its immigration policy. Weil points out that regardless of the method, both Germany and France have enacted immigration legislation and nationality laws that have racist or ethnic policies. Regardless of which system is better or if they both have flaws, the overwhelming take away from Weil is that accepting and self-identifying as a country of immigration is the key to instigating the process of moving from *jus sanguinis* to *jus soli*.  

Christian Joppke notes in the literature on citizenship this separation between the model focusing on nationhood and the model which deemphasizes the nation-state and focuses on rights. After summarizing these two models, Joppke attempts to bridge the gap between them and create a comprehensive theory of citizenship. In his model there are three aspects of citizenship: status, rights and identity. Regardless of these aspects, he recognizes that citizenship as a whole is linked to the nation-state: “Conceiving of citizenship in this way, as a combination of status, rights and identity, still leaves it an intrinsically state-related concept.”  

Marshall and others that follow in his tradition have moved away from this conception of connecting citizenship to the nation-state; however, Joppke seeks to return to an older definition of citizenship as first having membership to a state and then examining how rights and identities are associated with it.

Citizenship as a status refers to trends toward the liberalization of access to citizenship over the past fifty years. We saw this in the United States in 1965 when nationality quotas were abolished and naturalization became more accessible. Similarly, Western Europe overturned barriers preventing guest workers from attaining citizenship. Generally, there was a shift from

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30 Weil, *How to be French*, 193

the *jus sanguinis* model to the *jus soli* model being used almost exclusively. Partially, this was
due to the rise of liberal democracy and a separation of citizenship and national identity. Joppke
cites liberal democratic principles as the “true engine of the liberalization of access to
citizenship.”32 This view coincides with Weil’s theory which includes liberal democratic norms
as one of the factors that has caused a liberalization in citizenship laws. Recently, however, there
has been a reversal of this trend as European countries with high immigrant populations have
been restricting naturalization policies.

Citizenship as rights developed through the rights revolution of the past forty years and
was assisted by a growing ethnic diversification of people residing within states. “Ethnic
diversification of society, which is partially (of course not exclusively) the result of liberalization
of access to citizenship, has shifted the accent in the rights dimension of citizenship from
restrictive social rights to procedural civil rights, particularly minority rights.”33 This shift was
not exclusively focused on immigrants, but often more broadly on people in general; however, as
immigrants are often minorities, it disproportionately affected them. Two legal developments are
fundamental from this aspect: the extension of rights associated with citizenship to non-citizens
and the enhancement of minority rights.

Citizenship as an identity differs based on a citizen’s view compared with the state’s
view. States associate the liberalization of citizenship and the enhancement of minority rights as
causing issues with integration of immigrants and disrupting unity. In today’s world, for the most
part, citizenship and identity have become disassociated from each other: “States can no longer

impose a substantive identity as a precondition for acquiring citizenship, and primordial group identities even enjoy the status of rights.”

Since states cannot impose identity as a condition for citizenship due to liberal democratic principles, they want to associate citizenship with unity and integration, to incorporate immigration and imbue citizenship with new meaning. Joppke points out, however, that this strategy of unity through citizenship policy has limited success, especially if considering a post-national society model. Overall, he views the development of citizenship as “a story of successive causation.”

This strategy originated with ethnic pluralization of residents which led to a liberalization of access to citizenship, which contributed to an ethnic pluralization of citizens. With more ethnically diverse citizens, came an increase in social rights, specifically minority rights. States felt the need to create a unified population and reciprocated with unity and integration campaigns.

Angus Stewart, similar to Joppke, differentiates between a more traditional state-based conception of citizenship and a more rights-based idea in his article, “Two Conceptions of Citizenship.” He notes that there are often divergent views between scholars on citizenship, yet it has become an increasingly important topic in the field of political sociology. As the title indicates, Stewart divides citizens into two categories: state citizenship and democratic citizenship. State citizenship “involves the identification of citizenship with the elaboration of a formal legal status, co-terminous with the emergence of nation-states and their diverse lineages.”

This can refer to a full, formal membership, which alines with Brubaker’s

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34 Joppke, “Transformation of Citizenship,” 44.
conception of citizenship as coinciding with the creation of the modern nation-state, and a relationship of duality between the nation-state and citizenship.

The other state citizenship model is the welfare rights version of citizenship. This is more akin to the theory put forth by Marshall. Citizens process civil, political and social rights focusing on the impact of citizenship on class inequality. Stewart disagrees with many of the common critiques of Marshall discussed previously, but offers his own critique. He points out that Marshall considers post-war changes to be a result of “equal social worth;” however, he does not acknowledge that there are often tensions and incompatibilities between the equal social worth conception of citizenship and state-centered conception of citizenship. Furthermore, he also does not consider the tensions between the social conception of citizenship put forward by the welfare rights model and conceptions of citizenship based on autonomy.

Democratic citizenship, Stewart’s second major model of citizenship, focuses on a “shared membership of a political community, conception of citizens as political actors constituting a political state.”37 This conception has yet to be realized in the way that state citizenship has been. In order for this conception of citizenship to be sustained, there must first be a public space in which people engage in participatory government. In addition, citizenship must be completely detached from nationality, and foreigners must be given the right to vote. While this model has potential, the EU political community is currently the best example for the potential of this type of citizenship. It is a political community that is separate from national citizenship and identity, and which allows both group and individual identities.38

38 Stewart, “Two Conceptions of Citizenship,” 75-76.
Convergence Theory

Immigration is a constantly evolving phenomenon, and the policies surrounding it reflect this fluidity. Depending on a state’s method of governance, conception of citizenship, and desire to increase its workforce, policies can differ greatly from state to state or be fairly similar. The study of policy convergence emerged out of the field of comparative public policy and plays an important role in political science when analyzing the convergence between different state’s policies on the same matter. Convergence has become a concept that academics interested in policy have increasingly focused on in recent decades as there has also been a rise in supranational organizations and awareness of the influences of globalization. In his article, “What Is Policy Convergence and What Causes It?” Colin Bennett defines convergence generally as “‘the tendency of societies to grow more alike, to develop similarities in structures, processes and performances.’” For Bennett, policy convergence can mean one of five things: convergence of policy goals, policy content, policy instruments, policy outcomes or policy style. Though useful, it is difficult to strictly adhere to these categories, since policy is a constantly shifting and interactive process and often overlaps among multiple categories.

Bennett goes on to explain that there are four processes of convergence suggested in comparative policy literature: convergence through emulation, elite networking, harmonization and penetration. Convergence through emulation occurs when one policy model considered exemplary and it is adapted by another state. This can occur at any point in the policy process


40 Bennett, “What Is Policy Convergence,” 118

41 Bennett, “What Is Policy Convergence,” 220
and requires extensive immersion in and analysis of the model policy. Emulating other state’s policies often leads to convergence in policy goals or instruments, but it is more difficult to point to this as a cause for convergence in policy outcome or style.\textsuperscript{42} In order to prove convergence through emulation, three conditions must be met: A state must take a unique policy stance, another state must utilize that unique policy and the two states must have similar policy goals or instruments.\textsuperscript{43}

Convergence through elite networking is developed through transitional actors and communities of elites who have similar goals and are concerned with resolutions of policy issues. It can create policy communities which focus on a particular problem and engage collectively to learn about that problem and are not constrained by specific regulations or domestic politics when developing a response. While this is not always practical on the national level, it serves as a way to gather common knowledge about an issue. Governments can then implement policies based on that common knowledge in their respective states. The policy implementation and results may differ; however, there is convergence about the concern and motivation for the issue. Convergence through harmonization similarly deals with a group of transnational actors who have like opinions and are motivated to develop a common response. This process is defined in particular by an understanding of the importance of interdependence for successful implementation.\textsuperscript{44} Convergence through elite networking has become especially prevalent with the growing number of transnational issues and supranational organizations. The EU frequently uses harmonization to attempt to universalize policies throughout the EU. In order

\textsuperscript{42} Bennett, “What Is Policy Convergence,” 221

\textsuperscript{43} Bennett, “What Is Policy Convergence,” 223

\textsuperscript{44} Bennett, “What Is Policy Convergence,” 225
for this method to work in a fluid and successful manner, states must surrender some of their autonomy. Lastly, convergence through penetration occurs when states are obligated to conform to the policies of external actors. These can, for example, be in the form of regulatory policies which companies must abide by while conducting business within the territory. While there is significant research that there has been considerable policy convergence in the post-industrial world, it is not universal, and there remain divergent responses. Bennet asserts that convergence is not a theoretical position, but rather a combination of trends and processes, which reflects these theoretical positions.

Christoph Knill suggests that the growth of research on convergence and divergence coincides with the growth of research on globalization and Europeanization; however, the academic community has a limited understanding of why there is a convergence of national policy over time and what conditions cause it. One can use several methods of assessment to empirically analyze convergence. The first and most common method is, where convergence occurs if there are fewer differences as times goes on in the policies of the countries being compared. Other methods include β-convergence, which occurs when a country lagging behind catches up with leading countries on a policy; and γ-convergence, which is the change of the country’s rank in regard to a specific policy. Studies examine convergence through analysis that looks at the effects of policies, or with an empirical focus which looks at policy characteristics. While Bennett defined five different types of convergence, Knill analyzes five factors that can

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47 Knill, "Introduction: Cross-National Policy Convergence,” 768
create convergence: countries who have similar but independent responses to the same problem due to similar preexisting policy issues; imposition of policies; compliance with international law; increased economic integration; and therefore, competition and transnational communication.\textsuperscript{48} For the purpose of this project, I use the \( \sigma \)-convergence method and look at similarities and differences in the citizenship and immigration policies of France and Germany. To assess the level of convergence I will measure how expansive or restrictive immigration policies are and the extent to which access to citizenship is expanded or restricted.

Scholars of immigration have argued in recent years that policies of industrial democracies are converging. In his article, “The Causes of Convergence in Western Immigration Control,” Eytan Meyers explores these claims of convergence. He focuses in particular on immigration control policies, rather than integration or other immigrant policies. Convergence is defined for the sake of this study as an “unplanned similarity of reactions to a similar problem.”\textsuperscript{49} First the author examines some historical similarities in immigration control policy. For example, between the late 1700s to the late 1800s, there were very few restrictions on immigration in most receiving countries. WWI and WWII each caused an increase in restrictive immigration controls on permanent immigration, while also increasing foreign labor recruitment. In the 1980s and 1990s, there was an effort on the part of most receiving countries to halt the flow of undocumented immigration through stricter border control, workplace sanctions and increased incarceration and deportation, as well as, through restricting asylum through reforms of asylum processing.

\textsuperscript{48} Knill, “Introduction: Cross-National Policy Convergence,” 771

Meyers presents five explanations for these similarities in immigration control policies. The first explanation is authority of international, global or regional regimes. The primary flaw in this argument is that no major, permanent international regimes have emerged. Most migrant worker regimes are regional, not global, and there were no real migration regimes of any kind prior to WWII. The area where this explanation is most helpful is when looking at the EU and the regime of migration which that supranational organization has created. The second explanation is interdependence between immigration control policies. This occurs when one country restricts immigration, causing increased immigration in another country, which then leads to that second country also restricting immigration. The evidence for this explanation is limited, as it is a long process and cannot explain similar policies that develop rapidly. The third explanation, similar to Bennett’s eight networking hypotheses, is the emulation of immigration control policies. Professionals who are experts in the field share knowledge and effect policies. It is difficult to separate the affect of this from general socioeconomic and foreign policy factors, so evidence for this method is unstable. The fourth explanation is the world systems theory, which focuses on economics and capitalism. This theory connects the origins of internal migration to the structure of world markets. It has several flaws including its inability to account for third-world countries, and the fact that it does not focus on immigration controls, but rather on the origin of international migration.

Lastly, the author argues that the “main reason for similarities among immigration control policies of major receiving countries is the internal interdependence between the socioeconomic

and foreign policy factors that produce these policies.”\(^{52}\) The socioeconomic and foreign policy factors can take several forms. Global economic cycles influence immigration most. When the economy is prosperous, businesses are in need of foreign labor, and immigration control policies are more liberal. During economic downturns, unemployment increases and immigration is more restrictionist. Examples of this include recruitment of foreign labor and decreased restrictions of immigration from the end of WWII until 1973 by most receiving countries, and restrictions of immigration in Western Europe in the mid-1970s. Shared migratory pressures also play an important role in immigration control policies. These often include cultural or race-based preferences, such as the exclusion of the Chinese, or a reaction to external threats.

Alliances and common foreign policy considerations explain actions nation-states make based on their connections with other states. For instance, the U.S. and other allies readily accepted refugees from communist nations in an effort to enforce anti-communist sentiments. Similarly, the involvement in or influence by wars plays an important role in immigration policies. As mentioned above in respect to WWI and WWII, wars tend to simultaneously create labor shortages which lead to the recruitment of foreign labor, and associate immigration with external threats encouraging restrictions on permanent immigration and/or restriction on immigration from particular countries.\(^{53}\) Lastly, two different ideological cycles also influence immigration control polices. First, the cycle between racism and liberalism creates an opposing rhetoric about equality and rights. Second, the cycle between economic openness and protectionism creates a paradox between openness of the market and restriction of migration.

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Both of these cycles represent the dilemma of the liberal paradox that many liberal democracies must face as the struggle between public opinion and democratic principles or markets and rights-based ideology.54

The article concludes that there has indeed been a convergence in the immigration policies of industrial democracies as many other scholars have claimed. It strives to demonstrate the similarities in immigration policy between major receiving countries. While five different explanations were given for the convergence, Meyer argues that “the interdependence between socioeconomic and foreign policy factors explain most of the similarities about immigration control policies.”55 The most important factors are global economic cycles and shared migratory pressures. However, a systematic analysis of the factors causing the remaining divergence in policies is needed. In addition, further study of the EU would aid in the understanding of the influence of migratory regimes on nation-state policies.

As a supranational organization attempting to create convergence in many nation-state policies, including immigration, the EU is frequently discussed in research on convergence in immigration policy. Whether nation-state differences have remained prominent or if convergence has been found among states’ immigration policies, and furthermore if this convergence is the result of the EU or other factors, has been a topic of much debate among scholars. Hans Mahnig and Andres Wimmer point to a paradox in the comparative studies of European immigration policy in their article, “Country-Specific or Convergent? A Typology of Immigrant Policies in Western Europe.” They assert that scholars are split into two groups, with the first finding

country-specific features still dominate while the second observers that the EU has influenced national immigration policy. Freeman attributes this to the principles of liberal democracy, which create more liberalization in immigration policy. Therefore, regardless of different histories of immigration, in the long run, countries which are liberal democracies are likely to end up with similar policy results due to the core principles upon which they are founded. This explanation is aligned with Freeman’s theory that the liberalization of access to citizenship has been a result of the guiding principles of liberal democracies. Yasemin Soysal points out that the legal status of immigrants, which was previously determined exclusively by national legislations, is now influenced by universalistic rules, which are often formalized through legislation of transnational structures, such as the EU.

The authors, Mahnig and Wimmer, analyze convergence of immigration policies through a case study of the U.K., France, Germany and the Netherlands, all of which have been major receiving countries since WWII. To measure convergence, the authors examined five types of immigration policy. First, they considered policies that guarantee equality under the law, which strives to eradicate any barriers to participation and includes granting civil, social, political, religious and cultural rights to immigrants. Each country has granted civil and social rights to first- and second-generation immigrants over the past thirty years. There has been some greater accessibility of political rights, such as the ability to participate in elections and apply for citizenship. The areas that have seen the least progress are religious and cultural rights. The Netherlands is the exception in this case, as it has a long tradition of being open to religious differences. The U.K. has only recently seen changes on the national level. France and Germany

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have been the most resistant according these rights to immigrants, as Islam is viewed as an obstacle to integration.\(^5\)

The second type of immigration policy examined includes those policies which are against racial discrimination. The U.K has gone the farthest in this respect. France and Germany both have anti-racism legislation, but France’s legislation does not oversee housing or workplace discrimination, and Germany does not have policies to prosecute. The third type, policies against social disadvantage, is aimed at equalizing opportunities for immigrants through compensation programs. All countries have created policies focusing on education: France and the Netherlands have created housing programs; the U.K. and France focus on neighborhoods with social issues, which often contain a high percentage of immigrants; Germany has seen action on the local level to develop this type of immigration policy. The fourth type are the policies of information and dialogue, which strive to overcome problems created by insufficient communication between groups. This can include consultative or advisory bodies or financial support of sociocultural activities and immigrant organizations. All four countries support sociocultural activities and immigrant organizations. The UK, Netherlands and Germany have some form of consultative bodies, while France and Germany have advisory boards. Lastly, are there policies of accessibility to public institutions for immigrants. If these institutions are accessible to immigrants, then immigrants see themselves being part of the institution as a whole, acknowledge the legitimacy of the state and are better integrated. The Netherlands and the U.K. have enacted such policies; however, France and Germany have yet to do so.\(^5\)

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\(^5\) Mahnig and Wimmer, “Country-Specific Or Convergent?,” 193.

\(^5\) Mahnig and Wimmer, “Country-Specific Or Convergent?,” 194-197.
These four countries do not universally apply each of these types of policies, but they enact a mixture of the different policies discussed above. National differences remain significant. Policies against discrimination and making public institutions more accessible have grown in importance in the U.K. and the Netherlands, yet there has been very little movement toward these types of polices in France and Germany. Convergence throughout these countries’ policies has been noted as follows: in policies seeking to improve immigrant inclusion and rights; in compensation policies for education and vocational training; in policies related to better access to the workforce; through policies in information and dialogue; and lastly, in the link established between immigrant and urban policies. Mahnig and Wimmer point to three main reasons for this convergence: the pressure for liberal democracies to not go against their core values by excluding resident populations, the high unemployment rates in the postwar era and the impact of socioeconomic exclusion which associated immigrant issues with urban issues.59 The authors conclude that differences are a product of the historical narrative of the relation between state and society, and that convergence has been created through mutual borrowing and learning from other states facing similar problems, which have created similar policies on immigration.

The last chapter of, *Controlling Immigration: A Global Perspective*, which is written by Andrew Geddes focuses on EU immigration policy and the convergence of national immigration policy of EU member states. They cite the impact of interstate negotiation and its influence on the national politics as an indicator of convergence. They use Knill’s definition to explain convergence as:

Any increase in the similarity between one or more characteristics of a certain policy (e.g., policy objectives, policy instruments, policy setting) across a given set of political jurisdictions (supranational institutions, states, regions, local authorities) over a given period of time. Policy convergence thus describes the end result of a process of policy change over time towards some common point, regardless of the causal process.  

This definition indicates an analysis of convergence based on policy outcomes according to Bennett’s understanding of types of policy convergence. In that final chapter, the authors provide five variables to assess the potential effects of policies and convergence. First, the timeframe is important, meaning whether the state is a newer or older country of immigration or an older more recent EU member state; second, the similarity of the state’s immigration policy to that of the EU; third, the similarity of problem pressures; fourth, the location of the state, and is it close to the borders of the EU or in the interior of the EU? The last variable is concerning the comprehensiveness of imitation and policy learning.

Geddes seeks to dispel the “Fortress of Europe” narrative that often surrounds immigration. The narrative asserts that “European integration leads to lowest common denominator restriction oriented policies.” While restrictionist policies are present, the situation within EU member states is not that simplistic. He concedes that convergence in policy instruments is more prevalent with polices related to unauthorized immigration and asylum. This has been furthered by the requirements countries must ascribe to in order to become member states of the EU, which have a strong focus on border control and common asylum policies. In

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addition to EU requirements, similar issues within states, the timing of immigration and the proximity to the sending states all encourage convergence. However, the formal compliance of member states is not always enforced on the ground and can lead to different policy results.

The EU has increasingly been focused on rights of the citizens of its member states. There were two anti-discrimination directives in 2000, a family reunion directive in 2003 and a directive on long-term rights of residents that all directly affected the rights of immigrants. This directive brought EU member states to a level of more expansive and uniform rights for immigrants. This demonstrates a link between EU and national policy and convergence of supranational and national policy.62 The main flaw of convergence of national policy as a result of the influence of the EU and European integration is that while many polices appear to have convergence in their objectives, the outcomes are often not identical due to public opinion and national differences. EU directives often come up against growing anti-immigration movements and Euroskepticism.

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CHAPTER 2: FRANCE

French Conception of Citizenship

The French understanding of nationhood was developed through the experience of the French Revolution and gave greater meaning to citizenship. During the ancien régime, there was no formal construction of citizenship; however, the condition of belonging did exist and was based on an individual’s status and privilege within the existing social order. Foreigners were considered to have an inferior status; however, due to feudal law who was considered to be a foreigner was very different from today’s understanding. Citizenship in this form was informal and was tied to a local understanding of belonging, not a broader national understanding which would be tied to the state. The French Revolution transformed this sense of belonging from the local level to belonging to something much larger, with political and legal ramifications and a national identity. This era in French history laid the foundation for the expansive model of citizenship that France is known for today. Further, the development of political rights for the general population, not only the ruling elite, began to create a link between political rights and citizenship rights.

The Constitution of 1791 made a distinction between citoyens français and citoyens actifs, who were a subclass of residents who did not have political rights; therefore, the Constituent Assembly linked full French citizenship to political rights associated with the status of citoyens actifs, and in so doing clearly defined the difference between being French and being a foreigner. This is considered to be the first codification of what state-membership means for a western state. The creation of the nation-state and the Constitution of 1791 gave greater

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significance to the status of foreigner and led to the modern understanding of what it means to be
a foreigner.64 A distinction was made in the definition of nationality between those who were
foreigners and those who were not. At the same time, the rights of foreigners were established
and protected in the Declaration of the Rights of Man and Citizens. “Foreigners would thereafter
enjoy rights as individuals and be placed in a position of quality within the national community.”65
Foreigners were not given the same civil rights as citizens at this point and still faced
discrimination within the law, but the enshrinement of foreigners’ rights is key for France’s
subsequent citizenship and immigration policies. It created a basis that expected equality for and
inclusion of foreigners that has endured into today’s political rhetoric. The next major
development in French citizenship was the The Civil Code, which was established in 1804 under
Napoleon. It determined citizenship primarily based on *jus sanguinis* principles, citizenship
transmitted through descent; however, aspects of *jus soli*, citizenship granted to those born within
the country, did exist. Foreigners could claim citizenship by declaring their domicile as France,
and subsequently, their children would be considered French. This definition of citizenship was
expansive, as it allowed the children of foreigners to gain French citizenship.

Brubaker asserts that this expansive definition was due to the nation’s desire to strengthen
itself at this time. In addition, there was no concern about diluting the “ethnocultural substance”
of France because at that time there was a strong confidence in the loyalties of those immigrating
to France.66 *Jus soli* has not gone unthreatened throughout France’s history. At times it has been
deemed old fashioned and feudal and been under attack by nationalists who are concerned about

64 Brubaker, *Citizenship and Nationhood*, 47.
the number of second- and third-generation immigrants attaining French citizenship. While *jus soli* has been attacked both from the public and politicians, it is strongly entrenched within the French legal tradition. In 1851 *jus soli* was established for third-generation immigrants, allowing immigrants with one parent born in France to naturalize. In 1889 *jus soli* was established for second-generation immigrants once they reached the age of majority. Since that revision, there have been reforms in 1927, 1945, and 1973, but none of these changes have affected *jus soli*.

Brubaker cites three factors for the endurance of *jus soli* though the early 1990s when he was researching citizenship. First, he points out the strong rhetoric of inclusion rooted in the republican and universalist foundation of France from the Revolution. This inclusiveness leads to higher political costs for politicians who seek to enact restrictive measures, as such measures can be attacked for being non-republican, and therefore, non-French. Second, he notes the weakness in the connection of ethnicity and citizenship and the faith in France’s assimilation model. Third, he describes the ambitious sentiments of nationalism and xenophobia. An increase in either of these sentiments in France can result in assimilationist or exclusionary policies. The distinctive republican and universalist national tradition in France has formed a primarily inclusionary model of citizenship. These deeply-rooted traditions effect how citizenship is conceptualized, who is included within that definition of citizenship and how easily that citizenship is obtained by those who do not fit into that category. How a state conceptualizes citizenship and therefore foreigners, directly affects the formation and enforcement of its immigration policy.

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A Brief History of Immigration

Like many countries in Western Europe, France has not historically defined itself as a country of immigration. For the majority of its modern history it was a country of emigration, with the first large waves of immigration to France not occurring until the 1850s. Countries, such as the United States and Canada, where immigration is an essential aspect of their founding stories, tend to have more expansive immigration policies since immigration is a fundamental aspect of the political foundation and early rhetoric of these two countries. So why does France have a comparably expansive immigration policy? While the French nation-state has no founding story of immigration, the strong republican and universalist traditions are not compatible with a model of exclusion. As Hollifield clearly indicates, “the more closely associated immigration is with the political myths that legitimize and give life to the regime, the easier it is for the state to justify its immigration and immigrants’ policies and to manage the ethnic and distributional conflicts that inevitably arise as a result of immigration.”

Similarly to the rhetoric surrounding *jus soli*, immigration and integration policies are closely associated with France’s republican, universalist tradition that places a higher political cost on enacting any policies that could potentially exclude immigrants.

The goal of French immigration, especially in the 19th and early 20th centuries, was to fulfill the needs of the labor market and demographically supplement the French population. Immigration during the first part of the twentieth century faced minimal control policies, as France had gone through industrialization and was in need of foreign labor. France’s history of

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immigration has been strongly influenced by its colonial connections, which sets it apart from Germany, who does not have the same colonial history. France was still a colonial power during this expansive time of immigration during the late nineteenth and twentieth centuries; establishing flows of immigrants from its colonies to the French mainland. Through *jus soli* policies for second- and third-generation immigrants enacted in the late 1800s, many of these foreign laborers settled in France, and their children became French citizens. France began to realize these were not temporary migrant laborers, but a permanent population.

National identity cards were the first step toward immigration control, and these were not implemented until WWI. During the 1920s, both laborers and pronatalists pushed for large-scale recruitment, but with different focuses. Employers were simply interested in having an unlimited supply of cheap, foreign labor, while the pronatalists were concerned with the origin of immigrants, wanting recruitment from other European countries so that there would be minimum impact to French culture. This is the first indication of concern about effectiveness of the French assimilation system and the accompanying desire for restrictionist policies.

The immigration policies that emerged after WWI were firmly based in the universalist and republican rhetoric. Hollifield emphasizes that “Republicanism in postwar France included respect of civil and human rights of foreigners, especially refugees.” This coincided with the establishment of the welfare state, which caused a reassessment of immigration, and consideration of who should be allowed to benefit from these new state-sponsored programs and

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services. Due to the rhetoric discussed above, immigrants benefited from the creation of the welfare state and concurred with the inclusive nature of immigration policies at this time. France did not formally identify as a country of immigration until much later, but by the 1930s France had statistically become a country of immigration. Foreigners accounted for over six percent of the population and France had the highest rate of foreign population growth of any country.\textsuperscript{72} France benefited from a growing population to fulfill its need for labor and to be competitive with other industrialized countries such as Germany, and immigration was its primary source for this population growth. A second increase in xenophobic sentiment occurred in the 1930s and can be attributed to a shift in the composition of the immigration population. There were increasingly more nonproductive immigrants, children and elderly, who were not active in the workforce, but rather were present in schools hospitals and neighborhoods. This increasing presence of immigrants in public places lead to a greater awareness of the immigration population and a rise in negative sentiment.\textsuperscript{73}

There was a drop in immigration with the onset of WWII and the restrictive and racist policies of the Vichy regime. These policies had anti-semitic orientations and persecuted second-generation immigrants. The administration openly targeted non-French residents.\textsuperscript{74} After the devastation of WWII and lower birthrates, France was once again in need of laborers and saw large waves of immigrants in the 1950s and 1960s. This influx was a combination of recruited foreign labor from surrounding European countries as well as immigration as a result of decolonization of the French Empire, most notably the independence of Algeria in 1962. These

\textsuperscript{72} Noiriel, \textit{Le creuset français}, 5.

\textsuperscript{73} Noiriel, \textit{Le creuset français}, 194.

\textsuperscript{74} Noiriel, \textit{Le creuset français}, 20.
individuals held a privileged status as “quasi-citizens” of France, who possessed the right to freedom of movement between France and Algeria. France could not officially deny them entry, but they also did not have the same rights and privileges as French citizens. There were large waves of Algerian immigration during this period which far exceeded that of recruited labor from Europe. Silverman explains that, “A population of 20,000 in 1946 had increased to 210,000 in 1954… an average increase of 32.5 percent each year compared to an average increase of 1.3 percent annually in the same period.” Attempts were made to contain this increased level of immigration, but it was politically problematic to enact sweeping restrictions, especially on immigrants that had a privileged status through their current or past colonial connection. Immigration was institutionalized more officially with the creation of departments such as the National Immigration Office and the Office for Protection of Refugees and Stateless Persons. During this period of economic prosperity and great demand for foreign labor, there was minimal oversight of immigration. Typically immigrants would first travel to France and subsequently seek official status as immigrant workers. Weak control institutions, combined with the influx of this special group of privileged immigrants, further combined with the economic prosperity and the demand for labor, made it nearly impossible for France to control immigration.

The rate of immigration was over 100,000 per year by the 1960s and the composition of this immigrant group was becoming increasingly more diverse. Algerian immigrants were joined by those from other former colonies and from French-speaking countries in Western Africa. This

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76 Hollifield, “France: Republicanism and the Limits of Immigration Control,” 189.

77 Hollifield, “France: Republicanism and the Limits of Immigration Control,” 189-190.
trend was aided by bilateral agreements France signed with several of these countries. The high annual rate of immigration continued until the oil crisis of the mid-1970s which caused a worldwide economic recession. France no longer had a high demand for immigrant labor, but found itself with a large and ever-expanding immigrant population. The state needed to establish less expansive immigration policies. These new policies, as I will expand on more below, targeted immigrants from specific backgrounds, namely those from North Africa. They halted immigration and encouraged those already living in France to return to their country of origin.

During this period, there was a growing concern about integration and the increasing population of Muslim immigrants in France. This sentiment influenced the restrictive laws in the 1970s as well as ones in subsequent years that targeted this North African, Muslim population. Due to the importance of universalism, equality, and not discriminating based on race, this population was not targeted explicitly in the policies; however, the implementation and results of the policies made the intent clear.

The trends in immigration policy over the next forty years oscillated between expansive legislation that the French immigration system is known for and attempts to create more restrictive policies. The 1980s once again saw a series of restrictive policies with the rise of the National Front (FN), an extreme right political party. Historian Gerard Noiriel cites this period as one of three moments in French history where xenophobia was at its peak. The other two being the 1880s which culminated in the Dreyfus Affaire and the 1930s leading up to the Vichy regime. Terrorism became connected with Muslim immigration, legitimizing much of the

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78 Silverman, *Deconstructing the Nation*, 43.
party’s anti-immigration sentiment and gaining approval for restrictive policies weakening *jus soli* and decreasing immigrant rights. The election of Mitterrand brought the Socialist Party (PS) back into power, and they focused on returning policies on immigration and naturalization to their form that existed prior to the restrictive reforms of the 1980s. The right rapidly gained ground again in the early 1990s, implementing a new series of restrictive reforms aiming to achieve zero immigration, discourage further settlement of immigrants and fundamentally change nationality law. These proposals took previous restrictive measures a step further and were a political risk, as they went against the fundamental republican and universalist rhetoric of the French political system.\(^8\)

Finally, a more permanent shift away from the right occurred with the victory of the PS lead by Lionel Jospin. This new government wanted to return to the republican model and methods of immigration control that previous socialist governments had used; however, neither party was pleased with the current situation and believed that reform of immigration and citizenship law was needed. These reforms created heated debate among politicians and the public. The old laws were not repealed but were amended to lessen many of the harsh restrictions of the 1990s, while keeping some of the structure and controls in place. Figure 2 contains immigration population data from the French census between 1911 and 2010. This data shows the increase in the immigrant population that occurred after WWII. It also shows the subsequent slowdown in immigration between the mid-1970s and the 1990s due to the economic downturn and then a series of restrictive immigration laws, and finally the increase in immigration after 2000. There are no dramatic downturns in the immigrant population due to any of these policies,

\(^8\) Hollifield, “France: Republicanism and the Limits of Immigration Control,” 206-207.
illustrating nothing more than a gradual slowdown in immigration that momentarily created reductions to the French immigrant population.

Figure 2: Distribution of Nationality and Immigration Status and Population\textsuperscript{82}

<table>
<thead>
<tr>
<th>Year</th>
<th>Immigrant population on the census</th>
</tr>
</thead>
<tbody>
<tr>
<td>1911</td>
<td>1110</td>
</tr>
<tr>
<td>1921</td>
<td>1429</td>
</tr>
<tr>
<td>1926</td>
<td>2288</td>
</tr>
<tr>
<td>1931</td>
<td>2729</td>
</tr>
<tr>
<td>1936</td>
<td>2326</td>
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<tr>
<td>1946</td>
<td>1986</td>
</tr>
<tr>
<td>1954</td>
<td>2293</td>
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<td>1962</td>
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<td>1968</td>
<td>3281</td>
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<tr>
<td>1982</td>
<td>4037</td>
</tr>
<tr>
<td>1990</td>
<td>4166</td>
</tr>
<tr>
<td>1999</td>
<td>4309</td>
</tr>
<tr>
<td>2010</td>
<td>5406</td>
</tr>
</tbody>
</table>

Moments in French Immigration Policy

Moment 1: 1970s Border Closure and Politicization of Immigration

The 1970s marked the first true era of restrictive immigration policy in France, with the exception of the Vichy era. Immigration was at a high, with much of it coming from former colonies in Africa. According to the Ministère de l’Intérieur, foreigners made up six percent of

\textsuperscript{82}“Distribution of the population according to nationalité and immigration status” \textit{Institut national de la statistique et des études économiques}
the total population, the highest it has been since WWII. France was seeking to regain control over immigration even before the economic collapse from the oil crisis in the mid-1970s. In fact, immigration was still welcomed by authorities and seen as positive economically and demographically. What was changing, however, was the composition of immigrants entering France. By 1974 Spanish and Italian immigrants had been overtaken by Algerians and Portuguese as the two largest foreign populations. As Silverman states, “It was more a question of ethnic ‘balance’ and fears of the social tensions which would ensure if this balance was not maintained.” In an attempt to lessen the immigrant flow, France imposed stricter workplace enforcement measures, forcing employers to meet stricter requirements for housing and general care before being allowed to recruit foreign laborers. Immigrants mobilized around this issue of social conditions as many were living in subpar conditions. Nevertheless, the economy was still highly dependent on foreign labor, and immigration was not yet an electoral issue, so employers were able to convince the government to loosen these restrictions in the early 1970s.

Some additional efforts were made to outlaw racial discrimination and facilitate integration, but the government was still focused on simultaneously attempting to control immigration. The state was facing a conundrum. There was a high demand for labor, immigrants from former colonies possessed special privileges, as a liberal democracy they must respect foreigner’s rights, and there were minimal mechanisms for control. So how could the state slow this immigration flow? The desire to control the immigration flow originated from the concern about the ethnic composition of the growing immigration population, but this was increased by

83 Silverman, Deconstructing the Nation, 47.
84 Silverman, Deconstructing the Nation, 48.
85 Hollifield, “France: Republicanism and the Limits of Immigration Control.” 190.
the decline in economic growth and rise in unemployment, which in turn led to a rise in xenophobic sentiments. Immigration was unequivocally linked to the economic downturn and unemployment in the political rhetoric of the early 1970s.

In 1974 this all came to a head under the presidency of Valérie Giscard d’Estaing, when Conseil des Ministres temporarily suspended immigration in July. Shortly after that on July 19th, family reunification was also suspended. These were intended to be short-term, three-month measures, but immigration was never reopened to the full extent it had been previous to this suspension. Family reunification was reinstated in May 1975, after the Counsel d’État stated that it was unconstitutional, and foreign residents had a right for their families to be able to join them.\(^{86}\) Retaining civil liberties for foreigners was an important aspect of the French republic rhetoric, and denying family reunification went against that principle. Since denying family reunification was not a feasible option for France, it attempted to find other ways to decrease the existing immigrant population. In 1977, for example, the French government enacted a voluntary return program for immigrants, which paid them 10,000 FF to return to their country of origin. When this program had minimal effect on the immigrant population, Giscard threatened, without success, to pass legislation for forced return, which would have mostly impacted North African long-term residences.\(^ {87}\)

The rationale behind this freeze on immigration was due to the economic recession. The administration argued that it would improve the economy, decrease the unemployment rate and alleviate xenophobic sentiments. In its official rhetoric, it was based purely on the economic

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\(^{86}\) Silverman, *Deconstructing the Nation*, 52-53.

\(^{87}\) Weil, *How to be French*, 154
interests of the country, not on any broader social concerns. Laurens asserts that the immigration stop in 1974 is “a turning point in French immigration policy, a real point of rupture, explained primary by the economic crisis and secondarily, according to researches, by changes in the political field, changes in public opinion and changes in migration flows.” It is an oversimplification to assert that the closure was simply a result of an economic crisis, because not every sector is in crisis simultaneously, and there was not universal interest by the business sector for a halt in foreign labor. In addition, there is evidence that there had been significant segmentation of the labor market and that French citizens were not interested in the many jobs that immigrants filled. Therefore, a decrease in foreign labor would not necessarily lead to a decrease in the unemployment rate. Furthermore, certain sectors relied on a continuous supply of foreign labor.

While the economic explanation for the freeze on immigration is an oversimplification, the justification for closure due to an economic recession can be made on some level for foreign workers; however, this rationale does not at all explain the freeze on family reunification. Family members of foreign workers already residing in France would not negatively benefit the economy or increase the unemployment rate. As the quote above reflects, the freeze in immigration also was influenced by a shift in public opinion, government response and the demographic of the immigrant population.

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89 Laurens, “‘1974’ et la fermeture des frontières.”

90 Hollifield, “France: Republicanism and the Limits of Immigration Control.” 191
The primary effort during this period was to control further immigration, but the secondary priority of the administration was integration of the existing immigrants. Underlying these efforts, however, was the sentiment that immigration was becoming a larger social issue with a larger percentage of African, Muslim immigrants. This called for *une nouvelle politique*. France slowly started to distance itself from its former colonies and attempt to reduce the economic and political connection, including the special advantage their citizens had in the immigration and naturalization process. The first steps towards this were achieved through a stricter definition of family eligibility for family reunification, only the nuclear family and children between 18 and 21 were automatically included. In addition, families must apply and be approved for reunification in their home country before coming to France. The immigrants with residency in France must meet certain standards of length of residence, material condition and financial security before reunification would be approved. A new model emerged with two main focuses: control on immigration to limit the entry of new immigrants and the integration of existing immigrants so they would assimilate into French society.91

*Moment 2: 1990s Pasqua-Debré Laws*

The 1980s, as discussed above, saw a rise in the extreme right in France, namely the FN party. The FN were more successful than expected for an extreme party in the 1984 municipal elections. Their primary effect was not in elected office, however, but the effect of their xenophobic rhetoric on public opinion and political culture. Politicians had shied away from this type of rhetoric in the aftermath of the Holocaust, but the FN saw as a threat France’s ever-growing immigration population as well as the increasing number of second- and third-

The party directly connected the economic recession of the 1970s to immigration. During the early 1980s, increased tensions over immigration and conflicting legislation regarding integration and control policies rose to the surface. Generally, however, immigration was becoming a politicized issue as Feldblum indicates: “The rise of the National Front coincided with—and was both a cause and product of—the politicization of the immigration issue. The particular terms in which what has previously been considered a social and peculiar nationalism of the extreme right; they proved explosive for the same reason.” The FN focus on restrictive and xenophobic policies came at an opportune moment when the country was at a tipping point. The party heightened both the xenophobic and racist sentiments that were under the surface and forced the center right political parties to shift further right on the political spectrum, especially in regards to immigration, in order to appeal to voters who responded to this anti-immigrant rhetoric.

Charles Pasqua was a key figure in the implementation of restrictionist immigration policies. He was a Gaullist politician who served as the Ministère de l’Intérieur under Jacques Chirac’s administration from 1986 to 1988 and under Edouard Balladur’s administration from 1993 to 1995. He is associated with a series of restrictive immigration laws bearing his name that he championed during his second term. His goal was for France to reduce its immigration and ideally reach zero immigration. This sentiment can be seen in his statement, “France has been an immigration country, but she wants to be one no longer.” With the Pasqua laws, he intended to

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94 Hollifield, “France: Republicanism and the Limits of Immigration Control,” 199.
stop immigration, reduce asylum applications and reform citizenship to reduce naturalization of immigrants already in France. His era of restrictive immigration laws began in 1986 with loi 86-1025 or Pasqua I. The law allowed the expulsion of immigrants to be carried out by local authorities, rather than the judiciary. While this did not specifically target one population, it lead to a much higher rate of deportation for African immigration, including the illegal deportation of 101 Malian immigrants. There had been an increase of regional and ethnic activism during the 1960s and 1970s; those on the right rejected the idea that there could be national unity, and those on the left championed the “right to difference.” Both of these went against the republican, universalist rhetoric and instead proved differentials. Immigrants became involved in these movements, and there was an increase in racial violence during the early 1980s. Through this activism, immigration became associated with a broader debate about French national identity.

The debate about national identity culminated in an effort to modify the Code of Nationality in 1986. Jus soli for second- and third-generation immigrants was protected by the Code of Nationality, so that children born in France to foreign parents automatically acquired French citizenship at eighteen years of age. The proposed change suggested that these individuals must request citizenship, rather than automatically acquiring it and imposed additional restrictions for those who served prison time. This modification was intended to reduce the number of African immigrants from becoming French citizens in an attempt to protect French national identity, which was seen as being threatened by the growing culturally and religiously diverse population. The bill was eventually rejected by the Conseil d'État and Chirac

96 Silverman, Deconstructing the Nation, 64
97 Feldblum, Reconstructing Citizenship, 33.
decided it was too controversial to pursue; however, the tension regarding national identity and the growing immigrant population continued. Loi n°93-1027, or Pasqua II, was adopted by the National Assembly and the Senate on August 24th, 1993, and concentrated on the conditions for entry and residence of foreigners in France. It was broken into seven sections and modified a series of ordinances and codes, such as the Civil Code and Penal Code. This law imposed constraints on family reunification. Immigrants who were legally residing within France, either as workers or students, were required to wait two years rather than one to apply for family reunification. In addition, applicants had to prove that they could provide for and house their family in accordance with the requirements laid out by the Office of International Migration.

The law tightened regulations regarding marriage to foreigners as well as the rights of any foreigner who was the spouse of a French citizen. If the authorities suspected that the marriage was a “mariage blanc,” it could be annulled. A foreign spouse of a French citizen had to wait one year, rather than six months, to apply for a residency permit. In addition, if an individual had been an undocumented immigrant at the time of the marriage, the spouse was denied residence permits. Pasqua II included a one-year ban on reentry if a foreigner was expelled from France. It included restrictions on welfare benefits for immigrants such as education and healthcare. Foreigners privately visiting had to be signed for by the person hosting him or her, and this had to be approved by the local mayor who had the ability to refuse the visa. In addition to the restrictions for immigrants, there were specific restrictions that affected refugees such as those expanding the ability to expel refugees and limiting their ability to appeal.

98 Silverman, *Deconstructing the Nation*, 65

Children born in France of foreign parents no longer automatically gained citizenship, but between the ages of eighteen to twenty-one had to declare their intent to become French. The Conseil d'État expressed its concern about the limitations to immigration rights to family reunification and right of asylum-seekers to appeal. Following this, the Conseil Constitutionnel ruled that several aspects of the Pasqua II law were unconstitutional. These included the one-year ban on reentry, the longer waiting period for family reunification, the marriage restrictions and the provisions regarding automatic expulsion and the right of asylum-seekers to appeal. One problematic result of Pasqua II was that it trapped many immigrants, primarily of African descent who were undocumented, in an uncertain situation. They could not be legally deported but were unable to receive residency permits. This led to massive protests and public unrest.

The Debré Law of 1997 under the Ministère de l’Intérieur, Jean-Louis Debré, took the restrictive policies of the Pasqua laws a step farther. To acquire French citizenship, children of foreign nationals had to prove continuous residency in France for ten years. To renew a ten-year residency permit, individuals had to prove that they had maintained residency in France during that time and was not a threat to public order. Police authorities were given access to asylum-seekers’ fingerprints. Foreign spouses of French citizens would now have to wait two years, instead of one to apply for a residency permit. The aspect that caused the most outrage was that private citizens had to notify local authorities when they had non-EU visitors, instead of the visitors’ notifying authorities. It gave police the right to withhold passports and travel documents.

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102 Hollifield, “France: Republicanism and the Limits of Immigration Control,” 203-204.
from foreigners in any “irregular situation.” In addition, it was within the jurisdiction of the mayor to verify when visitors whose visas had expired had left the residence of private citizens.¹⁰³

Many citizens felt this breached their right to privacy and that the law and issues not only affected immigrants, but also directly affected French citizens. More than past restrictive laws, the Debré Law crossed a line and infringed on basic civil liberties of all citizens in a way that was not acceptable for liberal democratic states. Some had even equated this law to aspects of the Vichy era legislation. Regardless of this negative sentiment, the law was passed with a series of modifications. The aspect requiring private citizens to report foreign guests was adjusted so that foreigners were responsible for reporting themselves. Immigrants did not have to meet the provisions to renew a ten-year visa, and the police were not given access to asylum-seekers’ finger prints. This illustrates the restrictions that liberal states faced when they began to enact internal controls on immigration that affect their citizens’ rights; however, the modifications were focused on protecting the rights of citizens and not necessarily those of immigrants. African visitors were still required to prove that they possessed adequate funds and accommodations.¹⁰⁴

While the Pasqua and Debré laws did in fact seem to reduce the immigration rate for several years to that of the late 1940s to early 1950s, they were widely considered to have overstepped the bounds of acceptable restrictive immigration and asylum policy. The passage of these laws led to civil disobedience, court rulings that caused modifications and a resurgence of the left on the political scene. Once the PS regained political momentum in the late 1990s, the


most restrictive aspects of these laws were repealed, returning to the more traditionally expansive French model of citizenship. The Guigou Law reinstated *jus soli*, however, individuals still had to request citizenship at eighteen and meet certain qualifications. From this point on, French citizenship was never automatically given. The Chevement Law repealed many of the extreme requirements for entry and exclusion. Family reunification was prioritized, and two new forms of asylum were created. However, some restrictive elements of the Pasqua laws were retained, such as the right to expel someone who posed a “threat to public order.” These laws shifted French immigration policy as a whole away from internal restriction and back to the previous structure of restricting entry, but ensuring the rights and integration of immigrants residing in France.  

**Moment 3: 2006 Immigration Reform**

With significant back and forth on immigration law from the 1980s onward, by the early 2000s the French government was in need of passing a law to reconstruct and reform the French immigration system. Riots in suburbs of Paris were seen by the administration as a failure of the French integration model. Nicolas Sarkozy, the Ministère de l'Intérieur, and future President of France, pushed for more controlled and selective immigration policies, which in turn would lead to better integration. He argued that selective immigration “…is the expression of France’s sovereignty. It is the right of our country, like all great democracies of the world, to choose which foreigners it allows to reside on our territory.” He cited the 1974 suspension of immigration and subsequent shift from labor recruitment to family reunification as the decisive moment accounting for many issues facing France. \(^{106}\) The law that Sarkozy proposed, Loi n


° 2006-911 or Sarkozy II, focuses on immigration and integration and was passed in July 2006. This law is divided into seven subsections and focuses on several main aspects: recruiting skilled workers, encouraging foreign students' residence, restricting family reunification, restricting access to residence and citizenship and expanding integration programs.

A new residency permit for three years was created for “skilled and talented” immigrants, which targets workers with specific skill sets France is seeking. The government is allowed to determine geographic and professional areas within France that need assistance with labor recruitment. It gives priority to these areas to assist with recruiting immigrants with the specific skills needed. Immigrants applying for residency permits must sign a reception and integration contract as well as go through civic and linguistic courses. Prior to receiving a ten-year residency card, the immigrant must fulfill three conditions: “a personal commitment to respect the principles and governing of the French republic, the effective observance of these principles and a sufficient knowledge of the French language.”107 As for skilled laborers, the law provided new opportunities for foreign students. They must receive approval from their country of origin to study in France, but students are granted a six-month renewable visa and allowed to pursue a professional experience after the completion of a graduate degree.

In the area of family reunification and marriage, a ten-year residency card would be given to a foreign spouse after three years, instead of after two years, of marriage, and in addition that spouse must prove his or her integration into French society and knowledge of the French language. For an immigrant to request family reunification, he or she must meet additional requirements. This law requires at least eighteen months of residency in France. The resident

must be earning the SMIC, the French minimum wage, from employment and not government assistance, and must prove that he or she complies the principles of France. In addition, spouses of French citizens must be married for three years, instead of two, before being able to apply for a 10-year residence permit. 108

Previous legislation allows residents of 10 years or more to apply for legal status. Sarkozy II added a complication to this process. If an individual was denied regularization, the government had the authority to deport these now “illegal” immigrants. Undocumented immigrants who were considered a threat to public order were also able to be deported. This provision provoked outrage, specifically from immigrants with children in school. Immigrants must meet specific criteria to avoid deportation, which include “having a child enrolled in the French school system and demonstrating a "real will" to integrate.”109

This law demonstrates a shift toward more controlled policies and a heavy focus on integration as a prerequisite to long-term residency or citizenship. In previous legislation, there was not the need to prove integration in the explicit way it is laid out in Sarkozy II. In addition, this legislation refocuses on labor requirements in a way that had not been done since prior to the 1974 suspension. This time there are significantly more regulations, with a strong focus on skilled laborers who are beneficial to France’s industries. According to the National Institute of Statistics and Economic Education, since 2004 European immigration to France has increased, while other geographical groups have stayed relatively even. Seemingly as an effect of Sarkozy II’s focus on skilled labor and retention of students, there has been an increase in immigrants’

109 Murphy, “France’s New Law”
education levels, with 63 percent of immigrants in 2012 having at least a bachelor’s degree and 29 percent having more than a bachelor’s degree education.\(^\text{110}\)

Since WWII there has been a shift in French immigration flows and policies. Demographically there has been a shift from European immigrants to post-colonial African immigrants. In the immediate postwar era, France was in need of labor and welcomed immigrants; however, with the increased number of immigrants, especially of African origin, France began to grapple with how to control influxes of immigration, leading to a series of restrictions to immigration. Citizenship likewise has undergone fundamental changes. \textit{Jus soli} policy is still fundamental to French citizenship, but automatic acquisition of French citizenship was never regained after the Pasqua laws in the early 1990s. France’s expansive access to citizenship has decreased; however, due to the republican and expansive conception of citizenship, French citizenship policy cannot become too restrictive.

CHAPTER THREE: GERMANY

German Conception of Citizenship

While France was experiencing the creation of a modern nation state and creating a national sense of belonging in the aftermath of the revolution, Germany was not yet a consolidated country and did not have a unanimous understanding of belonging. The disintegration of the ständish social orders in the 19th century and increasing freedom of movement caused overpopulation in rural areas. The German Confederation, founded in 1815, allowed freedom of movement, but required permission to settle and retained the right to expel unwanted immigrants. Individual belonging was based on domicile, similarly to France during the ancien régime, but by the mid-1850s, an individual’s domicile was decided based on membership, rather than the other way around. This created the need for defining belonging based on something more than domicile. A difference between foreigners and subjects should be defined, and this development was the first major step toward a regulated status of citizenship.

German understanding of belonging and conception of nation was not originally political or linked to citizenship; therefore, the German conception of citizenship was not based on political belonging, but rather an ethnic sense of belonging through a shared language and culture. The 1913 Nationality Act determined German citizenship law as strictly *jus sanguinis*, the right to citizenship was exclusively based on descent, causing it to be restrictive toward non-Germans, even those residing in Germany, and expansive toward ethnic Germans. This legislation reflects the ethnocultural self-understanding of citizenship. Brubaker asserts that one

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reason Germany chose to restrict citizenship in this way was its concern about the inability to assimilate non-Germans into German culture. The French had a strong faith in their ability to assimilate foreigners, but Germany experienced complications attempting to assimilate Poles into the German culture.\textsuperscript{113}

After the end of WWI and the division of the territory of the Third Reich, the Federal Republic of Germany (FRG) was founded on May 23, 1949, and through the creation of the Basic Law defined the core structure and duties of the new state. In addition, it laid down basic fundamental human rights, which were at the heart of the creation of this new state, due to the recent human rights violations the Third Reich had committed. Germany sought to atone for these transgressions and prove its legitimacy as a liberal democratic state. The Basic Law contained several articles regarding who had a right to German citizenship; however, it did not contain any formal policies for naturalization or acquisition of citizenship. It provided expansive access to citizenship both for those of German descent and to those who experienced political persecution, but there was no mention of citizenship tied to territory, such as the *jus soli* policies in place in France at this time.

The first nineteen articles of the Basic Law focus on basic rights. Article 16 states that, “No German may be deprived of his citizenship.” Article 116 lays out expansive access to German citizenship for those of German descent, regardless of their current country of residence or state of birth. “Former German citizens who between 30 January 1933 and 8 May 1945 were deprived of their citizenship on political, racial or religious grounds, and their descendants, shall

\textsuperscript{113} Brubaker, “Immigration, Citizenship, and the Nation-State in France and Germany,”
on application have their citizenship restored.”\textsuperscript{114} While this article did include date restrictions and an application, this right to citizenship was liberally conveyed.

We will see in the following case study that citizenship remained as it is laid out in the Basic Law until the twenty-first century. During the 1990s, there were some provisions for naturalization after extended residency in Germany, due to the larger number of immigrants and their children permanently residing in Germany. Until the 2000 law, however, citizenship was dependent on German ethnicity. In 2000, children born to foreigners who had lived in Germany for at least eight years, automatically received German citizenship. If children had a claim to German citizenship and citizenship in their parents’ country of origin, they must choose between them by age twenty-three. While the original bill allowed dual citizenship, this was blocked by the more conservative coalition.\textsuperscript{115} This legislation marked a fundamental shift in German citizenship policy and understanding of national identity. It demographically increased the German population due to the large number of second-generation immigrants who then were able to gain German citizenship. In 2000 and 2001, this accounted for about 80,000 children who were given German citizenship at birth.\textsuperscript{116}

\textbf{A Brief History of Immigration}

Similar to France, Germany did not consider itself to be a country of immigration. For much of its modern history, it lacked a comprehensive immigration policy, handling each influx as it came with no clear long-term planning. Well into the 1980s, when the foreign population exceeded 4.5 million, public sentiment was clear: Germany was not a country of immigration.

\textsuperscript{116} Oezcan, “Germany: Immigration in Transition.”
While it was primarily a country of emigration for much of its history, Germany had experienced migration, prior to WWII, of Poles who emigrated from Prussia to the new German state. The industrialization of Germany in the mid-1800s created an increased need for labor, especially in the mining sector. This paired with anti-Polish sentiments in Prussia created an increase in Polish workers. They were recruited as seasonal or unskilled labor. A rotational temporary worker program was created that made it necessary for foreign Poles to return to their country of origin for seven weeks before they were allowed reentry.\(^{117}\) Germany was apprehensive about the Poles’ desire to create a Polish state and nationalist mobilization that accompanied this sentiment. They pushed for the “Germanization” of these immigrants to attempt to dispel the national sentiment. Once a Polish state was reestablished, however, the nationalist mobilization dissipated, and most Poles chose to stay and settle in Germany.\(^ {118}\) Many of these Poles permanently settling in Germany led to an increase in discrimination and anti-Polish sentiment; however, gradually there was a shift toward integration. There began to be more social mobility and participating in society by the third-generation immigrants who had grown up in Germany and learned the language. The rise of the Nazi party and xenophobic sentiment created pressure for the Poles to become more German, including changing their names to sound more German and blending into the native population.\(^ {119}\)

By 1910 there were about 1.3 million foreigners in Germany, primarily consisting of foreign laborers. This involvement with Polish workers gave the German state a preliminary

\(^{117}\) Chin, *The Guest Worker Question*, 53

\(^{118}\) Leo Lucassen, *The Immigrant Threat: The Integration of Old and New Migrants in Western Europe since 1850*, 66-69.

\(^{119}\) Lucassen, *The Immigrant Threat*, 71-72.
experience with guest workers that would be essential in the post-WWII era. During WWII under the Third Reich, Germany employed about 7.7 million foreign workers from surrounding occupied countries. This mix of civilians and prisoners of war was essential for keeping infrastructure going in Germany and supporting the war effort. This gave German employers an additional experience handling a foreign workforce. Despite these two experiences with foreign labor, the number of foreigners in Germany was minimal. Until the 1950s, Germany remained primarily a country of emigration. During WWII, many residents chose or were forced to leave Germany. This created two phenomena: a dispersion of ethnic Germans to other countries and a reduced workforce remaining in Germany.\textsuperscript{120}

In the post-war era, Germany experienced several different major flows of immigration. Unlike France, Germany did not have a colonial empire, and therefore did not have the same experience with decolonization and immigration of past colonial subjects with special privileges. However, Germany experienced immigration from a variety of different types of immigrants: refugees and expellees from WWII or Ostvertriebene; Ethnic Germans or Assiedler; Germans from the German Democratic Republic (GDR) or Übersiedler; foreign labor migrants or Gastarbeiter and other groups of asylum-seekers and refugees.\textsuperscript{121} While guest workers and their families emerged as the largest percentage of the foreign population, each type of immigration significantly contributed to Germany’s foreign population and affected its history of immigration.

\begin{footnotes}
\item[121] Rainer Münz and Ralf Ulrich, ““Changing Patters of Immigration to Germany, 1945-1997,” UC Davis: Research and Seminars.
\end{footnotes}
With the founding of the FRG in 1949 and with assistance from the Marshall Plan, the economy quickly recovered and entered an era of extraordinary growth, referred to as *Wirtschaftswunder*, or “economic miracle.” During the first five years, the growth rate was eight percent and averaged six percent until the 1970s. There was an extreme shortage of able-bodied Germans to fulfill the large demand for labor needed to sustain this growth.\(^{122}\) The first influx of immigrations to Germany were refugees, expellees and citizens of the GDR. The Basic Law of West Germany that constructed citizenship also contained expansive policies for ethnic Germans and asylum-seekers as a way of atoning for the crimes of the Third Reich. Due to the recent history of discrimination and genocide, it was important for the new German state to politically distance itself from any previous policies, not making it acceptable to have restrictive policies against those affected by the Third Reich. Article 116 of the Basic Law “gives those born of German parents, no matter how diluted their German heritage, the right to German citizenship if they suffered persecution after WWII because of their German heritage.”\(^{123}\) This provision created a special category of immigrants from former German territories or who were children of Germans who had immigrated to Eastern Europe and had claims to German citizenship. Many of these individuals were fleeing from Soviet occupation, and during the early postwar era, over 8 million ethnic Germans settled in West Germany.\(^{124}\)

Similarly, Article 16 of the Basic Law provided an extremely liberal definition for asylum-seekers, stating that all “persons persecuted for political reasons enjoy the right of

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\(^{122}\) Rita Chin, *The Guest Worker Question in Postwar Germany*, (Cambridge: Cambridge University Press, 2009), 33

\(^{123}\) Martin, Philip, “Germany: Managing Migration,” 234.

\(^{124}\) Chin, *The Guest Worker Question*, 34-35
asylum.”

The general qualification of political participation allowed a broad range of individuals to take advantage of this right; however, while it was used by some refugees after the end of WWII, it did not become used widely until the 1980s. In addition to ethnic Germans and refugees, there was a large number of Germans who migrated from the GDR to the FRG. This slowed down but did not stop with the construction of the Berlin Wall. Previous to that between 1945 and 1961, 3.8 million migrated from east to west. These three inflows of immigrants after WWII helped offset the labor shortage but did not meet the demand.

Germany turned to foreign labor as a solution and signed a bilateral agreement with Italy in 1955. The construction of the Berlin Wall in 1961 reduced immigrant flows from the GDR and created an even greater need for foreign laborers. Germany subsequently signed similar bilateral guest worker agreements with Spain and Greece in 1960, with Turkey in 1961, with Morocco in 1963, with Portugal in 1964, with Tunisia in 1965 and with Yugoslavia in 1968. The Treaty of Rome signed in 1957, which created the European Economic Community (EEC), allowed movement of workers throughout the EEC, so that many Western Europeans could work in Germany without a guest worker agreement.

There was some skepticism about this new plan on the part of the Christian Democratic Party (CDP), but as a whole the program faced minimal opposition, as no politician wanted to see a slowdown in economic growth. The long-term implications of a guest worker program and increase in foreign population were not thoroughly considered, and these guest workers were not intended to settle in Germany, but rather to work for a limited time and then return home. These agreements were for limited one- or two-year work permits. Workers applied in their home

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125 “Basic Law for the Federal Republic of Germany”
countries at recruitment offices, underwent physical and medical tests, their information was
given to German employers seeking foreign labor, and if chosen the workers signed contracts
with a specific employer who paid for their travel to Germany.\textsuperscript{126} At first the media coverage and
public opinion about these guest workers was primarily positive while unemployment was low,
and the assumption was that workers would eventually return to their country of origin.

Guest worker programs rapidly expanded in West Germany. In 1964 the one-millionth
guest worker arrived and was welcomed in a celebratory manner. In 1960 foreigners were 1.2
percent of the total German population, but by 1973 this had grown to 6.7 percent. At the
beginning, Italians made up the largest nationality within the foreign population, but a
demographic shift occurred by the 1970s, and Turkish immigrants overwhelmingly became the
largest percentage of foreign workers at 23 percent. Recruitment peaked between 1968 and 1973
reaching 2.6 million at its height. The goal of the guest worker program was to “counterbalance
cyclical and demographic bottlenecks in West German labor markets”\textsuperscript{127} and fulfill the demands
for labor without creating permanent settlement of foreigners. The failure of the rotational guest
worker program began to become apparent in the 1960s. While the government and the public
did not want guest workers to settle permanently in Germany, the yearly or biyearly rotation was
not favorable for employers. They did not want to have to constantly recruit and retrain new
workers.

With mounting criticism of the limited guest worker model, Germany eased the one- or
two-year contracts and began allowing guest workers to stay in the country for longer periods. A

\textsuperscript{126} Chin, \textit{The Guest Worker Question}, 36-40

\textsuperscript{127} Rainer Münz and Ralf E. Ulrich
small economic recession from 1966 to 1967 and an increase in unemployment caused the first significant anti-guest worker sentiments in Germany. The government encouraged guest workers to return home during the recession, but continued recruiting when the economy recovered in 1968. However, due to the sheer number of guest workers in Germany in the 1960s, it began to be difficult for German’s to ignore the growing foreign population. “Labor recruitment affected every aspect of society and that the massive number of guest workers now on West German soil made expectation of temporary, circumscribed migration impossible”\textsuperscript{128} Even before a rise in unemployment in the 1970s, there was a growing concern about the amount of foreign laborers and efforts to restrict their recruitment. \textsuperscript{129}

The oil shock of 1973 led to a decrease in demand for foreign laborers. Unlike the previous recession, instead of encouraging workers to return home, Germany formally ended its foreign recruitment program in an effort to reduce the foreign population in Germany and the entry of subsequent workers; however, this had the opposite effect. Faced with the possibility of not being able to reenter Germany when the economic conditions improved, many guest workers chose to stay in Germany and settle more permanently. Now that they no longer were intending to return home in the short term, many of these former guest workers sought to bring their families to Germany through family reunification. Since German citizenship law did not include any \textit{jus soli} provisions and did not grant citizenship to second- or third-generation immigrants, this rapidly expanded the number of foreigners living in Germany. By 1988 the foreign population had reached 7.3 percent.\textsuperscript{130} The increase combined with the larger visibility of foreign

\textsuperscript{128} Chin, \textit{The Guest Worker Question}, 54.

\textsuperscript{129} Martin, Philip, “Germany: Managing Migration,” 228.

\textsuperscript{130} Oezcan, “Germany: Immigration in Transition.”
families and children in the public and social spheres created a growing concern about the large and culturally different foreign population. The far right, nationalist component of the German political sphere fed into the fear that this large percentage of foreigners was changing German culture.\textsuperscript{131}

This increase in the number of guest workers and their families taking up permanent residence coincided with a surge in ethnic German immigration and asylum-seekers. With the fall of the Iron Curtain, there was liberalization in emigration policies. Many ethnic Germans who previously had not had freedom of movement, were able to take advantage of their right to German citizenship. Between 1988 and 2003, 3 million ethnic Germans migrated and accounted for a large percentage of immigration to Germany.\textsuperscript{132} These ethnic Germans were as a whole more removed from their German ethnicity than those who had immigrated immediately after WWII. Many did not speak German and brought their non-ethnic German family members with them through family reunification. The late 1980s also saw an influx in asylum-seekers as civil wars, ethnic cleansing and coups increased. The coinciding increase in ethnic Germans and asylum-seekers created an intensification of xenophobia and violence against immigrants and asylum-seekers in the late 1980s.

In the early 1990s, Germany sought to restrict these immigrant flows and began to grapple with the need to integrate the large foreign population permanently residing in Germany. Public sentiment reflected that Germans still did not perceive their country as a country of immigration. The majority of citizens expressed that there were too many foreigners in Germany.

\textsuperscript{131} Martin, Philip, “Germany: Managing Migration,” 228.

\textsuperscript{132} Oezcan, “Germany: Immigration in Transition,”
and there was a growing concern about the diversity and Muslim religion of a large segment of the foreign population. “For almost half a century, the Federal Republic has struggled to come to terms with the growing diversity fueled by its postwar labor recruitment. Ultimately, then, this is not simply a study of demographic change and its social political and cultural impacts.”

A series of reforms in the early 1990s began to tackle this problem and attempted to restrict some of the immigrant flows and foster integration. To decrease the number of individuals seeking asylum in Germany, the state restricted its asylum policy for the first time since 1949. These restrictions did not negate the Basic Law provisions, but added a clause stating that asylum-seekers could not enter through “safe countries,” or they would risk being sent back. Ethnic Germans were restricted through a more regulated process including having to prove their German heritage. Furthermore, there was a limit of 220,000 ethnic Germans admitted per year. On the other hand, it opened a path to citizenship for foreigners living in Germany, which granted citizenship to foreigners who had legally resided in Germany for fifteen years, if they had no criminal record and renounced their previous citizenship.

The influx of ethnic Germans, asylum-seekers and guest workers’ families combined with a growing concern about foreigners in Germany created the need for further developed immigration control and integration policies. In 2000, as mentioned in the previous section, Germany liberalized its citizenship laws to include *jus soli* policies allowing more access to foreigners, immigrants and their children to German citizenship. A report from the immigration commission titled “Organizing Immigration — Foster Immigration,” published in 2001,

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134 Martin, Philip, “Germany: Managing Migration,” 244.
135 Rainer Münz and Ralf E. Ulrich
acknowledged that Germany was a country of immigration, and encouraged additional entry of immigrants as well as policies to appropriately handle immigration and integration.\textsuperscript{136} The proposed immigration reform law streamlined the asylum process, had preferences for skilled workers, entrepreneurs and students, further regulated family reunification and created a more extensive integration program.

Figure 3: German Net Migration\textsuperscript{137}

Figure 3, showing the net migration in Germany, reflects how economic downturns affected the immigrant population while it remained rotational. The first net migration loss occurred during the small recession in 1966 to 1967. The second indicates the end of the guest workers program and economic recession in the mid-1970s. The 1980s once again saw a drop in immigration, but then a large increase with the influx of ethnic Germans and asylum-seekers. As Figure 4 indicates, the immigrant population as a whole has continuously increased, with only small dips. The largest periods of growth were in the early 1970s and late 1980s. By the 1990s,

\textsuperscript{136} Martin, Philip, “Germany: Managing Migration,” 221.

the immigrant population was relatively steady. The decrease in 2000 represents the large number of immigrants and their descendants who gained citizenship status in the 2000s. This impacted the composition of the German population, increasing not the amount of foreign immigrants, but the number of German citizens with immigrant backgrounds.

Figure 4: Immigrant Population in Germany

Moments in German Immigration Policy

Moment 1: 1973 End to Guest Worker Recruitment

As briefly discussed above, a small economic recession from 1966 to 1967 created a lack of demand for foreign laborers for the first time since the beginning of the recruitment programs.

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During this recession, Germany encouraged guest workers to return home, but did not end the guest worker program as a whole. Recruitment continued in full force once the economy had recovered and peaked with 2.6 million guest workers in 1973. More and more immigrants were choosing to stay permanently in Germany. While the rhetoric, that these were temporary immigrants and recruitment was rotational, was still enforced, Germany had eased up on the rotational policies at the urging of employers who did not want to have to continuously recruit and train new workers. Germany did not want to risk an economic downturn or the potential negative political image of forcing migrants to return to their home countries, which would be especially salient due to their political history. By the early 1970s, a guest worker who had worked in Germany for at least five years was able to obtain a permit to stay for an additional five years. Additionally, Germany was not especially restrictive regarding family reunification of these immigrants who were contributing to the country’s workforce and welfare system, which endowed them with “embedded rights” to receive benefits. The increased number and permanency of immigrants was becoming more evident by the early 1970s, and guest workers’ families began to join them in larger numbers. Families and children made the permanence of these immigrants more apparent by their presence in schools, neighborhoods and in other public places.

There began to be a concern about the growing, more permanent immigrant population, on the part of the German state and citizens. While employers still demanded additional foreign

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140 Münz and Ulrich, “Changing Patters of Immigration.”
141 Lucassen, *The Immigrant Threat*, 149.
labor, efforts began to be made to reduce the immigration of foreign laborers. Much of the literature correlates restriction of guest workers with the economic recession and rise in unemployment; however, discouragement of hiring guest workers began prior to any indication of the oil crisis. Early in 1973, the government more than tripled the fee employees paid to be able to recruit guest workers, from 300DM to 1000DM. The economic recession that hit later in the year only furthered this trend of restriction. In November 1973, Germany formally ended their guest worker program. There could be no recruitment of unskilled laborers for a job of more than ninety days. The intention of stopping immigration was to decrease the foreign population in Germany. As with the previous recession, Germany encouraged labor migrants to return to their home countries, but this time this was not an effective strategy.

With the formalized end of the guest worker agreements, if these workers left Germany, they would not have a large chance of reentry when the economy recovered. Even though unemployment was high, especially for immigrants, and there were programs that gave workers monetary incentives to give up their work permits and return home, many decided to remain in Germany so they could continue working there in the future. With the conscious decision to settle permanently, workers increasingly made the decision to bring their families to Germany to live with them. “Thus, due to increased social and legal rights of the immigrants already in Germany, the government’s change to the restrictive “aliens” policy in 1973 sparked an unexpected consequence, family reunification that was many times larger than the initial guest worker migration”

Prior to the end of the guest worker program, 80 percent of foreigners were

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144 Lucassen, The Immigrant Threat, 149.
men without their wives or children; however, by the 1980s only 20 percent were living without families.\textsuperscript{145} While the recruitment of foreign labor had ended, immigration through family reunification was still possible. Instead of the number of foreigners in Germany decreasing, it increased to 4.5 million by 1980 and 5.8 million by 1991, primarily due to family reunification, asylum and ethnic Germans.\textsuperscript{146}

\textbf{Moment 2: 1993 Restriction and Foreigner Law}

In addition to the growing concern about the population, foreign guest workers and their families, the fall of the iron curtain created a migration of individuals who had legal claims to German citizenship due to the Basic Law. Ethnic Germans had privileged access compared to other immigrants. Article 116 of the Basic Law “gives those born of German parents, no matter how diluted their German heritage, the right to German citizenship if they suffered persecution after WWII because of their German heritage.”\textsuperscript{147} They were able to receive language, employment and welfare assistance. This automatic acceptance and assistance was feasible with the relatively small number of ethnic Germans arriving prior to the 1980s. Many of these ethnic Germans had been living under the Soviet Union with restriction on their freedom of movement, but now with the fall of the iron curtain, they were able to take advantage of their ability to move to Germany. From 1988 to 2003, 3 million ethnic Germans immigrated to Germany.\textsuperscript{148} They were different from the ethnic Germans that had immigrated in earlier years. This wave had more distant connections to Germany and often spoke little of the language. There was a general

\textsuperscript{145} Münz and Ulrich, “Changing Patterns of Immigration.”

\textsuperscript{146} Martin, Philip, “Germany: Managing Migration,” 230.

\textsuperscript{147} Martin, Philip, “Germany: Managing Migration,” 234.

\textsuperscript{148} Oezcan, “Germany: Immigration in Transition,”
concern that they were not arriving due to persecution owing to their German ethnicity, but rather for economic reasons.\textsuperscript{149}

There were two laws enacted, one in 1990 and the second in 1992, that restricted access of ethnic Germans. The first mandated that individuals must apply from the country of origin and consisted of a lengthy questionnaire that required them to prove their German descent. The consideration and decision of applications became less automatic and resulted in a slower bureaucratic process. The second law created yearly quotas for the number of ethnic Germans accepted. That quota was set at 220,000 per year from 1993 until 1999, and then starting in 2000 was reduced to 103,000. Additionally, all applicants were required to prove that they were facing persuasion or pressure to emigrate, with the exception of immigrants from the former Soviet Union territory. Lastly, it stated that ethnic Germans born after 1992 would no longer have a right to admission to Germany after 2010 on the basis of their origin. They could alternatively enter through family reunification. \textsuperscript{150}

There was also a rise of asylum applications in the late 1980s. Germany historically was extremely open to asylum-seekers and refugees due to their political past. Article 16 of the Basic Law stated that “persons persecuted for political reasons enjoy the right of asylum.”\textsuperscript{151} The influx of asylum-seekers in the 1980s coincided with the increased number of ethnic Germans and the rising anxiety about guest workers; this caused a general sentiment among the public that

\textsuperscript{149} Münz and Ulrich, “Changing Patterns of Immigration.”

\textsuperscript{150} Münz and Ulrich, “Changing Patterns of Immigration.”

\textsuperscript{151} “Basic Law for the Federal Republic of Germany”
Germany was being “overrun by foreigners.”\textsuperscript{152} Between 1953 and 1978, there had been 178,000 asylum applications; however, between 1979 and 1981 alone there were 200,000 applications.\textsuperscript{153}

There was discussion of amending the Basic Law, but this was quickly struck down by the leftist coalition within the government. In 1993 they compromised, maintaining the expansive definition of the Basic Law, but amending it to restrict access of asylum-seekers. Germany no longer would accept asylum applicants who either lived in or had traveled through countries designated as “safe countries.” An asylum-seeker could be returned either to their country of origin or the first safe country he or she had entered. Germany was surrounded by safe countries, giving it a buffer zone between itself and any asylum-seeker. This provision required applicants to apply from their home country for asylum or fly to Germany if they wanted to be granted asylum there.\textsuperscript{154} This policy was effective and reduced asylum applications from 116,000 in 1996 to 18,600 in 2000.\textsuperscript{155}

The last major reform of the 1990s was a gradual opening of access to citizenship for immigrants. While there was discussion about changing German citizenship law at its core to allow second-generation immigrant citizenship from birth, that remained too controversial in the early 1990s. The 1993 reform allowed foreigners who had been living in Germany for more than fifteen years to attain German citizenship, providing they did not have a criminal record and were willing to renounce their citizenship from their country of origin. These applications for citizenship were determined at the discretion of German authorities and could be denied for acts

\textsuperscript{153} Münz and Ulrich, “Changing Patters of Immigration.”
\textsuperscript{154} Oezcan, “Germany: Immigration in Transition.”
\textsuperscript{155} Martin, Philip, “Germany: Managing Migration,”
such as receiving welfare payments or simply if it were “not in the interest of the German state.” Additionally, second-generation immigrants between the ages of sixteen and twenty-three were able to apply for citizenship as well if they had lived in Germany for eight years and attended German schools for six of those years.\textsuperscript{156}

**Moment 3: 2000s Immigration Reforms**

By the turn of the twenty-first century Germany had a sizable immigrant population, an aging native population, a need for foreign workers in certain industries, and on the whole, Germans were not positive about the prospect of additional immigrants entering their country. Sixty-six percent of Germans thought that immigration had “exceeded the limits of what is bearable.”\textsuperscript{157} As discussed in the section about citizenship, the Citizenship Reform of 2000 fundamentally changed the conception of citizenship in Germany by shifting from an ethnic to territorial understanding of citizenship. At that time, a significant part of the foreign population was naturalized, and Germany shifted its focus to constructing immigration controls and integrating immigrants living in Germany. A policy review for a new immigration law began in 2001 with the Süßmuth Commission’s report, “Structuring Immigration, Fostering Integration,” which suggested minimal controlled immigration of foreign workers who possessed favorable characteristics chosen through a point system, streamlining the asylum process. It encouraged increasing immigration, but in specific areas with set yearly quotas.\textsuperscript{158} The Minister of the Interior introduced an Immigration Bill in 2001 that included many of the suggestions laid out by the Commission. This bill was approved by both the lower and upper houses and signed into law


\textsuperscript{157} Martin, Philip, “Germany: Managing Migration,” 147.

\textsuperscript{158} Oezcan, “Germany: Immigration in Transition.”
in 2002; however, the conservative opposition filed a lawsuit. The Federal Court blocked the law based on a technicality of how it was passed, not the content of the legislation. Immigration had become an especially salient issue in the 2002 election. President Rau acknowledged that Germany was a country of immigration and must address integration, nevertheless, public sentiment remained staunchly anti-immigrant. In 2002, 46 percent of Germans did not want more immigrants in the country, and 36 percent felt that there were too many already in the country.\textsuperscript{159}

The identical bill was reintroduced in 2003; however, this time there was more opposition, and while it was passed by the lower house, the upper house, where the Christian Democrats had a majority, blocked the bill.\textsuperscript{160} After some compromise the law was finally signed in 2004 and went into effect January 1, 2005. The law reestablished entry for foreign workers, but not in the relatively unrestrictive and unrelated fashion of the guest worker program of the mid-1900s. It created opportunities for highly skilled immigrants. The original version of the law selected workers through the points system suggested by the Süßmuth commission; however, in the revised version this was rejected.\textsuperscript{161} Top scientists and managers were greatly needed in the German workforce, and therefore, were allowed permanent residence. Entrepreneurs were also considered a desirable group and given admittance under the new law under the stipulation that they would invest at least one million euros into their businesses in Germany and create ten new jobs. Overall, employers were only able to hire foreign workers if there were no German or EU nationals capable of doing the job.

\textsuperscript{159} Martin, Philip, “Germany: Managing Migration,” 249.
\textsuperscript{160} Oezcan, “Germany: Immigration in Transition.”
\textsuperscript{161} Oezcan, “Germany: Immigration in Transition.”
Students were allowed to remain in Germany for one year after completing their higher education studies to search for work, this was an effort to keep more highly skilled workers in Germany. The law also stressed the importance of integration, especially knowledge of the German language. Foreigners residing in Germany for less than six years as well as all future immigrants would be required to take German classes. The asylum process was tightened in an attempt to reduce fraudulent asylum applications. Asylum-seekers who had not yet been approved were given a protected status for a maximum of three years and were allowed to work, but not through residency or work permits. The events of 9/11 heightened concern about terrorists and religious extremists, which in turn further established a link between immigrants and terrorists in the minds of many. The law simplified the processes of deporting foreigners for national security concerns, especially political and religious extremists.

This reform of the immigration system was the first major consolidation of immigration regulations. Prior laws that focused on immigration had emphasized finding a solution for short-term issues. This law began to address major issues that Germany and other industrial democracies were facing. How many immigrants to accept? With what type of qualifications? How to integrate a growing immigrant population? However, this immigration reform was criticized for not going far enough. In an article for the National Migration Institute, Rainer Münz asserts that “the law squanders the chance to devise a pioneering new regulatory framework for pro-active migration policy that is urgently needed by Germany (and other European countries) given foreseeable demographic challenges.”

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162 Oezcan, “Germany: Immigration in Transition.”
163 Martin, Philip, “Germany: Managing Migration.”
164 Oezcan, “Germany: Immigration in Transition.”
decreasing birthrate among natives, meanwhile the older population is growing. Immigrants are important not only to the job market, but essential to ensure that Germany’s welfare state can continue to provide for its aging population. In addition, it lacks the highly skilled professionals needed in the workforce. The new immigration reforms of the 2000s have taken a step to correct this predicament and use targeted, foreign worker recruitment to attain these missing professionals. Germany is still attempting to accept itself as a country of immigration, but if it is to continue to be the economically successful and politically respected superpower of Europe that it is today, it will need to rely on continuing immigration.

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CHAPTER FOUR: ANALYSIS AND CONCLUSION

Analysis of Case Studies

The two previous chapters demonstrate that France and Germany historically have had strikingly different conceptions of citizenship and histories of immigration. France’s conception of citizenship, born out of the French Revolution, consisted of a political and state-centered conception of citizenship. Germany, on the other hand, was not consolidated into a unified state until considerably later, and its conception of citizenship was based on an ethnocultural definition of citizenship. Most countries in Europe originally functioned under a *jus sanguinis* model of citizenship due to the conception of belonging being less formal and more locally focused. France was one of the first to incorporate *jus soli* elements into its citizenship policy; however, it is important to note that the French model has never been exclusively *jus soli*, but a mix between the two models, with many territorial based provisions for citizenship.

Germany has had a somewhat contradictory citizenship policy since WWII—expansive for some groups, while restrictive for others. On one hand, citizenship was accessible for ethnic Germans and asylum-seekers in the post war period; however, those groups have faced more restrictions to their access to German citizenship since the 1980s. On the other hand, there were few opportunities for naturalization for non-ethnic Germans creating a large foreign population, including longtime residents and second-generation immigrants who had been born and raised in Germany. Access to citizenship for these groups began to increase prior to the moments of citizenship reform in 2000. Foreigners were able to gain citizenship after fifteen years of residency, and individuals between sixteen and twenty-three years old were able to gain citizenship after eight years of residency and six years of German schooling. In 2000, children
born in Germany were granted automatic German citizenship at birth, and this marked the true turning point in the accessibility of German citizenship. Access to German citizenship was expansive for ethnic-Germans after WWII, but has continuously become more restrictive. This original expansiveness and subsequent restrictions denote important trends in German immigration flows and attempts to control immigration; however, for the purpose of this analysis, I will consider expansive access to German citizenship policies to be those that are expansive to immigrant populations as a whole, not only for those with German ethnicity. In regard to this more general collection of immigrants, Germany’s policies have seen a shift from restricted access to citizenship to a more expansive access.

In regard to immigration policy, both France and Germany experienced small amounts of immigration prior to WWII and then faced a large influx of immigrants in the post-WWII era. Their primary surges of immigration have originated from different sources: postcolonial migration in France and guest workers in Germany. Both countries were in need of labor in the immediate post-war era and welcomed this immigration, but struggled because neither country had adequate immigration control policies to slow these flows when economic downturns and anti-immigrant sentiment occurred. Both countries had privileged categories of immigrants, postcolonial immigrants in France and the ethnic German immigrants in Germany, who had rights to citizenship or residency. While these policies were politically advantageous when these flows were minimal, as flows increased, both countries struggled with how to limit access to individuals who already possessed certain privileges and rights, without overstepping their boundaries as liberal democratic states.
France had a relatively open immigration regime after WWII, especially for colonial and soon-to-be postcolonial immigrants, who, as mentioned above, had special access to immigration and citizenship. The first major restriction was the freeze of immigration in 1974. This began a trend of more restrictive policies, especially toward specific immigrant groups as France attempted to distance itself from its colonial connections. Germany’s Basic Law provided expansive access for ethnic Germans and refugees, which was irrefutably tied to the nations’ recent history and was a method of atoning for the atrocities committed by the Nazi regime towards individuals within these groups. The post-war economic boom required additional immigration, creating the need for a robust guest worker program. In the case of both countries, restriction of these immigrant flows occurred prior to the oil crisis and the economic recession that followed. In the early 1970s, before to any indication of economic downturn, France imposed stricter workplace enforcement measures and housing requirements. The economy was still dependent on foreign labor, and employers opposed these restrictions, eventually making the French government relax the regulations. Similarly, the German government tripled the price of recruiting foreign labor for employers even though there was still a strong demand for more workers. These restrictions stemmed from a mounting concern about growing immigrant populations that were becoming more visible in these two countries due to the demographic diversity of those immigrants. There was an increase in anti-immigrant sentiment among the public, and an uncertainty on the part of the governments, about how to deal with diversity and integration of these “new” types of immigrants. The global economic recession added legitimacy to stopping immigration as each country entered a time of high unemployment. It marked the
first halt in immigration and major restrictive action that either country had taken in regard to immigration since the end of WWII.

The Pasqua Law in France in the 1990s created overarching restrictions on naturalization and family reunification. While some of these more severe restrictions were repealed, neither citizenship nor immigration has been as open as it was prior to the enforcement of these laws. Germany was facing influxes of ethnic Germans due to the fall of the Iron Curtain, as well as increased asylum applications. Much of its 1990s immigration restrictions were focused on minimizing these two flows of immigrants by creating stricter regulations for who was qualified and also creating a more complicated application processes.

The 2000s have become the era of highly skilled workers and integration. Germany and France began to permit the immigration of more labor migrants, but targeted specific sectors and primarily highly skilled workers. France added further regulations and administrative aspects, but the 2006 Immigration Reform did not have the same type of highly restrictive regulations as the Pasqua Laws of the 1980s. There was also a larger focus on integration as a prerequisite for citizenship and extended residency. In Germany, the 2000s saw the first major consolidation of immigration regulations. Similarly to France, the German law encouraged immigration of skilled laborers, as well as entrepreneurs, and laid out more comprehensive integration programs for immigrants.

As explained, there is a trend toward restriction of new immigration, but it is important to note that there is also a trend toward integrating immigrants already residing within these two countries and continuing immigration through family reunification. External immigration controls are being heightened, but in regard to those living in France and Germany, there is an
effort to better integrate them into society. This can be considered as a step toward France and Germany accepting that they are countries of immigration. These large populations of immigrants and those of immigrant descent are not going to disappear, and these governments must implement policies which will handle this diverse population through expansion of integration of existing immigrants as well as naturalization and citizenship. France began these integration efforts than Germany, as they are compatible with the republican universalist model, but I would also argue that France accepted, while perhaps not happily, its status as a country of immigrants sooner than Germany did. Both France and Germany believed that their respective postcolonial and guest worker population would return home eventually. France began to grapple with the challenge of integration earlier, however, due to its more expansive access to citizenship and existing focus on assimilating immigrants into French culture.

Findings and Conclusions

In the Introduction, I hypothesized that there has been a convergence in the immigration policies of France and Germany prior to 2000 and that there would be a correlation between citizenship policy and immigration policy. French and German immigration policies do illustrate convergence prior to the 2000s based on the moments in immigration history that I analyzed in Chapters 2 and 3. They both were expansive in their acceptance of immigrants and recruited guest workers in the post-war era. In the mid-1970s both countries froze immigration to some extent. They let up on these measures to allow continued family reunification but enacted restrictive policies in the 1990s. France and Germany consolidated the immigration control policies in the 2000s allowed for some labor recruitment, but of highly skilled workers, and increased their efforts in immigration. The situations each country was facing and the policies
implemented were not identical; however, the policy goals of these reforms were strikingly similar. In addition to these broad conclusions, there were several other interesting trends this research demonstrates.

Through this analysis of citizenship policy and immigration policy, I have identified several interesting trends. Generally, I have found convergence; however, not in the manner that I had originally expected. First, convergence and divergence are often discussed as general trends, but it is important to note that these are not smooth and steady progressions. In all cases of convergence, I found there was not an even, smooth line of convergence, but rather a policy that created movement toward a common point, and then a contradictory policy that diminished convergence. So while there are overall trends that indicate either convergence or divergence, within these there is an ebb and flow of expansive and restrictive policies. For example, while France has increasingly become more restrictive in its immigration policies, there have been multiple moments throughout this progression when more expansive policies have been passed. This can occur as a way of diminishing a restrictive policy that was too extreme, as when France ended immigration in 1974, but then quickly reinstated family reunification in 1975 because that restriction overstepped the rights of immigrants; or because of a shift in the political party in power, or a combination of the two.

Second, this analysis uncovered two different types of convergence which can occur in immigration and citizenship policy. In this project, immigration convergence is measured by the extent to which policies are expansive or restrictive of immigration, while convergence in citizenship is measured by the extent to which access to citizenship is expanded or restricted. Convergence toward a midpoint, therefore, is a movement of a state with historically more
expansive policies enacting more restrictive policies, and a state with typically more restrictive policies passing more expansive policies. The second type of convergence is convergence toward one of these extremes—either expansion or restriction. The two states may start out at the same or different starting points, but both move toward one extreme or the other.

Generally, I have found that there has been convergence between the citizenship policies of France and Germany since WWII. France’s republican tradition and *jus soli* model demanded an expansive model of citizenship that continued until the 1990s; however, large waves of postcolonial immigration in the 1960s and 1970s, and subsequently from the growing second- and third-generations who automatically received French citizenship, caused France to grapple with how to restrict citizenship while still being true to its republican values and not treading on the rights of immigrants. While France emanates an ideal expansive form of citizenship in much of today’s literature, access to citizenship has become increasingly more restrictive since the 1980s. This exemplifies the first type of convergence mentioned above, convergence towards a midpoint. Germany came from a background of extremely limited access to citizenship and a *jus sanguinis* model. It has reformed its policies to allow for naturalization of immigrants and their children. France’s expansive *jus soli* policies have been in place since the 1800s, but it has made these policies more selective and not automatic over the past forty years. On account of this, France’s policies have restricted access to citizenship while Germany’s have expanded access to citizenship causing the policies of the two countries to have converged toward a common midpoint. This finding indicates that France and Germany converged on a mixed model of citizenship which contains aspects of *jus soli* and *jus sanguinis*, not exclusively one or the other.
As a whole, both Germany and France had relatively open immigration systems and a demand for foreign laborers following WWII, but they began to attempt to control these flows in the 1970s. While there has been an ebb and flow of expansive and restrictive policies based on economic conditions, public sentiment and political parties in power, immigration polices in both countries generally have become more restrictive since the mid-1970s. This reflects the global trend that liberal democracies have been restricting access to immigration as immigration has increased and generally become more accessible due to globalization and technology. Liberal, industrialized, democratic states are ideal destinations for immigrants as they generally have stable, prosperous economies offering higher wages and more opportunities for immigrants. In addition, these states pride themselves on having a high standard of human rights and are required to ensure a certain level of rights and quality of life not only to its citizens, but to anyone residing within its borders. Many of these states are also facing declining native populations and need to supplement their workforce with foreign labor to sustain economic growth and remain competitive in the global market.

France and Germany emulate these global immigration trends; however, Germany’s policies have remained somewhat more expansive than France’s. This tendency has continued to be proven through the Syrian refugee crisis that began in 2008. Germany has been much more receptive to accepting large numbers of refugees and has been a leader in encouraging other countries to do the same. Not only is Germany the top destination in the EU, it also approves the most asylum applications. In 2015 alone, Germany approved 140,000 asylum applications while France only approved 20,630.  

166 “Migrant crisis: Migration to Europe explained in seven charts,” BBC, March 4, 2016.
the overall trend has been toward restriction since the 1970s. This is an example of the second type of convergence mentioned above: convergence towards one extreme, in this case restriction, rather than convergence toward a midpoint.

One aspect of my hypothesis that was disproved was that the immigration and citizenship policies within each country would reflect each other. Since citizenship and immigration are unequivocally connected, it seemed to indicate that the two would be linked to each other in some way. The expansiveness versus restrictiveness used to measure convergence between the two countries can also be used to assess the similarity between immigration and citizenship policies within an individual country. In France immigration and citizenship policies follow similar progressions, and on the whole, both tend toward increased restrictiveness. Germany, on the other hand, displays opposite trends in immigration and citizenship policies. While immigration has become more restrictive, citizenship has become more expansive.

The literature on citizenship in Chapter One investigated the importance of the conception of citizenship and tradition of nationhood in creating a model of citizenship and subsequently shaping immigration in France and Germany. It remains true that France’s republicanism and German’s ethnocultural understanding of nationhood have continued to influence citizenship and immigration policies, but not as strongly as they did initially. Conceptions of citizenship have laid the groundwork for early citizenship and immigration policies in both countries. As discussed in Chapter One, immigration policies initially focused on defining the difference between a citizen and a foreigner. During this period of time, conceptions of citizenship played a determining role in constructing immigration policy. With the consolidation of nation-states and movement of people, immigration and citizenship policy in the 21st century
have become defined by more complex factors than defining who is a citizen and who is a foreigner. The conception of citizenship is still an important factor that influences citizenship policy, and to a slightly lesser extent, immigration policy; however, other factors have become increasingly influential. In this globalized world, the market, the political culture, public opinion and the precedent set by major world powers are becoming more important factors for determining these policies.

While this shift toward additional factors highly influencing citizenship and immigration policies began in the 1970s, the extent to which they influenced these policies did not become truly apparent until the 1990s or early 2000s. This gives context to Brubaker’s book *Citizenship and Nationhood in France and Germany*, published in the early 1990s, in which he argues that understandings of nationhood and conceptions of citizenship remain of exceptional importance to citizenship and immigration. It would have been challenging for him to foresee at that time the full effect these other factors were having on these policies. What conceptions of citizenship do determine, however, is how politically costly certain immigration policies can be. If a policy is too restrictive or contradicts the country’s conception of citizenship, it makes that policy becomes a much larger political risk.

**Further research**

This project captures the big picture of trends in immigration policy in France and Germany, and because that loses some of the subtlety that could have been brought out in a longer analysis or a more narrow comparison. In a more extended format, I would delve further into the social attitudes and events surrounding the changes in policy analyzed to gain a greater understanding of what was influencing these policy changes. Another area to explore in more
depth would be the connection between citizenship and immigration policies within one of the countries. Is there convergence between them, and what are the factors influencing that? With additional resources and a greater knowledge of quantitative analysis, I would like to rework this project with a more data-driven approach to create a strong model for measuring convergence. This would allow me to choose specific indicators of convergence to measure and could lead to more clearly defined results which would back up the trends that I have uncovered in this more theoretical analysis.

Most research on convergence of policy in Europe discusses it within the context of the broader EU setting. There is already considerable research analyzing the extent to which member states’ national policies have been influenced by the supranational policies and influence of the EU. In the article “An ‘Ever Closer Union’ of National Policy? The Convergence of National Environmental Policy in the European Union,” the authors discuss, for example, the difference between harmonization as a result of the EU and convergence that has emerged from different factors. They conclude that not all changes in national policy of EU member states can be attributed to convergence; however, there has been noted convergence in environmental policy and they discuss the different factors shaping this convergence. My goal in this thesis was not to determine where convergence is stemming from, but rather to discover if there is convergence and when that began to develop. This comprehensive project has established that there are aspects of convergence within both French and German immigration and citizenship policies. From this research learned two major lessons regarding these policies. First, citizenship policy is more strongly rooted in the historical political traditions and founding than immigration policy.

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The respective republican and ethnocultural conception of citizenship are a part of the founding narrative of each state and make it more difficult to make drastic changes to these policies. Second, immigration policy is more easily affected by shorter term factors such as the economy, the political climate, the public sentiment, the political party in power and the international norms. While conceptions of citizenship and other historical factors play into these considerations, they do not play as large a role in countries such as Germany and France, where immigration is not a part of its founding narrative.

Based on these lessons and my results, in future research on this topic I would investigate the factors influencing the convergence in citizenship and immigration policies identified in this comprehensive project. Other research on convergence considers the influence of global pressures, the market, European harmonization and national political culture among other factors. Determining what factor cause convergence demonstrated this case study, and why these factors are influential to specific countries national policymaking would enrich this dialogue. In addition, extending this comparison to include a parallel analysis of additional EU countries would be helpful to see whether these trends are consistent throughout Europe. Alternatively, the same approach could be taken to examine non-EU liberal democracies. It would be valuable to assess whether these same trends coincide with those in other countries that have similar systems of government and standard rights, but have more contrasting histories and did not experience WWII and immigrant influxes following in the way that France and Germany did.

To conclude, this theoretical analysis of immigration policy has found general convergence toward restriction in the immigration policies of France and Germany. This tracks with the global trends in immigration. Despite attempts to control immigration with the
restrictive policies, the immigrant population in each country has continued to increase, as shown in Figure 5.

Figure 5: Immigrant Population in France and Germany\textsuperscript{168}

In a broader sense, this analysis reflects the liberal paradox many democratic states are facing today. Hollifield defines liberal paradox as “international economic forces” pushing states “towards greater openness, while the international state system and powerful political forces push states towards greater closure.”\textsuperscript{169} He further highlights this as a fundamental contradiction within liberalism. Liberal democracies are ideal destinations for many immigrants, and these countries often have a demand for foreign laborers; howe

\textsuperscript{168} “International Migrants by Country of Destination,” Migration Policy Institute.

\textsuperscript{169} James Hollifield, Philip L. Martin, and Pia M. Orrenius, Controlling Immigration: A Global Perspective (Sanford, Calif: Stanford Univ. Press, 2014), 486.
ver, the government’s and citizens of these states, are frequently resistant to additional influxes of immigration, especially culturally diverse immigrants who threaten cultural cohesion. The need for foreign labor has pushed France and Germany to accept labor migrants, but with the intent that they would not take up permanent residence. On the other hand, these countries as liberal democracies are committed to upholding rights and can only restrict the rights of immigrants so much without losing legitimacy. Germany, especially, must be cautious not to overstep these boundaries, owing to the legacy of Nazi Germany. Additionally, France and Germany have attempted to stay true to their conception of citizenship in their policies on citizenship and immigration, but both countries have been forced by global pressures to go against their core rhetoric of belonging.

This comprehensive project has acknowledged the complex combination of factors that affect citizenship and immigration policies. Specifically, I have evaluated conceptions of citizenship, citizenship policy and immigration policy in France and Germany and analyzed moments in each country’s policies to determine whether there has been convergence. My findings and conclusions have determined that conception of citizenship has less influence on immigration and citizenship policies than it once did and that there is a convergence toward restriction in immigration policies. Meanwhile France and Germany’s citizenship policies have converged towards a midpoint, indicating a mixed model of citizenship that is neither exclusively based on *jus soli* or *jus sanguinis* principles.
RÉSUMÉ EN FRANÇAIS

L'introduction

Depuis que l'État-nation moderne a été développé, les États ont dû définir qui a et qui n'a pas d'appartenance à l'État. La citoyenneté est définie comme «l'identification publique d'un ensemble de personnes comme ses membres et désignant résiduellement tous les autres comme non-citoyens ou étrangers. Chaque État attache certaines obligations au statut de citoyenneté.» Comment la citoyenneté est conceptualisée dépend du contexte historique, politique et social pendant ce temps. Par conséquent, la façon dont la citoyenneté est comprise influence directement qui est un étranger et comment l'État gère l'immigration.

La mondialisation et l'augmentation du mouvement transnational ont fait de l'immigration une question plus importante dans la politique nationale. Les démocraties libérales industrialisées ont des populations en déclin et ont besoin de travailleurs étrangers. Les démocraties libérales industrialisées ont des populations en déclin et ont besoin de travailleurs étrangers. En même temps, la montée du terrorisme et des partis politiques d'extrême droite ont créé une augmentation du sentiment xénophobe. La question de l'immigration est devenue plus marquée en Europe que les États-nations et l'UE lutte pour contrôler les afflux d'immigrants depuis la Seconde Guerre mondiale. Cela a été exacerbé par la crise des réfugiés syriens.

La France et l'Allemagne ont des conceptions drastiquement différentes de la citoyenneté et ont historiquement géré l'immigration différemment. La citoyenneté française a été définie comme une appartenance politique et nationale et était intrinsèquement liée à la tradition

républicaine de la France. Cela a créé un modèle expansif de citoyenneté et une politique d'immigration libérale. Cette méthode a été louée comme un système idéal et a été utilisé comme modèle pour d'autres pays démocratiques. La conception allemande de la citoyenneté s'est développée à partir de la compréhension ethnoculturelle de l'appartenance plutôt que d'une conception territoriale ou politique. Cela a créé un modèle de citoyenneté ouvert aux ethnies allemandes, mais extrêmement restrictif pour les autres immigrants. La réflexion du système d'immigration en Allemagne, cette compréhension de l'appartenance et le système allemand ont été critiqués. En général, les méthodes des deux pays ont été considérées comme très différentes jusqu'à l'évolution de la politique de citoyenneté et d'immigration en Allemagne au début des années 2000.

Pour mieux comprendre le lien entre la citoyenneté et l'immigration et les tendances de la politique d'immigration, il est utile d'observer comment les conceptions de la citoyenneté ont façonné les politiques d'immigration dans les pays européens. Ce projet explore s'il y a eu une convergence ou une divergence dans la politique d'immigration depuis la Seconde Guerre mondiale en France et en Allemagne en analysant les moments de changement dans le droit de l'immigration. Je crois que je vais constater qu'il y a eu des points de convergence dans les politiques d'immigration de la France et de l'Allemagne avant 2002, qui ont été négligés en raison du dialogue de divergence. En plus, je m'attends à trouver une corrélation entre la citoyenneté et l'immigration, où une expansion accrue de la citoyenneté causera également une expansion de la politique d'immigration.

Chapitre un contient une revue de la littérature pertinente sur la conception de la citoyenneté et une investigation sur les théories des politiques de convergence. Les chapitres
deux et trois développent une compréhension plus profonde de la conception de la citoyenneté et de l'histoire de l'immigration en France et en Allemagne, respectivement, et analyse ensuite trois moments dans la politique d'immigration pour chaque pays. Le chapitre quatre contient mes analyses des cas présentés dans les deux chapitres précédents, les résultats de mes recherches et les possibilités futures pour plus de recherches.

Chapitre 1: La citoyenneté, l'immigration et la convergence

Les conceptions de la citoyenneté

T.H. Marshall a écrit l'un des travaux de définition de la citoyenneté au siècle dernier. Il divise la citoyenneté en trois sections: la citoyenneté civile, la citoyenneté politique et la citoyenneté sociale, chacune a été proéminente pendant d'une époque historique différente. Le récit de Marshall se concentre sur la citoyenneté sociale et les droits liés à la citoyenneté à l'époque moderne.171 D'autres auteurs ont critiqué l'argument de Marshall. Ils pensent que sa vision de la citoyenneté est trop évolutive et qu'elle se concentre trop spécifiquement sur le Royaume-Uni. En plus de ces critiques, Mann souligne l'importance de la classe dirigeante et de la situation géopolitique.172 Turner ne soutient pas certaines de ces critiques, mais il souligne que Marshall ne discute que de la classe et qu'il ne tient pas compte des facteurs raciaux, ethniques ou religieux ainsi que du niveau de nationalisme dans le pays. Turner affirme que différents types de citoyenneté se développent en fonction de la quantité d'espace public et que la citoyenneté évolue au-dessus ou au-dessous.173

Brubaker, une spécialiste éminent dans le domaine, dit qu'il n'y a pas un moyen de déterminer la citoyenneté, mais les politiques de citoyenneté d'aujourd'hui sont basées sur les traditions de «nationhood». C’est pourquoi il existe différents modèles. La compréhension initiale de «nationhood» en France vient de la Révolution française, qui a créé une compréhension politique, universaliste et assimilationniste de la citoyenneté. La compréhension initiale de «nationhood» en Allemagne était basé sur une origine commune, qui a créé un modèle ethnoculturel de citoyenneté. Ce n'était pas territorial ni politique comme en France. Brubaker a soutenu que l'immigration est le domaine politique où les effets des traditions de «nationhood» et de la conception de la citoyenneté sont les plus faciles à percevoir. Weil suggère que les conceptions de la citoyenneté sont trop simplistes. Il dit que le changement du jus soli au jus sanguinis se passe lorsqu'un pays accepte qu'il soit devenu un «pays d’immigration». Il conteste également le lien entre jus sanguinis et une compréhension ethnoculturelle de la citoyenneté.

Joppke essaie de combiner les modèles centrés sur les droits et centrés sur l'état de la citoyenneté. Il prétend qu'il y a trois aspects à la citoyenneté: le statut, les droits et l'identité, et il discute comment chaque aspect s'est développé historiquement. Steward a un modèle similaire, en divisant la citoyenneté en deux catégories: la citoyenneté d'état et la citoyenneté démocratique. Il existe de nombreux modèles de citoyenneté, mais il est important de noter l'importance du contexte historique dans lequel la citoyenneté a été créée. Ce contexte définit la conception de la citoyenneté, qui influe sur la citoyenneté et la politique d’immigration.

Les théories de la convergence

Les théories de convergence ont été créées dans le domaine de la politique publique et sont devenues de plus en plus intéressantes avec la montée de la mondialisation. Bennett définit
la convergence comme «La tendance des sociétés à devenir plus semblables, à développer des similitudes dans les structures, les processus et les performances». Il peut y avoir une convergence des objectifs politiques, du contenu des politiques, des instruments politiques, des résultats politiques ou du style politique. La convergence peut se passer par l’émulation, l’utilisation d'un réseau de connaissances des élites, l'harmonisation ou la pénétration.

Krill présente trois façons d'analyser la convergence. Quand il y a moins de différences entre les politiques au fil du temps, ou σ-convergence. Quand un pays qui est en retard rattrape les autres pays, ou β-convergence. Et enfin, quand il y a un changement de rang d'un pays pour une politique spécifique, ou γ-convergence. J'utilise la méthode de σ-convergence pour examiner les similitudes et les différences dans les politiques de citoyenneté et d'immigration de la France et de l’Allemagne.

Les chercheurs affirment que les politiques d'immigration des démocraties industrielles convergent. Meyers se concentre sur la convergence des politiques de contrôle de l’immigration. Il détermine que la principale cause de la convergence est «l'interdépendance entre les facteurs socioéconomiques et politiques extérieurs». L'influence de l'UE est souvent discutée lorsque les chercheurs considèrent la convergence de la politique d'immigration en Europe. Mahnig et Wimmer concluent qu'il existe trois raisons principales pour la convergence des politiques d'immigration parmi les pays de l’UE: la pression pour les démocraties libérales à ne pas exclure les populations résidentes, les taux de chômage élevés à l'après-guerre et l'association des immigrés aux problèmes urbains et l'exclusion socioéconomique.

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Chapitre 2: La France

Pendant l'ancienne regiem, il n'y avait pas de construction officielle de la citoyenneté. La citoyenneté était un concept informel et local, pas un concept politique national. La compréhension française moderne de la citoyenneté a été développée à travers la Révolution française. La Constitution de 1791 a fait une distinction entre citoyens français et citoyens actifs. Elle a fait une distinction définitive entre étrangers et non-étrangers. La Constitution a également accordé des droits aux étrangers, qui est essentiel pour la protection continue de ces droits d’immigrant partout dans l'histoire de la France. Avant 1804, la France avait des politiques d'immigration de jus sanguinis, mais le Code civil établissait les aspects du jus soli et une définition expansive de la citoyenneté. En 1851, jus soli a été créé pour les immigrants de troisième génération et pour les immigrants de deuxième génération en 1889. Jus soli a été contesté mais est resté intact jusqu'à certains changements dans les années 1990.

Les premières vagues d'immigration en France ont été dans les années 1850, mais il n'y avait pas d'immigration massive jusqu'au 20ème siècle. Avant la Seconde Guerre mondiale, il y avait un minimum de contrôle sur l’immigration. Les cartes d'identité nationales dans les années 1920 étaient les premières politiques de contrôle de l’immigration. L'immigration a été réduite en raison de la Seconde Guerre mondiale et du régime de Vichy, mais après la guerre, la France a eu besoin de travailleurs et a accueilli les immigrants. Le plus grand groupe d'immigrants en France étaient des immigrants postcoloniaux.

Les Algériens avaient la liberté de mouvement en France, donc ils avaient un statut privilégié d’immigrant. La France ne pouvait pas leur refuser l’entrée, mais ils n'avaient pas les mêmes droits que les citoyens. Il y a eu une forte augmentation de la population immigrée après
la Seconde Guerre mondiale. Les années 1970 ont été les premières grandes politiques d'immigration restrictives en France. Un grand pourcentage de la population immigrante était africaine. Avant la récession économique, la France a essayé de réduire la population étrangère par l’établissant des règles plus strictes pour recruter du travail et travailler en France. Les employeurs ont besoin de plus de travail et ces règles ont été réduites. La crise économique de 1974 a provoqué un arrêt dans l'immigration. Il a été jugé inconstitutionnel de nier le recrutement familial, donc il a été réintégré l'année prochaine. Les raisons évidentes de l'arrêt de l'immigration étaient la récession, mais il y avait également un changement d'opinion publique et gouvernementale sur la population d’immigration. La France voulait s'éloigner de ses anciennes colonies et réduire l’immigration.

Dans les années 1980, il y avait plus de sentiment xénophobie. Il y a une hausse des partis politiques d'extrême droite, notamment le Front National. Le FN a encouragé le sentiment anti-immigrant et a poussé les partis politiques du centre droit à être plus extrêmes. Les lois de Pasqua dans les années 1990 ont restreint les politiques d'immigration et de citoyenneté. La loi Pasqua II en 1993, restreint l'entrée et la résidence des étrangers en France. Elle a restreint le regroupement familial et a allongé le temps d'attente pour demander un permis de résidence. Les immigrants de deuxième génération ne gagnent plus automatiquement la nationalité française mais ils doivent déclarer leur intention de devenir français. La loi Debre en 1997 était encore plus restrictive. Il y avait plus de restriction de jus soli et les délais d'attente pour les permis de résidence. Les résidents devaient aviser les autorités des invités non membres de l’UE. Ces lois ont dépassé la ligne de ce qui était acceptable par créant des politiques restrictives intérieures qui violaient les libertés civiles. Il y a eu une opposition publique, et la loi de Guigou et la Loi sur le
combat a abrogé certains des aspects les plus sévères, mais l’immigration est restée plus restreinte et jus soli n’était plus automatique.

Au début des années 2000, il y avait un retour à la version plus républicaine des lois sur l'immigration, le contrôle de l'immigration de l'extérieur et l'intégration des immigrants en France. La loi Sarkozi II portait sur l'immigration et l'intégration. Elle a permis le recrutement de travailleurs qualifiés et a élargi les programmes d'intégration, mais la loi a restreint le regroupement familial et l'accès à la résidence et à la citoyenneté. Depuis la Seconde Guerre mondiale, il y a eu un passage de l'immigration européenne à l'immigration postcoloniale. Il y a également eu des restrictions à l'immigration et à l'accès à la citoyenneté.

Chapitre 3: L’Allemagne

Lorsque la France formait un État-nation moderne, l'Allemagne n'était pas encore un état consolidé et n'avait pas une compréhension unifiée de l’appartenance. L'appartenance était basée sur le domicile, semblable à la France dans l'ancien régime. La Confédération allemande a permis la liberté de mouvement, mais elle a le droit d'expulser les immigrants indésirables, mais il n'y avait pas de véritables politiques d’immigration. Au milieu de 1850, le domicile est devenu basé sur l'appartenance, ce qui fait l'appartenance se définit par d'autres facteurs. Appartenance n'a pas été défini par un territoire ou d'un gouvernement unifié, donc la conception allemande de la citoyenneté est basée sur une compréhension ethnique, une langue et une culture. In 1913 the Nationality Act determined German citizenship as strictly jus sanguinis, or based on descent. Cette définition entraîne un accès restreint à la citoyenneté pour les immigrants non allemands, mais un accès étendu aux Allemands ethniques.
Après la Seconde Guerre mondiale, la République fédérale d'Allemagne a été fondée en 1949. La loi fondamentale consacrait les droits fondamentaux de l'homme comme essentiels au nouvel état, influencé par l'histoire récente du Troisième Reich. Elle a renforcé la définition du jus sanguinis de la citoyenneté, avec un accès expansif pour les Allemands ethniques et les réfugiés. La citoyenneté n'a pas changé jusqu'aux années 1990, lorsque les immigrants ont pu se naturaliser après quinze ans de résidence. En 2000, la loi fondamentale a été modifiée pour intégrer les politiques de jus soli. Les immigrants de deuxième génération ont reçu la citoyenneté à la naissance. Cela marque un changement fondamental dans l'identité nationale allemande.

Comme la France, l'Allemagne ne s'identifie pas comme un pays d'immigration. Il n'avait pas d'une politique d'immigration définie ou d'un plan à long terme pour gérer sa population de grands immigrants. L'Allemagne a connu une certaine immigration des Polonais avant la Seconde Guerre mondiale. L'Allemagne avait besoin de travailleurs au milieu des années 1880 et a recruté les Polonais comme travailleurs saisonniers. L'Allemagne ne voulait pas de résidents à long terme et était nerveuse au sujet de la mobilisation nationaliste polonaise. Lorsque de nombreux Polonais sont devenus une résidence permanente en Allemagne, il y a eu une augmentation du sentiment anti-immigrant. Il y avait peu d'intégration de ces immigrants jusqu'à la troisième génération. Le troisième Reich a également utilisé des travailleurs étrangers, dont beaucoup étaient prisonniers, pour soutenir l'effort de guerre.

Ces deux exemples de travailleurs étrangers avant la Seconde Guerre mondiale ont donné l'expérience de l'Allemagne à des travailleurs étrangers. Après la Seconde Guerre mondiale, il y a eu un afflux d'Allemands ethniques et de réfugiés, en raison des politiques expansives de citoyenneté et d'asile dans la Loi fondamentale. Ces immigrants n'étaient pas assez de
travailleurs pour maintenir la croissance économique dans la nouvelle République fédérale d’Allemagne. L'Allemagne avait de l'expérience avec des travailleurs étrangers, le gouvernement a commencé à recruter des travailleurs étrangers et à signer des accords bilatéraux de recrutement avec d'autres pays. Ces programmes de travailleurs étrangers étaient rotatifs.

Dans les années 1960 la majorité des travailleurs n'étaient plus italiens, mais turcs. Les entreprises voulaient que les étrangers restent plus longtemps et le système de rotation commence à échouer. Il y avait un sentiment anti-immigrant. Il y a eu une petite récession en 1966-1967 et l'Allemagne a encouragé les travailleurs à rentrer chez eux, mais a continué de recruter lorsque l'économie a récupéré. En 1973, la population étrangère était de 6,7% de la population totale. Le sentiment anti-immigrant a augmenté à mesure que la grande population étrangère devenait plus évidente et il est devenu évident que beaucoup étaient des résidents permanents. Comme en France, il y avait une restriction à l'immigration avant la grande récession. L'Allemagne a triplé le coût pour les entreprises de recruter des travailleurs étrangers.

La récession économique est devenu évident plus tard cette année et l'Allemagne a terminé son programme de recrutement à l'étranger. L'Allemagne n'a pas terminé le regroupement familial. Beaucoup de travailleurs ont décidé de rester en permanence en Allemagne et d'amener leurs familles. Cela a provoqué une forte augmentation de la population étrangère, que l'Allemagne avait pas prévu. La chute du rideau de fer a causé des afflux supplémentaires de l'Allemagne ethnique. Dans les années 1980, il y avait aussi beaucoup plus de personnes qui cherchaient un asile en Allemagne.

La forte augmentation de la population étrangère dans les années 80 a créé un besoin de contrôler l’immigration. L'Allemagne a commencé à restreindre certains flux d'immigrants et à
intégrer la population étrangère dans les années 1990. L'Allemagne n'a pas accepté les
demandeurs d'asile qui sont venus de ou ont transité par des pays sûrs. Le gouvernement a limité
le nombre d'Allemands ethniques et a augmenté les spécifications. D'autre part, le gouvernement
a autorisé les immigrants qui n'avaient pas de descendance allemande à se naturaliser après une
résidence prolongée.

En 2000, comme mentionné ci-dessus, l'Allemagne a donné la citoyenneté des
immigrants de deuxième génération à la naissance. L'Allemagne a commencé à se rendre compte
que c’était nécessaire de réglementer plus l'immigration et l’intégration. Le gouvernement a
adopté une loi de réforme de l’immigration en 2004, après quelques complications. La loi a
ouvert l'immigration pour les travailleurs hautement qualifiés et les entrepreneur. Les étudiants
pouvaient rester en Allemagne pendant un an après avoir terminé leurs études. Le processus
d'asile a été renforcé et le processus d'expulsion des étrangers pour la sécurité nationale a été
simplifié.

Cette réforme a été la première consolidation majeure de la réglementation de
l’immigration. L’immigration en Allemagne a été ouverte après la Seconde Guerre mondiale,
mais elle a été restreinte comme la population étrangère augmentait. Il y a eu une diminution de
l'accès à la citoyenneté pour les Allemands ethniques, mais une augmentation pour les
immigrants en général. Allemagne doit prendre en considération l'histoire du régime nazi lorsque
le gouvernement restreint l'immigration ou exclut les gens. Respecter les droits est la clé de la
légitimité de de l'Etat allemand.
Chapitre 4: L'analyse et la conclusion

Les deux chapitres précédents ont discuté de la conception de la citoyenneté en France et de l'Allemagne, de l'histoire de l'immigration et de trois points de la politique d'immigration. Avant la Seconde Guerre mondiale, la France et l'Allemagne avaient un petit nombre d'immigrants et de grands afflux d'immigrants après. Le plus grand nombre d'immigrants en France étaient des immigrants postcoloniaux et le plus grand nombre en Allemagne étaient des travailleurs étrangers. Ils ont eu besoin de travailleurs et ont accueilli les immigrants à l'époque de l’après-guerre. Les deux pays avaient des immigrants ayant un statut privilégié. En France il y avait les immigrants postcoloniaux et en Allemagne il y a des Allemands ethniques qui avaient plus d'accès à la résidence et à la citoyenneté française.


Les lois de Pasqua en France dans les années 1990 ont sévèrement restreint l'immigration. Certains aspects ont été abrogés, mais jus Soli n'a jamais été entièrement réintégré. L'Allemagne a connu un grand afflux d'Allemands ethniques et de réfugiés après la
chute du rideau de fer. L'Allemagne a également créé des lois d'immigration plus restrictives, en particulier pour ces deux types d'immigrants et a commencé à se concentrer plus sur l'intégration. Dans les années 2000, la réglementation de l'immigration a été consolidée, les contrôles extérieurs de l'immigration ont été renforcés et le recrutement a été rétabli en mettant l'accent sur le travail qualifié.


Il y a eu plusieurs tendances intéressantes sur la façon dont la convergence des politiques. La convergence n'est pas une progression régulière. Bien que les tendances générales indiquent soit la convergence soit la divergence, il y a un mélange de politiques restrictives et expansives. Il y a deux types de convergence représentés par cette recherche. La première est la convergence vers un point médian. La citoyenneté représente ce type de convergence. Les politiques de citoyenneté française sont généralement plus restrictives alors que les politiques de l'Allemagne sont devenues plus expansives. Les deux politiques se sont déplacées l'une vers l’autre. La seconde est la convergence vers un extrême. J'ai trouvé cela avec les politiques d'immigration de la France et de l'Allemagne. Dans ce cas, les deux extrêmes sont des politiques étendues et restrictives. Les politiques d'immigration des deux ont convergé vers des politiques plus
restrictives. La tendance à une plus grande restriction de l'immigration en France et en Allemagne reflète les tendances plus grands des États démocratiques libéraux. Les politiques d'immigration de l'Allemagne ont été moins restrictives que celles de la France. Cette différence a été démontrée par la réaction de chaque pays à la crise des réfugiés en Europe.

Une hypothèse qui a été réfutée était qu'il y aurait une corrélation entre la citoyenneté et les politiques d'immigration dans chaque pays. En France, c'était vrai. Avec la restriction de l'accès à la citoyenneté, il y avait une restriction à l'immigration. Mais en Allemagne, il y avait un accès plus expansive à la citoyenneté et une restriction à l'immigration. Enfin, je trouve que les conceptions de la citoyenneté sont importantes pour les politiques d'immigration et de citoyenneté, mais elles sont moins importantes que lorsque ces politiques ont été établies, et la distinction la plus importante était entre un citoyen et un étranger. Aujourd'hui, il existe beaucoup d'autres facteurs qui affectent fortement la citoyenneté et la politique d'immigration, comme le marché mondial, la culture politique, l'opinion publique et les normes internationales.

Je reconnais l'importance du contexte de l'UE dans ce projet. Dans un projet plus vaste, j'analyserais l'influence de l'UE ou comparerais d'autres pays. Aussi, je considèrerais quels facteurs influencent la convergence que j'ai trouvé dans les politiques de citoyenneté et d'immigration. Ce projet serait plus fort avec une analyse plus analytique avec des données plus solides. En conclusion, je présente quatre hypothèses à considérer pour continuer la recherche sur le sujet.
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