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Co-option versus compliance : how electoral systems affect countries' immigration policies

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ABSTRACT

CO-OPTION VERSUS COMPLIANCE: HOW ELECTORAL SYSTEMS AFFECT COUNTRIES' IMMIGRATION POLICIES

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This thesis investigates whether different types of electoral institutions produce substantively different immigration policies. The difference between majoritarian and proportional electoral systems is the type of influence that anti-immigrant parties can have. In majoritarian systems, their influence is indirect through mainstream parties who co-opt anti-immigrant rhetoric to appeal to supporters of anti-immigrant parties because their support could provide the winning margin in the close elections typically seen in majoritarian systems.

The situation is vastly different in proportional representation systems. The need for a coalition for government functionality gives large anti-immigrant parties the opportunity to have direct influence over immigration policy by blackmailing mainstream governing parties into adopting more extreme immigration policies in exchange for supporting the government. I therefore argue that proportional representation systems will have more restrictive immigration policies than majoritarian systems. To test this theory, I performed a study of four cases: Australia, France, Denmark, and Switzerland.

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CO-OPTION VERSUS COMPLIANCE: HOW ELECTORAL SYSTEMS AFFECT
COUNTRIES' IMMIGRATION POLICIES

BY
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CHAPTER ONE

INTRODUCTION

Do different types of electoral systems produce substantively different immigration policies? This is an important theoretical question in light of recent developments in European politics. Italy has struggled in recent months to deal with thousands of boat people from North Africa fleeing civil wars. Responding to the crisis, the Italian government has had to strike a balance between humanitarianism and the calls of anti-immigrant political parties to ‘stop rescuing the boat people (Vogt 2014). The recent electoral rise of anti-immigrant political parties throughout Europe including, but not limited to: The Swedish Democrats in Sweden, Danish People’s Party in Denmark, and the Dutch Freedom Party, suggests that more governments will be compelled to balance humanitarian concerns with anti-immigrant views which resonate with voters. I define anti-immigrant parties as political parties that employ the immigration issue as the core political concern in political campaigns or that are considered by elites of other parties to do so (Fennema 1997).

Electoral institutions play a vital role in shaping the debate on immigration. Some electoral institutions lend themselves to the anti-immigrant appeals of anti-immigrant political parties better than others. Many of the electoral gains of anti-immigrant parties outlined in the previous paragraph occurred under proportional representational systems. This does not mean

that anti-immigrant parties are irrelevant in majoritarian systems, simply that they are more likely to exert a direct influence on the immigration policy making process. The rise and success of anti-immigrant parties at pushing the immigration issue on the agenda of many states throughout the globe may be surprising, considering the commonly held perceptions about majoritarian and proportional electoral systems.

The comparative politics literature articulates two visions of democracy: a majoritarian and a proportional vision. It is widely believed that majoritarian systems foster more decisive and effective policymakers, while proportional systems are believed to produce broader participation in decision making, better minority representation, and better protection of minority interests (Budge & McDonald 2007; Huber & Powell 1994; Lijphart 1999; McDonald, Mendes & Budge 2004; Powell 2000; Powell & Vanberg 2000). Following this logic, one might expect proportional representation systems to have more liberal immigration policies because of a more inclusive decision making process and protection of minority rights. The issue of immigration is problematic for advocates of proportional representation systems, however.

The immigration issue is problematic for advocates of proportional representation because anti-immigrant parties make emotive appeals based on economic competition from immigrants, and fears of the decline of “native culture.” These types of emotional appeals are better suited for proportional representation systems where anti-immigrant parties can win seats by clearing a low electoral threshold. Since it is typically the case that in countries using proportional representation that no one party wins a majority of seats in the legislature, and

that governing coalitions are commonplace, as anti-immigrant parties win more seats they can become large enough to be indispensable to mainstream parties, who then may need their support to form a coalition. This gives anti-immigrant parties disproportionate influence, and can allow them to “blackmail” mainstream parties into supporting stricter immigration policies in exchange for government support.

A political party is said to have blackmail potential, if it is sufficiently large enough, even though it might be ideologically undesirable as a coalition partner to mainstream political parties. The difficulty comes in when one considers that being a sufficiently large party is a key requirement for forming a coalition. Smaller parties may make ideologically better coalition partners, but lack the necessary size to be a worthwhile coalition partner (Lijphart 1999; Sartori 1973).

In majoritarian systems, the typical use of single member districts that require a candidate or party to win a plurality of the vote represents a mechanical and psychological barrier to the entry of anti-immigrant political parties into the legislature (Duverger 1954). Parties do not necessarily have to win a majority of the vote. Parties are routinely given comfortable majorities in the legislature because the electoral institutions manufacture a majority of seats for one party that wins only 35-40% of the popular vote (Norris 1997). This happens quite often in majoritarian systems including the United Kingdom, New Zealand (before reform) and Australia.

Their anti-immigrant rhetoric could alienate as many voters as it attracts and voters do not want to support a third party out of fear of wasting their vote (Norris 2004). So in

majoritarian systems, we are more likely to see strategic voting from supporters of anti-immigrant parties. Anti-immigrant parties are likely to have little role in government formation, so voters will throw their support behind the largest mainstream party that is closest to them ideologically. One could see this in the UK where a far right voter might shift support to the Conservatives in the hopes that the Conservatives become more serious about immigration, whilst in France, voters move from the National Front to the UMP.

This does not mean that anti-immigrant political parties have no influence. This influence is arguably more indirect since it is less likely that such parties will win seats in parliament under majoritarian-style electoral rules. Additionally, there is a large body of literature that argues that mainstream parties will co-opt the anti-immigrant rhetoric of successful anti-immigrant parties (see Minkenberg 2003; Pettigrew 1998; Schain 1998; Schain et al. 2002). This shift can be made easier if public opinion indicates that mainstream right-wing parties will not be penalized by adopting tougher immigration policies. Mainstream right-wing parties have an easier time co-opting anti-immigrant rhetoric because they are less likely to lose votes to their left-wing opponents. This pattern cannot be repeated in proportional systems because parties have already staked out a piece of ideological real estate. If a party attempts to move from this real estate, they risk losing their core supporters, and will be forced into competition with any right-wing populist parties on the immigration issue (Adams et al. 2006; Belanger & Meguid 2008; Meguid 2005).

Following this logic, I hypothesize the following:

(H1) Proportional Representation electoral systems will have more restrictive immigration policies than majoritarian systems.

The logic behind H1 stems from my contention that anti-immigrant parties will have more success in proportional representation systems because they can win seats in the legislature by clearing a low electoral threshold. By low electoral threshold, I mean the minimum number of seats won in a lower tier district and/or minimum percentage of the national vote (Lijphart 1999). For example, in the Netherlands the threshold was less than one percent, while in Israel it is between 1.5 and two percent. These lower thresholds are particularly advantageous for anti-immigrant parties who often make their appeals based on people's fear of economic or cultural degradation caused by immigrants.

The presence of anti-immigrant parties in the legislature becomes problematic as they gain more influence over time. Many governments in proportional representation systems require a coalition to ensure a governing majority. As noted above, if anti-immigrant parties win more seats in parliament, they can potentially play a "blackmail" role (Lijphart 1999; Sartori 1973). In this role, anti-immigrant parties can trade governmental support for more restrictive immigration policies. If the government fails to enact tougher immigration policies, then anti-immigrant parties can credibly threaten to weaken the government by withdrawal of their support.

Why Majoritarian Electoral Systems Produce

More Liberal Immigration Policies

The obvious counterpart to H1 outlined above is that majoritarian systems are more likely to produce more liberal immigration policies. Majoritarian systems are believed to offer voters a clear choice between two competing sets of policies. They also are said to have a moderating influence because the two parties have to compete for voters in the center of the electoral marketplace and thus to advocate moderate, centrist policies¹ (Lijphart 1999). This logic can operate whether political parties are close together or ideologically polarized. Parties will lose some of their core supporters, but take votes from the competing party at the center. While these claims are plausible, there is also contradiction in that if the two parties' policy programs are both close to the center, the two parties will begin to echo each other, rather than provide meaningful alternatives (Lijphart 1999). I believe that immigration policy follows this pattern in nation-states with majoritarian electoral systems because of the manner in which party competition is shaped by electoral institutions.

Duverger's Law states that "the simple majority single-ballot system favors the two party system." Duverger's hypothesis states "the simple majority system with second ballot and proportional representation tends toward multiple parties." (Duverger 1954). Duverger argued that electoral laws have both mechanical and psychological effects. For parties with

¹ This does not mean that political parties will rush to the center and stay there. Two parties being pushed to the center is rarely empirically seen. Furthermore, the idea of a true two party system is rarely seen outside of the United States. Most party systems even where majoritarian rules are in effect tend towards 2 and ½ or 3 party systems.

dispersed support, single-member districts constitute a mechanical barrier to the legislature because they often cannot win the majority in a two-party race (Norris 2004). The psychological effect occurs at the level of the voter, where voters would be reluctant to waste their vote on a party that was unlikely to win (Ibid.). If we follow Duverger's logic, anti-immigrant parties will typically be crowded out of majoritarian electoral systems because their rhetoric will be repugnant to many, and unless their support is highly concentrated in certain electoral districts, they are unlikely to win any seats in the legislature. There are, however, specific institutional and geographic factors that may allow for anti-immigrant parties to have a place in the legislature. For example, the French 'National Front' party has used the two-round electoral process to maintain a political presence in France's majoritarian electoral system (Lewis-Beck & Mitchell 1993). Meanwhile, the United Kingdom Independence Party have steadily gained in public opinion polls because of their platform of less immigration and withdrawing from the European Union. As voters become disillusioned with the three main parties (Liberals, Conservatives, and Liberal-Democrats), the Independence Party has gained in public opinion polls over the last year ("How UKIP Became a Political Force."). Despite these gains, they will likely be relegated to winning a handful of seats where their supporters are concentrated. So my expectation that anti-immigrant parties in majoritarian systems will be largely shut out of the legislature can be regarded as a *tendency*, and not absolute fact.

District magnitude also plays a vital role in structuring electoral competition, and making it more difficult for anti-immigrant parties to compete in majoritarian systems. The

magnitude of an electoral district denotes the number of candidates to be elected from that district. District magnitude increases or decreases the disproportionality of elections, and affects the number of parties that can compete within a system (Lijphart 1999; Taagepera and Shugart 1989). Increasing disproportionality in a majoritarian system is said to advantage large parties, while disadvantaging small parties (Ibid). For example, in a three-member district where parties A and B compete and A is slightly stronger, A will most likely win all seats. If parties A and B compete in single-member districts then B could win at least one of the three seats. In the case of a single nationwide district, the party that wins a plurality wins all the seats (Lijphart 1999).

District magnitude is used in combination with electoral thresholds to shape party competition. Countries that use wide or nationwide districts have instituted a minimum threshold for representation (Lijphart 1999). Usually this is a minimum number of seats in lower-tier districts or a set percentage of the national vote. Higher thresholds can have a pronounced restrictive effect on the presence of right-wing populist parties, who often push anti-immigrant policies, within these legislatures (Ibid.²). A good example of a restrictive threshold is France where a party must win 12.5% to participate in the run-off election where seats are distributed. District magnitudes and electoral thresholds have the effect of disadvantaging anti-immigrant parties because large parties are given a disproportionate share of the influence, while high electoral thresholds constrain smaller parties from winning seats.

² The Swedish Democrats and The Progress Party of Norway have been able to win seats in majoritarian parliaments despite fairly high thresholds of four and five percent, so electoral thresholds are not automatic barriers to anti-immigrant parties.

This *does not* mean that anti-immigrant parties lack influence on immigration policies in majoritarian systems, but that the influence of anti-immigrant parties will be more indirect in majoritarian systems. There is a large body of literature that argues that mainstream parties will co-opt the anti-immigrant rhetoric of successful anti-immigrant parties (see Minkenberg 2003; Pettigrew 1998; Schain 1998; Schain et al. 2002). On occasion, anti-immigrant parties can be relatively successful in majoritarian systems such as when One Nation won eight percent of the popular vote in the Australian elections of 1998. When this happens, mainstream right-wing political parties will co-opt the anti-immigrant rhetoric of the right-wing populist party in the hopes of preventing further electoral gains. This process is easier in majoritarian systems where right wing parties can move to a certain extent.

What about the resulting immigration policy in states with majoritarian electoral systems? I follow Lijphart (1999) in that the need to pursue moderate, centrist policies will eventually push the competing parties in majoritarian electoral systems close together so that there is little distinction between the two sets of immigration policies. The situation is different when one considers the immigration policies of proportional representational systems.

Why Proportional Electoral Systems Produce More Restrictive Immigration Policies

The relationship between district magnitude and political party competition is different in proportional representation systems than majoritarian ones. Proportional representation systems require multi-member districts which can range from two members to one district that encompasses the entire country. Increasing proportionality in a proportional representation system is advantageous for smaller parties (Lijphart 1999). Because district magnitude varies so widely, so proportionality varies widely (Ibid.). As an example, a party representing a 10% minority is unlikely to win seats in a five-member district, but probably will in a ten-member district. High magnitude proportional representation districts tend to maximize proportionality and lead to the representation of even very small parties. Thresholds in proportional representation systems are typically lower than majoritarian systems (one to two percent in some cases).

Although proportional representation systems have a greater number of parties than majoritarian systems (Lijphart 1999; Norris 2004; Powell 2000), not all parties are created equal. Because of the large number of parties that can potentially compete in proportional representation systems, coalition governments are often necessary. This is where the effective number of parties comes into play. Sartori (1973) argues that only parties that have ‘coalition’ or ‘blackmail’ potential should be counted as effective parties. A party has coalition potential if they have served in government in the past or are regarded as a potential coalition

partner by those in government. A party has blackmail potential if they are sufficiently large enough, even if they are ideologically undesirable as a coalition partner. Parties that have blackmail potential may also have coalition potential because of their size. Smaller parties may be ideologically acceptable as coalition partners, but lack the size for coalition potential.

As anti-immigrant political parties gain seats over time, they can become indispensable to mainstream parties, using their size to blackmail mainstream political parties into supporting immigration policies they did not want in exchange for the right wing populist party supporting the government. For example, since 2001 the Danish People's Party has consistently polled 12-13% in Danish elections. This makes them "too large to ignore" in Sartori's words (Sartori 1973). The rapid rise of the Danish People's Party in public opinion polling during the course of the 2001 election campaign made it virtually impossible to ignore the issue of immigration and migration control. The party went on to become the third largest party in the Liberal-Conservative coalition government. According to Bille (2003), the Liberal and Conservative Parties held a total of 72 seats between them, but in order to gain a majority in the 179-seat Folketing, they had to rely on the 22 seats of the Danish People's Party. In exchange, the Danish People's Party was able to push through a broad policy package featuring restrictions on refugees, family unification, and citizenship and nationality legislation, making Danish immigration policies some of the strictest in all of Europe, if not the world.

Argument

As outlined in H1 above, in this thesis I argue that states with proportional representation-style electoral systems will produce more restrictive immigration policies than states with majoritarian systems. This is because the low thresholds for representation present in these systems help to facilitate the rise of right-wing populist parties, who typically wish to restrict immigration. This process becomes problematic over time as anti-immigrant parties gain enough seats to make themselves indispensable to mainstream governing parties who then need the support of these parties to form a viable coalition. This gives right-wing populist parties blackmail potential because, as noted previously, they can trade government support for stricter immigration policies, even if mainstream parties do not particularly want or care for them. If the other members of the coalition do not go along with the stricter policies, the anti-immigrant party could credibly threaten to derail the government.

It should be noted that it is possible to form a minority coalition government, as long as the coalition has a broad external support from parties outside government. Lijphart (1999) found that 27.3 % of all coalition governments are minority coalitions. This could lead to further isolation of anti-immigrant parties, but this process is complicated as illustrated by Sweden. The Swedish Democrats won 49 seats and 13% of the vote in the September 2014 Riksdag elections, making them the third largest party. Yet, the Social Democrats have vowed not to work with the Swedish Democrats to form a government. Excluding the Swedish Democrats is easier said than done. The Social Democrats will attempt to form a coalition with the Green Party, relying on external support from the Left. The Left Party is the

former Communist Party and widely mistrusted by the Social Democrats. From the perspective of the Social Democrats, an arrangement between the Social Democrats and Greens leaves many voters without representation, which goes against the idea that proportional systems are supposed to provide broader participation in decision making.

While this outcome is possible it is not particularly likely. Lijphart's analysis found that it occurred in approximately 25% of cases over a fifty year study of thirty-two democracies. Out of 1,600 cabinets, a minority cabinet occurred 400 times (Lijphart 1999).

The situation is different in majoritarian systems where the need to win a majority is basically unattainable for right-wing populist parties. Right-wing populist parties can still have an influence on immigration policy in majoritarian systems, however. If these parties can illustrate that stricter immigration policies are electorally profitable, then mainstream right-wing parties will likely move further to the right on these kinds of issues.

Research Design

In order to test my hypothesis that proportional representation systems have more restrictive immigration policies and majoritarian systems have more inclusive or liberal immigration policies, I selected four cases that offered some variation on my key variable of interest: electoral systems. Once my cases were selected, I performed a series of in-depth case studies in order to trace the evolution of the selected nation-states' immigration policies over a twenty-three year period (1984-2007). In order to account for the most recent immigration policy changes in the countries under study, I will supplement academic accounts, policy

statements, etc. with relevant coverage of newspaper articles from respected national newspapers. The immigration debates experienced within these countries have a long-term historical component, along with a contemporary component. Therefore, any meaningful study of immigration policy should want to take contemporary events into account.

In order to determine the content of a given country's immigration policy, I located the applicable policies of the nation-states under study to determine if changes occurred over the time period under study. This method allows me to determine whether immigration policies became more or less restrictive over time in each of my chosen cases. Examples of immigration restrictions include (but are not limited to): a decrease in the number of immigrants and migrants in a given year, residency requirements for citizenship and naturalization, increased restrictions on family reunification, and proof that the prospective immigrant has a means of financial support before they entered the country.

Comparative historical analysis, or comparative case studies, are a particularly useful means for assessing the impact that electoral systems can have on immigration policy by permitting the entry of anti-immigrant parties, who in turn, influence immigration policy. Many of the events that comparative historical researchers focus on such as revolution and state formation are not processes that occur once, but rather over time, and within time (Abbot 1990, 1992; Katznelson et al. 2002; Pierson 2000; Rueschemeyer & Stephens 1997; Tilly 1984). I believe that one can see something similar when considering immigration policy. Anti-immigrant parties are likely to steadily gain influence over time. Thusly, we should see an evolution in immigration policy from liberal to restrictive. Comparative

historical analysis is the best method to capture this evolution, and trace the processes of interest.

This project is highly dependent on having an understanding of what constitutes a restrictive immigration policy. Since what constitutes a restrictive immigration policy can vary from society to society, I have chosen to carry out a “contextualized comparison”, which involves searching for analytically equivalent phenomena across different contexts. This requires a detailed consideration of contextual factors, which is extremely difficult to do in statistical studies (George & Bennett 2005; Locke & Thelen 1998).

This study also becomes very difficult to execute if I do not closely understand the content of the electoral laws and how they impact party competition and government formation. The process of demonstrating how the particulars of electoral laws in a given country affect immigration policy over time is therefore perhaps best accomplished by means of a qualitative study, rather than a quantitative one. Furthermore, as a researcher I also face practical constraints in terms of both time and resources. With regard to these constraints, it would be incredibly difficult for me to construct a dataset that contained enough observations of both countries’ electoral laws and immigration policies to credibly perform statistical analyses, and much of the nuance that case studies allow the researcher to highlight would be missed.

While it is true that case studies cannot produce statistically valid generalizations, case studies strive for theoretical generalization. Theoretical generalization involves generalizing from a study to a theory. When we generalize theoretically, the question is what the case tells

us about the theory rather than what the case tells us about the wider population of cases. This type of generalization is designed to develop, refine, and test theories through replication (De Vaus & de Vaus 2001, 237-38). Case studies are tested by replicating the cases using more cases under different conditions. The more cases behave as we expect according to theory, the more confident that we can be about our theory (Ibid.).

This does not mean that the case study method is without fault. The key trade-off, or limitation, with the case study approach is that they can only make tentative conclusions on how much a particular variable affects the outcome in a particular case, or contributes to the outcome in a class or type of cases (George & Bennett 2005). This is particularly concerning when discussing factors affecting immigration policy. At best, all I can say is that electoral systems contribute to more restrictive or permissive immigration policies. There are far too many variables that go into immigration policies to make strong, definitive, claims. Furthermore, the results that I do get will be somewhat limited in their applicability due to the variation in electoral systems that exist in the world. Unfortunately, this is something that I must accept. Nonetheless, a focus on electoral systems and their policy impact is a worthy endeavor since my study can potentially illuminate how these immigration debates will play out in other countries, as well as how electoral systems impact policymaking in general.

This thesis proceeds as follows. Chapters two through five present my case studies. Chapter six is a brief section comparing the cases on four dimensions: citizenship and nationality policy, family reunification policies, refugee and asylum policy, and labor market

access. The final chapter summarizes the conclusions of my study and presents suggestions for further research.

CHAPTER TWO

AUSTRALIA

The federal parliament in Australia is comprised of the House of Representatives and The Senate. The House of Representatives uses the Alternative Vote system.³ Under this system, Australia is divided into 148 single member constituencies and voters rank order their preferences (1, 2, 3,4 etc.) To win, a candidate must win an absolute majority of votes. If no candidate wins fifty percent of the votes after first preferences are counted, the candidate with the fewest votes is eliminated and his votes are redistributed among the other candidates. This process continues until one candidate has a majority. This system is considered majoritarian because of the presence of single member districts and the need to win a majority in order to get elected (Farrell & McAllister 2006, 3).

Preferential systems such as Alternative Vote and Single Transferable Vote are considered preferential because they allow the voters a greater choice by allowing them to rank order candidates on a ballot instead of marking an x for an individual candidate as occurs in many majoritarian systems (Farrell & McAllister 2000). Even if the voters preferred candidate is eliminated early in the counting process, voters can still have a say over which party wins the election through the process of transferring votes from defeated candidates to

³ In Australia, the system is commonly referred to as preferential voting.

the next most preferred option. Preferences matter little in determining final election outcomes (Gallagher & Mitchell 2005).

The Alternative Vote System used for the House of Representatives produces a high level of disproportionality comparable with the disproportionality seen in single member pluralities (Gallagher & Mitchell 2005; Lijphart 1999). Several recent elections contested under Alternative Vote have given a majority of seats to parties that have won fewer seats than the opposition.⁴ Political parties in Australia are very disciplined and cohesive and generate a high level of identification in contrast to their counterparts in Britain and The United States (Dalton 2000). The combination of the Alternative Vote system and party stability has generated comfortable majorities for either the Labor or the Liberal- National coalition over the last several decades (Gallagher & Mitchell 2005).

The Australian Senate is elected through a semi-proportional system known as the Single Transferable Vote. Each constituency is divided into multimember districts with four or five representatives. Parties run as many candidates as they think can win seats in each district. Voters rank over preferences among candidates. The total number of votes is counted and is divided by the number of seats to produce a quota. For a candidate to be elected, they must reach the quota. When the first preferences are counted, if no candidate reaches the quota, the candidate with the least votes is eliminated and his votes are redistributed to the second preferences until all the seats are filled (Norris 1997, 2004).

⁴ The Liberal Party was awarded more seats than the Labor Party in 1949, 1955, 1958, 1963, 1975, 1977, 1980, 1996 and 2001 (Gallagher & Mitchell 2005).

A word about classification is necessary. Single Transferable Vote systems are classified as semi-proportional because they tend to display high levels of district magnitude, which is expected to lead to a greater number of political parties (Rae 1967; Sartori 1973; Taagepera & Shugart 1989). Yet, the average number of political parties in most Single Transferable Vote systems is two or two and a half (Jesse 2000, 60). This is closer to the number of parties that one might find in a majoritarian system. This contradiction can be explained by the Australian use of preferential block voting, which compounds the disproportionality associated with the Alternative Vote. The first seat is filled as it would be under Alternative Vote with the candidate who receives the most votes winning the seat. For further seats, the votes are recounted with the preferences of the winner of the first seat disregarded. Thus, similar to the bloc vote, the most preferred party is likely to win all the seats (Gallagher & Mitchell 2005, 592).

I would expect that most of the seats in the Australian Senate would go to either the Labor Party or the Liberal-National coalition because the nature of the electoral system advantages them. Multi-member districts benefit larger parties because they have the resources to run multiple candidates in districts. Smaller parties may only be able to run one candidate in a district or in geographic areas where they have strong support. It is worth noting that this expectation is not absolute. Smaller parties including the Australian Democratic Party and the Green Party have consistently held seats in the Senate.⁵ One Nation

⁵ According to Gallagher and Mitchell (2005), the Australian Democrats frequently hold the balance of power role in the Senate between the Labor Party and the Liberal-National coalition.

held seats in the Senate in the late 1990s to early 2000's but One Nation will be discussed in detail later.

Despite the different electoral formulas used for elections to Australia's House of Representatives and the Senate, the system as a whole has a primarily majoritarian character. The forthcoming case study will illustrate that the majoritarian character of the Australian electoral system helped reinforce liberal immigration policies. Australian immigration policy is the byproduct of two lengthy periods of governing continuity. The Liberal Party who governed from 1983-1996 largely carried over the policies of their Labor government predecessors. John Howard campaigned against this previous multicultural order and tightened restrictions on asylum seekers from Southeast Asia. These policies were firmly in place from 1996-2007. Despite a brief challenge by the right wing 'One Nation Party' during the 1990s, Australia has maintained a fairly liberal immigration regime.

Persons can immigrate to Australia for three reasons: family unification or having a particular skill that is deemed economically necessary or seek asylum based on humanitarian grounds. Australia has instituted a quota system, which allows a certain number of persons to come to Australia for family unification, economic or humanitarian reasons each year. Under the quota system, the Minister for Immigration sets the number of available places to be filled by qualified economic migrants, refugees and those seeking family unification. Those migrating for economic reasons must also pass a points test certifying that they have the skills necessary to work in Australia (Miller 1999).

The quota system itself acts as a limiting agent. Every year, the Minister of Immigration sets the quota based on Australia's economic needs and the amount of available resources. In theory, the quota could be 120,000 one year and 80,000 the next. Once that quota is met, no more legal immigration is permitted. This presents difficulty because immigration policy in Australia liberalizes or constricts year to year, rather than changing with the government as a result of electoral law.

The Liberal Party inherited immigration policies from the previous Coalition government that saw migration as a means of nation building. The housing and development industry along with manufacturers advocated for higher immigration levels because they feared a skilled labor shortage. There was also a political component to increased immigration. Ethnic communities began to be viewed as a potential source of new voters. Political parties jockeyed to portray themselves as responding to the historical, cultural, and economic disadvantages faced by non-English speaking immigrants. To this end, the Coalition government opened up the family reunification program to allow sponsorship of immediate family members to Australia. They also embraced the idea of a multi-cultural Australia that sought to equalize ethnic cultures with mainstream Australian culture (Freeman 1992, 1150; Freeman & Birrel 2001, 532).

The Liberals, upon taking power in 1983, expanded these programs. Although trade unions were concerned about migrant labor competition, the Liberals enacted more liberal family reunification policies, which gave sponsored parents' unrestrained access to Australia. On the multicultural front, the government enacted policies that provided substantial funding

for English language programs, and access to Australia's welfare, healthcare, and educational facilities was made available to immigrants upon arrival in Australia (Freeman & Birrel 2001, 533). Later in the 1980s, the government expanded business opportunities for migrants and created a category for students with work experience, English language proficiency, and/or advanced education or trade school.

The influx of Asian immigrants resulting from these expanded programs alarmed politicians who worried about their integration into Australia and Australia's cultural makeup (Freeman & Birrel 2001). Public opinion also illustrated concern about high levels of immigration. Between 1988 and 1991, when the Australian public was asked whether they supported admitting more, the same number, fewer, or no immigrants, less than ten percent favored admitting more immigrants, while two-thirds favored admitting fewer or no immigrants (Simon & Lynch 1999, 460). Despite the public concern over immigration, Australia's electoral institutions ultimately ensured that liberal immigration policies continued.

The majoritarian nature of the Australian electoral system has reinforced the Labor-Liberal-National dominance. These main parties do well in the Alternative Vote system because of the distributed preference voting. If one of the two main parties does not win a majority or plurality votes are taken from the lowest vote getter and redistributed. This makes it highly likely that the winning candidate will be from the Labor Party or the Liberal-National coalition and smaller parties are largely shut out of the House of Representatives. While the Senate has produced some third party success, Single Transferable Vote often

favors the Labor-Liberal-National dominance because these parties have the resources to run multiple candidates in the multi-member districts.

As discussed earlier, many of the policies that the Liberal government enacted were extensions and expansions of policies that began under the last Coalition government. This suggests that widespread agreement existed on the general character of the immigration law, even if the size of the flows was questioned. The Single Transferable Vote and Alternative Vote systems would be virtually assured to produce a majority favoring liberal immigration policies for the reasons outlined above. Any deviation from liberal immigration policies would require a mass defection from both the Labor and Liberal-National Parties in order to overcome the mechanical effect of the electoral system.

The immigration quota began to fall as ministers inside the Labor government began to question whether immigration was good for the Australian economy. Beginning in 1989-90, the number of available visas began falling from 140,000 to 80,000 by 1992-93 (Freeman 1992, 1149). This represents a significant restriction down 60,000 or 43% over a four year period. The quotas would continue to fall to 76,500 in 1994-95 and 83,000 in 1995-96 amid an economic recession. The Labor government embarked on other measures designed to restrict immigration, but those restrictions were implemented by John Howard.

By 1996, public opinion had turned decisively against further immigration into Australia. Two polls conducted in June and September of 1996 found that 65% and 71% percent of respondents believed that Australia admitted too many immigrants (Betts 2002, 25). The 1996 Federal Election was a repudiation of thirteen years of Labor rule as John

Howard was elected Prime Minister. The Liberal-National coalition won 94 of the 147 available seats (Bean 1996). This election was also notable for the election of Pauline Hanson a former Labor Party member who was dropped by the party for a series of racist comments (Ang & Stratton 1998, 424). Electing John Howard as Prime Minister, along with Pauline Hanson's election, would have a profound effect on Australia's immigration policy in subsequent years.

The Howard government instituted immigration reforms at two levels. First, they reduced the overall intake, then they sought to reduce welfare costs and increase the economic focus of the program. New restrictions to the family unification program were enacted including: All immigrants (excluding those admitted on humanitarian grounds) were barred from accessing study and welfare payments for a period of two years, and spouse or finance benefits were issued on a two-year temporary basis in order to prevent phony marriages for visas (Betts 2003, 177). In terms of reduction in the intake of refugees, the Howard government reduced the intake from 97,550 in the last year of Paul Keating's government to 85,760 in the first year of the new government. This lower immigrant intake was maintained for four years over the objections of those in the business community (Betts 2003, 178).

While the Howard government made significant changes to the permanent migration side of the immigration program, the temporary and humanitarian migration programs remained untouched. The Howard government implemented a policy initiated by the Keating government called "business migration" that allowed businesses to sponsor migrants on a four year visa provided that the work was vital for the Australian economy. Visas issued under this

program increased from 25,812 in 1995-6 to 27,796 in 1996-97. By 2001, the number had increased further to 40,493. By 2000-01, the increase in the number of temporary migrant visas had almost eliminated any reductions in numbers of immigrants gained by the Howard reforms (Betts 2003, 181, see table two).

While the Howard government altered immigration policy during its first term, the restrictions on immigration were superficial. Any reduction in asylum applications or immigrant quotas was likely offset by the increases in temporary migration for economic, academic, or tourist reasons. Temporary and humanitarian immigrants were exempted from the policies, which really limits their scope as measures restricting immigration. Despite electoral rhetoric that assailed the multicultural policies of successive Labor governments, the balance of the evidence suggests that the Howard government did not eliminate liberal immigration policies.

As these reforms took effect, public opinion on immigration began to change. In 1997, the percentage of the public who believed that Australia was admitting too many immigrants fell from 71% to 64% and further to 41% in 2001 (Betts 2002, 25). I assume that a full term of these policies had largely reduced the public's discomfort about the level of immigration to Australia. The 41% figure suggests that there was a significant constituency who wanted the Howard government to go further. With this in mind, I now turn to the rise of Pauline Hanson and the One Nation Party.

During the 1998 election, One Nation Party cast immigrants as a threat to the cultural and economic security of the Australian state. Economically, they argued immigrants took

jobs away from native Australians, increased crime, and that the pursuit of equal opportunities for migrants had gone too far. Culturally, One Nation appealed to voters who believed that immigrants needed to assimilate to Australian culture and stop clinging to their own cultures (Gibson, McAllister & Swenson 2002; Mughan & Patton 2006). This blend of economic and cultural appeals allowed the One Nation Party to capture 8.3% of the first preference vote nationally, but only one seat (Butler 1999).

The Single Transferable Vote system used in the Australia Senate plays a unique role in this result. With the exception of Pauline Hanson in Queensland, no One Nation candidate finished higher than fourth in a multi-member constituency. This is problematic even in a multi-member constituency because all the people who gave One Nation candidates a high preference vote could be cancelled out by the voters who find One Nation's rhetoric undesirable. This could lead to a situation where a fifth or sixth place Coalition candidate leapfrogs a One Nation candidate as the preference votes are redistributed. Pauline Hanson finished second in Queensland because she failed to win a majority on the first ballot and was leapfrogged on second preferences.

It is difficult to substantiate the claim that One Nation's electoral presence had any effect on economic-based migration. Although the Howard government instituted small quota reductions, there was no movement to increase these reductions in the wake of the electoral success of One Nation. The government was pressured by business interests to reverse the small reductions that Howard made in immigration quotas following his election in 1996. Beginning in 2000-01, the government began raising the quota once again, with the quota for

the 2002-03 year being 117, 000 (Betts 2003). However, the effect of One Nation on refugee policy is much more interesting.

Australia began to experience a significant increase in the number of boat people arriving onshore during the first term Howard government. Boat people increased from 200 in 1998 to 3694 for the first seven months of 2001. The Tampa Affair (the standoff between a Norwegian cargo ship and the Australian government) focused attention on the immigration issue along Australia's shores. The ship known as the MS Tampa rescued approximately 500 boat people from an Indonesian fishing vessel off the coast of Christmas Island, Australia. The people were fleeing war-torn Afghanistan and sought refuge on the Southern shores of Australia. For their part, the Australian government wanted the refugees returned to Indonesia. After a few days, the MS Tampa attempted a landing in Australia, but was rebuffed by Australian Special Forces who were instructed to seize the vessel and prohibit the refugees from reaching shore (Damasi & Briskman 2010; Fox 2010; Magner 2004).

In the aftermath of The Tampa Affair, a number of legislative acts, known collectively as the "Pacific Solution," quickly passed through the Australian Senate on September 26th 2001. The six acts were presented to the public as a way to both secure the Australian border and prevent the unlawful entry of scores of migrants. The Pacific Solution has three major components: 1. the excision of thousands of islands from Australia's migration zone to block due process rights under the Migration Act to boat people who reach these locations; 2. The interception of vessels containing asylum seekers by the Australian Defense Forces; and 3. the removal of persons to third countries for refugee status determination procedures (Fox 2010;

Magner 2004). Some of these solutions butted up against Australia's international obligations.

The third component of the Pacific Solution: the removal of persons to a third country for refugee status determination procedures. Article 31 of the Refugee Convention prevents states from penalizing refugees and asylum seekers on the basis of illegal entry or presence or restricting the movement of such refugees once on state territory. Giving the Australian military the right to seize the Tampa could be construed as integrating the Tampa into Australian territory. Further, the resettlement of refugees to third countries flies directly in the face of the principle of non-refoulement. According to the 1951 Convention relating to the Status of the Refugee "No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." ("The 1951 UN Refugee Convention").

Article 31 of the Refugee Convention prohibits states from penalizing refugees "on account of illegal entry or presence or from applying —to the movements of such refugees' restrictions. Article 31 applies to those who arrive within the territory of a given state. If the territorial sea where ships were seized is considered part of Australian territory, then refugees were arguably penalized. Australia could argue that rights under Articles 14 and 31 were protected by delivering refugees to a safe third party country (Fox 2010; Magner 2004). However, asylum seekers that were brought to Nauru and Papua New Guinea were left in legal limbo with their chances of being settled to a third country uncertain (Fox 2010; Magner 2004).

The question remains however, was it the presence of the One Nation Party in Parliament or the Tampa Affair itself that led to the imposition of stricter immigration policies? I believe that while the relative success of One Nation may have been of some concern to mainstream political parties, it is highly unlikely that a party that holds a total of one seat between the 226 seats of both the House and Senate is going to be able to directly influence policy. This lack of policy influence can be partially explained by the majoritarian nature of the preference voting. In preference voting, there is an intense period of bargaining between parties as to how to advise their supporters to rank competing candidates. All the significant political parties agreed to preference against One Nation. In this way, the majoritarian nature of the electoral system worked to marginalize One Nation.

It is more plausible that One Nation's electoral success in 1998 impressed upon mainstream political parties that stricter immigration policies were electorally profitable. The Tampa Affair was the catalyst for the stricter immigration policies, but it is difficult to refute the charge that the policies instituted by the Howard government had an electoral component. Recall that One Nation had won eight percent of the national preference vote during the 1998 election. Because of the generally close nature of elections in majoritarian systems, successfully co-opting the anti-immigrant rhetoric of One Nation could provide the difference between victory and defeat.

The 2001 election was a victory for the Liberal-National coalition. Together, the two parties won eighty-two seats in the Senate, which gave them a slim majority over their Liberal opponents. Voters went to the polls with the issue of asylum seekers on their mind. According

to the Australian Election Survey, when asked whether they agreed with the statement “All boats carrying asylum seekers should be turned back”, 62% agreed (Betts 2002, 42). Fifty-five percent of those voters who either strongly agreed or agreed voted for the Coalition (Betts 2002, 43). This backs up polling done before the election that found support for Prime Minister Howard’s response to the Tampa Affair at 56% generally and 65% among Coalition supporters (Ibid. 43). Meanwhile, One Nation’s vote share declined to 5.6% and just one seat (Mackerras 2002).

The rise and quick decline of One Nation as a party has much to do with the nature of the Australian electoral system. Both the Alternative Vote and Single Transferable Vote formulas are primarily based on voter preferences. When all the mainstream parties refused to preference with One Nation, their chance to win seats was diminished. This is because 50% of voters use how to vote cards distributed by parties to their supporters at the polling place for Alternative Vote elections to the House. In the Senate, many voters have opted for ticket voting, as a means of simplifying the complex ballot structure of the STV system. Under this system, voters check a box accepting the rank ordering of the candidates that the party provides (Farrell & McAllister 2000).

This type of system disadvantages a party like One Nation. For example, in 1998 it took fifteen percent of the vote for One Nation to win one seat in Queensland where they had a strong base of support without the need for preference voting. This suggests that the party would have to pick up a much greater percentage of the vote. Once the Howard government enacted tough asylum policies such as offshore detention and third country refugee status

determination, the impact of One Nation's anti-immigrant rhetoric was blunted because the Liberal-National coalition had taken a firm step to deal with asylum seekers. Therefore, One Nation would have had to call for still more restrictive immigration policies, which had the potential of alienating the very voters they would have needed in order to win more seats.

Following the 2001 Australian Federal election, the focus of immigration changed from the arrival of illegal boat people to immigration for economic reasons. The Howard government was pressured by business groups to raise the immigration quota amid labor shortages. Business groups also contended that Australia lacked the workforce to compete in the globalized economy. In order to meet this goal, the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) instituted a visa subsidies program to encourage foreign students with special skills to apply for permanent residence status upon finishing university in Australia. Students had to have the required credentials in a skilled migration program listed on the skilled occupations list (SOL). Visas issued under this program increased from 5,480 in the first year of the program to 17,552 in the 2007-8 year (Nieuwenhuysen et al. 2009).

There was also a focus on the multicultural identity of Australia, particularly following the September 11th 2001 attacks. In 2003, the Howard government announced the agenda for a United Australia that articulated five principles including supporting the structures and principles of Australian society that guarantee freedom and equality while allowing diversity to flourish, respect for each person's culture and beliefs, lack of discrimination on the basis of race, culture, language, religion, etc., and all Australians benefit from the diversity of cultures

that exist in Australia (Leuner 2008). This certainly does not fit the image some authors have of John Howard retreating from policies that encouraged a multicultural Australia (Ibid. 2008), despite his tough record on illegal immigration.

Discussion

Australia has the most liberal immigration policy of the four countries under study. This policy has endured with only cosmetic changes for over forty years. Both the Labor Party and the Liberal-National coalition had committed themselves to a multicultural society based on mass immigration. Leaders from both political parties went out of their way to articulate a multicultural society based on respect for other cultures, religions, and languages. The Liberals who governed from 1983-1996 merely expanded on the Labor government policies of the previous decades because of economic need. When the Labor government took over in 1996, while they introduced cuts to the quota system, these cuts were fairly minor and represented the amount of immigration allowed under the previous years of the Liberal government. Furthermore, they upheld or expanded liberal immigration policies.

The dominance of a liberal immigration regime can be explained in part by the majoritarian nature of Australia's electoral system. Both houses of the Australian legislature use forms of redistributive preference voting. In the Alternative Vote system used in the House of Representatives, candidates are rank ordered and if no candidate receives a majority on the first ballot, the candidate with the fewest votes is eliminated and his preference votes are redistributed based upon second preferences. This process continues until a candidate has

a majority of the vote. This system would seem to disadvantage small parties that do not have the broad appeal of the Labor Party or Liberal-National coalition.

The system of electoral alliances designed to increase the parties' share of the votes plays a role here as well. Alternative Vote as used in Australia encourages parties to maximize their preference votes. Parties bargain to determine how they will advise supporters to rank competing candidates. This usually means that Liberal candidates support National candidates and the Australian Democrats align with Labor (Gallagher & Mitchell 2005). This system of preference maximization leaves voters that want more restrictive immigration policies leaves voters without a viable alternative to liberal immigration policies. If an anti-immigrant alternative emerges, the mainstream parties can agree not to preference with them, as occurred during the 1998 elections with One Nation.

The situation is similar in the Australian Senate even though they use a Single Transferable Vote formula. This system would seem to favor multi-party competition because of the greater number of seats to be contested. This advantage is lessened because Australia uses a system of preferential bloc voting, which acts more like a bloc vote system where if one party wins the first seat, they are likely to win all the seats. This is because most voters use the option of checking a box that allows for voters to elect an entire list arranged by the parties. This would seem to advantage the Labor Parties and the Liberal-National coalition who have the resources to run multiple candidates in the multi-member districts. Smaller parties can also be disadvantaged by the nature of the preference redistribution. Even if the party has a strong base of support, they may find themselves outside the legislature because if

they do not win the first seat with an outright majority, then it goes to second preferences where they can be leapfrogged by another candidate who had higher preference votes on the second count. This also does not even consider what happens when no other party will preference with them. This occurred with One Nation as part of a coordinated strategy by the mainstream parties to block One Nation from further electoral gains. The mainstream parties' refusal to work with One Nation coupled with John Howard's enacting tough immigration policies left One Nation toothless.

The quota system itself serves as a limiting agent in itself as once those quota spots for migration and humanitarian status are exhausted then no more legal immigration is permitted. These numbers can fluctuate year to year depending on economic or humanitarian needs. The fluctuations are rarely less than 90,000 persons in a given year for migration and 13,000 for humanitarian needs over the last five years. Beyond the sheer number of immigrants allowed into Australia, Australia has maintained fairly liberal policies on citizenship and naturalization that encourage people to come to Australia. This is in contrast to other countries under study whose complex and laborious processes are calculated to decrease immigration. This is more impressive considering that Australia is not subject to a European Union agreement that compels them to keep the door open to immigrants.

The human rights concerns raised after the Pacific Solution was adopted in response to the Tampa Affair have proven to be a political lightning rod as both parties sparred over the issue of what to do about boat people. During the 2010 election, neither party wanted to be accused of reinstating the Pacific Solution because their political opponents tar them with

images of refugees in crowded detention centers in Papua New Guinea and accuse them of going against the Australian humanitarian tradition. I fully expect that an ever expanding number of boat people will continue to weigh on the Australian state as they struggle to maintain humanitarian principles while keeping Australia safe.

CHAPTER THREE

FRANCE

France has a bicameral legislature comprised of the National Assembly and the Senate. With the notable exception of the 1986 election, the 577 members of the National Assembly are elected in single member districts according to a majoritarian system in two rounds of voting. A candidate is elected if they win a majority of votes on the first ballot. Failing that, a second round of balloting is held a week later between the top two candidates or any candidates who receive the votes of 12.5% of the electorate during the first round of voting. The two round majoritarian system produces two often contradictory logics of multipartyism and alliance building that have implications for policy-making.

The two-ballot system encourages multi-party competition because smaller parties have nothing to lose by contesting the first ballot and may gain by competing. If they can illustrate a significant level of support during the first round of balloting than they can ensure a place at the bargaining table as the second round alliance building process begins (Elgie 2005, 123). This spirit of multiple political parties has been tamped down in some respects because the 12.5% threshold has the effect of disadvantaging small parties and encouraging the formation of electoral alliances for the second round of elections (Ibid.). According to Duverger (1954), majoritarian run-off systems tend to create highly disproportional outcomes and multiparty systems. Under these conditions, parties face a strong incentive to form an

electoral pact (see Blais & Indridason 2007; Duverger 1954; Sartori 1994). The most common type of electoral pact is the second-round agreement in which one, two, or more parties agree that the candidate with the fewest votes will drop out if more than one party advances to the second round of voting (Blais & Indridason 2007). Sartori (1994) points out that such agreements are most likely to occur among ideologically proximate parties. We will see later that the presence of the anti-immigrant National Front in French politics lead the two mainstream parties to band together because the threat posed by the National Front was more distasteful than a victory by the National Front.

The French Senate is not directly elected by the people. Voters vote for a group of electors who chose the Senate. Rather, Senators are elected by 150,000 elected officials including: regional and departmental councilors, mayors, city councilors, and members of the National Assembly (“French Conservatives Capture Control of Senate”). While the National Assembly has the final say in the drafting of laws, both houses of the legislature have a say in whether legislation passes. They also have the ability to amend laws that are under discussion. Because bills generally have to pass through the Senate and National Assembly, it can take several readings for an agreement to be reached between the two legislative bodies⁶. While debates between the two bodies are not usually contentious, one might expect to see an exception on a controversial topic such as immigration.

⁶ On rare occasions, the administration can decide to give the final decision on legislation to the National Assembly in the event that the National Assembly and Senate cannot agree. Usually however, the two houses agree on a bill or the administration withdraws it.

The French Legislative elections of 1986 were notable for two things: the use of proportional representation and the electoral breakthrough of the radical right National Front Party. President Mitterrand had promised electoral reform during the 1981 presidential campaign. His decision to adopt a proportional representation system for the 1986 legislative elections was a politically calculated effort to limit the Socialist Party's losses, while maintaining his control over the legislature (DeClair1999, 66-67). Candidates were elected on the basis of proportional representation through party lists based on the rule of highest average without provisions for vote-splitting or preference voting (Frears 1986).

Overall, the 1986 National Assembly elections represented a move towards the right. The ruling Socialist Party lost 77 seats though they still remained the largest party in the National Assembly with 206 seats. Many of these seats went to the right wing conservative coalition of the Rally for the Republic (RPR) and the Union for French Democracy (UDF). The National Front Party benefited most from the move to a PR system, winning 9.3% of the vote and 35 seats within the National Assembly. The National Front's 35 seats made it the third largest party within the National Assembly (Goldey & Johnson 1986).

In spite of the unprecedented success of the National Front they only held six percent of the seats in the Chamber of Deputies. This means that they could not enact tougher immigration policies on their own. Yet the success of The National Front during the 1986 elections may have provided the necessary spark for the Pasqua Laws. A right wing coalition of the Rally for the Republic (RPR) and the Union for French Democracy (UDF) formed a government. Coupled with the 35 seats that the National Front had won, right wing political

parties had won 311 seats out of 577 seats. Yet chalking up the passage of the Pasqua Laws to a government shift to the right is far too simplistic an explanation. The RPR-UDF coalition was hesitant to partner with the National Front because of their extreme anti-immigrant rhetoric (Hollifield 1997).

Mainstream parties on both the left and right of the political spectrum grew concerned about the rise of the National Front and took steps to blunt their electoral gains. First, the RPR-UDF government reverted back to the use of single member districts with the possibility of two rounds of voting, if no candidate earned a majority of votes. By eliminating the PR system that had benefited the National Front, mainstream political parties hoped to halt future electoral gains. The right wing government still needed to recapture voters that it lost to the National Front, and in order to accomplish this they set about reforming France's immigration and naturalization laws.

The Pasqua Laws, named after Interior Minister Charles Pasqua gave police broad powers to detain and deport persons without the proper paperwork. Further, the Pasqua Laws gave police forces the power to perform random and arbitrary checks on any foreigner or suspicious looking person (Hollifield 1997). The effect of these measures was to restrict the civil liberties of foreigners, which created a psychological effect of discouraging immigration to France. On the issue of citizenship and nationality, the Pasqua Laws did three things: withheld French citizenship for children born in France to foreign parents until eighteen; any immigrant imprisoned for more than six months was barred from becoming a French citizen; West Africans were no longer allowed to reintegrate into French society; and spouses of

French nationals would have to wait two years, instead of one, to file for naturalization.

The proposals taken together amounted to a requirement imposed on foreigners to commit to the French state by requesting French nationality and taking a loyalty oath (Ibid.).

The changes to the citizenship and nationality law introduced by the RPR-UDF had an electoral component to them. France's two round majoritarian system placed two significant burdens on the National Front. First, the 12.5% threshold to contest the second round of voting was difficult to obtain in most constituencies. Secondly, if the National Front passed the threshold, they would have needed to enter into an electoral alliance with other parties to defeat the mainstream opposition in a runoff election. Considering that members of the RPR-UDF coalition found alliances with the National Front undesirable in most cases (Hollifield 1997), they would have difficulty finding the support to defeat their mainstream opponents. Thus, the move to the two round majoritarian system would decrease the National Front's presence in the National Assembly.

Majoritarian systems like those in France encourage a certain level of strategic voting. Supporters of radical right wing parties understand that their preferred party has little chance of having a meaningful role in government formation. So some voters will throw their support behind the largest mainstream party that is ideologically close to them. One can see the more restrictive policies on citizenship and naturalization as an attempt by the RPR-UDF coalition to appeal to National Front voters prior to the next election contested under the two round majoritarian systems. Voters could support the National Front during the first round of voting,

but would have a viable electoral alternative in the likely event that the National Front did not make the second round of voting.

Unfortunately, mass protests lead to the withdrawal of the Pasqua Laws (Brubaker 1992; Hansen & Koehler 2005, 632). Withdrawing the Pasqua Laws was damaging to the RPR-UDF coalition. They mobilized those opposed to reform of the Nationality code, while failing to outflank the National Front on the immigration issue. The National Assembly was dissolved after François Mitterrand defeated Jacques Chirac in the French Presidential election of 1988. In the ensuing legislative elections, the balance of governing switched back towards the left. The left-wing government pursued an immigration strategy that included: increased regulation of the labor market, campaigning against illegal immigration, and integrating the large foreign population that lived in France (Hollifield 1997).

The only major changes to immigration policy during this period were the signing of the Schengen Agreement and Dublin Convention. The Schengen Agreement states that all persons who legally reside within the Schengen zone can freely move within that zone without having to show passports, even while crossing internal borders⁷. Eventually, the agreement abolished the internal borders of member states and set up a centralized location with common rules for visa checks and asylum requests. The establishment of such rules was meant to allow for the free movement of people and eventually create a common European asylum procedure (Hansen 1999; McCarron 1995; Whitaker 1992).

⁷ The Schengen Agreement was originally signed by Belgium, France, West Germany, the Netherlands, and Luxembourg. By 1997, all European Union member states had signed on, except for the United Kingdom and Ireland, who remain outside the Schengen Zone.

The Dublin Agreement was adopted in order to determine which state is responsible for examining asylum applications within the European Community. The purpose of the Dublin Agreement was to prevent duplicate applications and set procedures for determining safe third countries for refugees to lessen the risk of non-refoulement. Non-refoulement is a violation under both Article 3 of the European Convention on Human Rights, and Article 33 of the 1951 Refugee Convention. While the convention mandated that one state examine the asylum seeker's application, matters such as visa criteria to enter the EU, and what constitutes a safe country, is left to individual states (Hailbronner 1993; Junker 2005, 295). This suggests that even though the two pieces of legislation were designed to harmonize asylum policy in Europe, states still had a great deal of leeway to determine who entered their borders.

The 1993 Federal Elections shifted the National Assembly back towards the right as a number of political scandals had divided and demoralized the ruling Socialist Party. The RPR-UDF coalition won 449 out of a possible 577 seats in the National Assembly (Guyomarch 1993, 605). The Socialist Party was reduced to fifty eight seats. The electoral landslide by the RPR-UDF coalition had profound implications for immigration policy. Charles Pasqua was re-installed as Interior Minister and set a goal of "zero immigration" to France ("New French Laws Placate Demands for `Zero Immigration"). In order to achieve this goal, Pasqua introduced several laws concentrating on three aspects of immigration law: the entrance and experience of foreigners who come to France, the Nationality Code, and tighter control of identity papers (Soltez 1995).

These policies were a response to the successful politicization of the immigration issue by the National Front. The National Front mobilized public opinion by playing on the fear and insecurity that the immigration issue generates. They paint mainstream political parties as too weak to act on immigration (Brechon & Kumar Mitra 1992, 80). The RPR-UDF coalition needed to illustrate that they could be tough on immigration to prevent a loss of ideological right wing supporters to the National Front. This is a real concern for mainstream right wing parties because of the two round electoral system used in France. While the National Front does not win many seats, they tend to get a high percentage of the vote during the first round of voting when people are said to vote with their heart.

During the first round of the 1993 elections, the National Front received over three million votes and 12.4% of the vote overall (Hollifield 1997). Most contests in the second round come down to a contest between the RPR-UDF candidate and a Socialist candidate. The ability to the RPR-UDF to credibly show that they can appeal to even a fraction of National Front voters during the second round of voting could mean the difference between victory and defeat. In this way, the National Front can still exert an *indirect* influence on immigration policy, even though the two round majoritarian system largely prevents them from winning seats.

The Pasqua Laws introduced in 1993 restricted French citizenship. Under the new law, children between the ages of 16 and 21 had to apply for French citizenship on their own (Doty 2004). French children born to Algerian parents were only considered French, if their parents had resided in France for at least five years prior to their birth (Ibid.). The Pasqua Laws also

stated that authorities from postal officials, hospitals, social officials, and tax officials should check papers and report “irregulars” to authorities (Doty 2004). The Debre Laws were similar to the Pasqua Laws in that they allowed authorities to keep files on foreigners deemed to be acting irregular and deport them, if necessary. Previously this power was only granted to the Interior Minister. As Special Rapporteur of the UN Commissioner for Human Rights suggested “France is being shaken by a wave of xenophobia and racism that is highly prejudicial to its image as the homeland of human rights.” (“UN Rights Report Flays France for Its 'Racist' Immigration Laws”).

The RPR-UDF coalition enacted the restrictive Pasqua and Debre Laws attempting to undercut support for the National Front. Previously, it had been safe to ignore the rhetoric of the National Front because mainstream parties could unify around one candidate and defeat them. This perception changed when the National Front won a mayoral election in the city of Vitrolles (Chaddock 1997). Further, in the 1995 Presidential election, Jean Marie Le Pen won fifteen percent of the vote (Hainsworth 2000; Lewis-Beck & Charlson 2002). These developments alarmed mainstream parties, particularly those on the right, who feared losing vote share to the National Front (Doty 2004). The National Front was successfully able to tap into a public opinion that had turned against liberal immigration regimes. In a 1993 poll, 67% of people surveyed believed that France was in danger of losing her national identity because of the influx of foreigners (Simon & Lynch 1999, 462). In an earlier 1991 poll, 71% of respondents claimed that France had too many Arabs (Ibid.).

In the lead up to the 1997 election, the governing party and opposition promoted contrasting views on immigration policy. The governing RPR-UDF coalition proclaimed their commitment to French values while vowing to combat illegal immigration, and equal opportunities for the disadvantaged. The Socialists pledged to reverse the Pasqua-Debre Laws, and protect the right to asylum (Marthaler 2013). The Socialists won 246 seats to make them the largest individual party, although the RPR-UDF coalition had a combined 248 seats (Hainsworth 1998). The National Front played a pivotal role in the outcome of the election.

The National Front received fifteen percent of the vote in the first round of elections. Traditionally in two round majoritarian elections, parties will form electoral pacts with ideologically compatible parties where the candidate with the fewest votes will withdraw. In practice, this allows for a two candidate race between the Socialists and the RPR-UDF candidate. However, the National Front refused to withdrawal their candidates. This was particularly disastrous for the RPR-UDF because it split the right-wing vote in the subsequent three way election between the RPR-UDF, National Front, and the Socialists. Because of the winner take all nature of the second ballot, splitting the right-wing vote allowed the Socialists to win several seats. In some cases, the Socialists were left in a two candidate race with the National Front candidate.

The unique nature of the French electoral system made the above outcome possible. A conventional majoritarian system would have marginalized the National Front. But the two round component encouraged the National Front to compete. If smaller parties perform well in the first balloting, they are in a superior bargaining position when alliances need to form for

the second ballot. With the parties' strong showing in the first round of voting, it is possible that the National Front saw themselves as a kingmaker of sorts. Ironically, by failing to come to agreement with the RPR-UDF, the National Front may have allowed a slightly more liberal immigration policy to take root.

The first bill, the Guigou Law, reinstated the principle of *jus soli*, where everyone born in France to foreign parents can acquire French nationality provided they can illustrate five years of residence since the age of eleven. To ensure that people wanted to become French citizens, the law provided that one could renounce their citizenship six months prior to their eighteenth birthday, or twelve months after. The new legislation provided identification cards to all minors who had foreign parents in France. It also restored the one year waiting period for spouses married to French nationals to request naturalization (Cornelius et al. 2004; Kolstee 2006).

The Chevenement Law eliminated the legal entry requirements under the Pasqua Law. One year residence permits were awarded to minors who entered for purposes of family reunification. Residence permits were extended to all foreigners who entered France prior to age ten, any foreigner who can prove that they have been in France for fifteen years, and any foreign spouses or parents of French children. This legislation also created temporary asylum categories for those who risked persecution and death should they return home. While the law was more liberal, it was far from the sweeping repeal of the Pasqua-Debre framework that the Socialists had promised during the 1997 campaign. This created a split within liberals who

believed that the government did not go far enough. This split would come back to haunt Lionel Jospin during the 2002 presidential election.

The period from 1997-2002 was marked by a five year period of cohabitation, where there is a Socialist government and a Gaullist President. Most public opinion polls indicated that the French public would rather not have more cohabitation. Cohabitation was problematic in two respects. First, Chirac and Jospin while able to cooperate when French interests demanded it, had a very bitter personal conflict that only grew more pronounced as the campaign drew near (Elgie 2002). Secondly, cohabitation deprived French voters of an identifiable opposition because voters found it hard to differentiate between Chirac and Jospin in the run up to the 2002 election (Cole 2003).

In the first round of voting for the French presidency, the Left had an abstention rate of twenty-six percent (Bell & Criddle 2002). This was part of the reason why Jean Marie Le Pen was able to advance to the second round of voting. Le Pen won 16.8% of the vote compared to 16.1% for Jospin. Le Pen advanced to the second round against President Chirac (Kuhn 2002). When the second-round of voting occurred, Chirac won with 82% of the vote including a majority of left-wing voters. This was a direct consequence of the two-ballot system. The first round eliminated the Socialist candidate, thus ensuring a landslide victory for Chirac because Le Pen's rhetoric was so repugnant to many. The memory of the 2002 election served as the catalyst for more restrictive immigration policies.

Beginning with the second Chirac government in 2002, Nicholas Sarkozy played a vital role in shaping French immigration policy. In order to facilitate the goals of decreasing

illegal immigration and better integrating migrants, a new law on immigration control, residence of Aliens in France, and Nationality was passed. Under this policy, once legal immigrants arrive at the French border, they will have to sign an integration contract to obtain a residence permit. This contract includes a commitment to language training and courses on the values of French society. Persons who complete the contract will get a ten year residence permit, while those who do not will only receive a one year permit. Family unification standards were also tightened as relatives of French nationals would only be able to obtain a residency card, provided that their relative had been residing in France for five years and their integration had been satisfactory (Simon 2003).

France was experiencing a severe economic downturn at this point, so it is unclear whether these policies were purely a response to the National Front gain in the previous election or a result of the bad economic conditions. This distinction is made even more difficult because the National Front often campaigns on the issue of Arabs stealing jobs from French nationals. It makes sense that such appeals are more effective during bad economic conditions. The National Front exploited the public discontent with both mainstream parties during the 2002 election (Durand, Blais & Larochelle 2004; Laver, Benoit, & Sauger 2006; Marthaler 2013; Mayer 2003).

The immigration law reforms of 2003 echo a familiar pattern concerning immigration policy in states with majoritarian electoral systems. As an anti-immigrant party gains electorally, mainstream parties will move to co-opt the anti-immigrant rhetoric of these parties and adopt restrictive immigration policies in an effort to eliminate the populist threat. Unlike

proportional systems, there is no realistic threat of an anti-immigrant party controlling government because their racist and xenophobic rhetoric is too alienating to win a majority of seats on a national level. Yet, in a close election it is possible that an anti-immigrant party can hold the balance of power.

This happened in a way during the 2002 elections. Few people were overjoyed with Jacques Chirac as President. However, when Le Pen had an usually strong first round result, most moderate voters were forced to vote for Chirac, even if he was not their preferred candidate. Because most conventional majoritarian elections are close affairs between two parties, an anti-immigrant party that draws four to five percent could have a definitive say in who holds the balance of power. This is part of the reason why right-wing mainstream political parties will often attempt to co-opt the anti-immigrant parties' rhetoric. They want to have power for themselves, but they also do not want to be dependent on the radical right as a kingmaker.

The year 2005 saw two events that would lead to more restrictive immigration policies: the rejection of the European Constitution and a series of riots by African immigrants. The European Constitution was intended to replace the single European Union treaties with a unifying text that would have incorporated a Charter of Fundamental Rights throughout Europe. France held a referendum and the European Constitution was defeated by 55% of the voters. The referendum became framed by the voters' perceptions of French national politics, rather than broader feelings about European integration (Ivaldi 2006; Milner 2006). Fifty-two percent of no voters were thinking about national issues within France as

they cast their ballots. Because the referendum became so entwined within national politics, the outcome of the referendum weakened the Chirac government. Nicholas Sarkozy returned as Interior Minister soon after.

Sarkozy's first task was dealing with a series of riots by African immigrants that highlighted the failures of the French integration regime and the degrading conditions some immigrants lived in (Moran 2011; Silverstein 2005). The reforms introduced following the riots included: creating a three year temporary residency permit for those with skills needed in the French economy, elimination of de facto recognition of migrants after ten years, requirements that immigrants show a level of financial support (Marthaler 2013). Since these laws did not result in a notable decrease in immigration, it is more likely that these changes were designed to win the support of National Front voters.

The National Front success in the 2002 election was particularly alarming for the RPR-UDF because the National Front is in competition for voters on the far right of the RPR-UDF support. Previous elections had also shown that a divided right usually boded well for the Socialist Party. Therefore, it was in the best interest of the RPR-UDF to co-opt the anti-immigrant rhetoric of the National Front in an effort to unify the right wing vote. The two round majoritarian system presents an interesting situation because voters could vote with their heart for the National Front during the first round, yet needed a mainstream alternative to throw their support behind in the second round of voting. For their part, the RPR-UDF could not afford to have voters on the far right abstain from voting during the second round because the seat goes to the candidate with the most votes.

Sarkozy ran for president in 2007 against the Socialist candidate Segolene Royal.

While the liberal platform was slightly more sympathetic to immigrants, including resuming the regularization of illegal immigrants after ten years and increased voting rights, her policy was one of immigrant coordination with sending countries. She also opposed the securitization of the immigration issue, but had to strike a firm balance between being tough on illegals and compassionate towards family reunification. There was thus little policy differential between the two main parties, and Sarkozy won.

Sarkozy benefited to an extent from the decline in the vote share of Jean Marie Le Pen who fell from 17% down to 11%. Thirty-eight percent of those who voted for Le Pen in 2002 voted for Sarkozy in 2007. The legislative elections proved more beneficial for Sarkozy as the UPF coalition won 313 seats in the National Assembly, giving Sarkozy a comfortable majority for his legislative agenda. Thirty percent of National Front voters were prepared to support UMP candidates during the second round of balloting (Marthaler 2013). This suggests that Nicholas Sarkozy succeeded in co-opting the anti-immigrant position of the National Front. He was able to position the mainstream right as a viable second round voting alternative to the National Front or abstention.

Discussion

France is a particularly challenging case for my theory that majoritarian electoral systems have more liberal immigration policies than proportional electoral systems. The

challenge comes in when considering the effects of the two round majoritarian electoral system. Two-round majoritarian systems encourage multi-party competition on the first ballots because if parties can have a good showing, they are in improved bargaining positions for the second round of voting where electoral alliances are typically formed. This system has allowed the anti-immigrant National Front to compete and keep the immigration issue within the public consciousness. Despite not winning seats, the National Front has succeeded in pushing mainstream political parties to adopt more restrictive immigration policies and rhetoric.

The National Front can have this influence because the second-round elections are usually a winner take all affair between the Socialists and the RPR-UDF. Under these conditions, two to three percent of the vote could mean the difference between victory and defeat. Mainstream right-wing parties are therefore incentivized to appeal to National Front voters. Parties co-opt anti-immigrant rhetoric in a delicate balancing act that aims to marginalize the anti-immigrant party, while appealing to its' supporters as an electable alternative. This is a delicate balancing act as mainstream right wing parties cannot move too far to the right without fear of losing their supporters to left-wing opponents, this is why I suggest immigration policy is less restrictive in France than my proportional cases.

The French electoral system gives the National Front a more direct influence than one might expect on policy outcomes. During the 1997 National Assembly elections and the 2002 Presidential election, the presence of the National Front proved a decisive factor in the outcome. During the legislative elections, the National Front refused to withdraw their

candidates during the second round of voting. This split the right-wing vote and allowed the Socialists to take control of the National Assembly and move in a more liberal policy direction. In 2002, Jean Marie Le Pen outpolled the Socialist Prime Minister in the Presidential election, virtually assuring that Jacques Chirac would retain the presidency and immigration policy would move back towards the right.

One sees some evidence that the presence of the National Front has even altered the immigration policy outcomes under Socialist governments as well. While campaigning for Prime Minister in 1997, Lionel Jospin vowed to repeal the restrictive Pasqua-Debre framework enacted under the previous government. However, the resulting policy reforms were watered down because Jospin had to negotiate with the RPR-UDF who did not want to look weak on immigration and open up a split among right wing voters since that delivered the parliament to the Socialists in 1997.

I suggest that immigration policy in France is less restrictive than proportional systems because, although mainstream right wing parties can move to the right in an effort to co-opt the anti-immigrant rhetoric of the radical right, this is a delicate balancing act because they also cannot alienate the more moderate elements of their support base if they hope to defeat the Socialist opposition. Recent elections lend support to the idea that the two-round majoritarian formula encourages the presence of two unified political parties because a divided party is a recipe for defeat under two ballot rules.

CHAPTER FOUR

DENMARK

The Danish legislature known as the Folketing is a unicameral parliamentary legislature with 179 members. Denmark is divided into ten multi-member constituencies and further subdivided into ninety-two nomination districts. It is a proportional voting system that uses a modified version of the Saint-Lague method and the Hare quota using the method of greatest remainders. Voters can cast either a personal vote for a candidate or a party list. They can vote for any candidate or party within the constituency, not just those of the nominating district (Elklit 2005; IPU Parline Database: Denmark).

Of the 175 seats reserved for Denmark proper, 135 seats are distributed among the constituencies. In order to distribute the seats among the political parties, the total vote in the constituency for the party is divided by 1,3,5 and other odd numbers in order to arrive at the quotient on the basis of which seats are allocated. This was designed to ensure the representation of smaller parties. The remaining 40 compensatory seats are distributed to parties if they meet one of three requirements: a. winning a constituency seat in any of the seventeen constituencies, b. winning at least as many votes as the regional vote/ constituency seat in two out of three regions or c. winning at least two percent of the national vote. This is

designed to remedy the imbalance created by the distribution of constituency seats (Elklit 2005; IPU Parline Database: Denmark).

Once it is determined which parties are entitled to compensatory seats, the number of seats is calculated based upon the total number of votes cast for the party throughout the country. The number of constituency seats already won is deducted. The resulting figure is the number of compensatory seats the party receives. The end result is a distribution of seats in the Folketing that faithfully reflects the popular vote the parties receive (Elklit 2005).

This process has two main goals: ensuring a high degree of proportionality among parties, and making sure that the peripheral parts of the country are represented in some manner. The end result is that five to ten parties are generally represented within the Folketing and that many governments since 1920 have been minority (Elklit 2005). While this would seem to create instability, the system has been described as a functioning multi-party system because coalitions are generally formed by the center-left with the opposition forces on either side of a left-right continuum (Damgaard 1992). This high level of proportionality has unique consequences for Denmark's immigration policy.

Denmark has not had a consistent economic migration policy until fairly recently. In the 1960s and 1970s, Denmark had a guest worker program that employed workers in typically low-skilled jobs. If an immigrant could provide for themselves, they were allowed to enter Denmark without restriction. When the guest worker program was ended in 1974, those who had entered Denmark were permitted to stay and were eligible for family reunification (Hedetoft 2006). Denmark became a member of the European Community in 1972 which

gave Denmark access to the European labor market and other EC nationals' access to the Danish labor market (Ibid.). This largely facilitated the end of the guest worker program. Immigration from that point on was for the purposes of family unification or humanitarian reasons.

In 1982 a four party Danish government took office consisting of the Conservatives, Liberals, the Christian People's Party, and the Center Democrats. Before the 1980s, immigration was not a political issue in Denmark (Green-Pedersen & Krogstrup 2008). Much of this can be explained by the lack of unemployment in Denmark and homogenous nature of Danish society. Because anti-immigrant parties make many of their appeals based upon the perceived economic and cultural impacts of immigrants on the country, the lack of unemployment and cultural diversity would seem to limit the success that anti-immigrant parties could have, even in proportional representation systems.

This expectation is confirmed when we consider the composition of the government. Although the four-party coalition government held just seventy-seven seats, there was a widespread consensus between all of the major parties on liberal immigration policies. The one political party that was willing to push for more restrictive immigration policies, the Progress Party was electorally marginalized holding just sixteen seats. In this instance, it would be easy to marginalize the Progress Party because they lacked the ability to either serve as a coalition partner or blackmail mainstream parties into supporting more restrictive immigration policies.

The policy on asylum seekers enshrined in the 1983 Aliens Act was a reaction to a gap in the 1951 Refugee Convention. Denmark instituted *de facto* status to accommodate persons who were not protected under the convention. The Alien Act targeted three groups: those who were fleeing military service, republic refugees - those fleeing eastern bloc countries where they could face violence for living or seeking asylum in the West, and those persons for whom it could not be determined whether a prospective refugee was covered under the 1951 Convention. A person who fell into any one of these three categories was granted de-facto refugee status on equal terms with those covered by the convention. The text of the 1983 law reads:

Upon application, a residence permit will be issued to an alien who does not fall within the provision of the Convention relating to the Status of Refugees (...), but who for reasons similar to those listed in the Convention or for other weighty reasons resulting in a well-founded fear of persecution or similar outrages, ought not to be required to return to his country of origin. (Kjaer 2003, 257)

A revision of the law on foreigners within Denmark was passed in 1983. The primary aim of this law was to strengthen rights and protections for refugees and asylum seekers. The legislation was considered quite liberal in that it allowed any refugee who made it to the border claiming refugee status to stay until a decision on their claim was made (Fullerton 1988, 54). This approach was praised for being humane to asylum seekers because it protected them from non-refoulement as outlined in Article 33 in the 1951 Refugee

Convention, and against torture and inhuman treatment as outlined in Article 3 of the Human Rights Convention (Article 33 1951 Refugee Convention, Article 3 of the Human Rights Convention) (Ibid.). Critics warned that there would be a flood of asylum seekers into Denmark (Ibid., 54).

These criticisms would soon bear fruit. Refugee applications to Denmark rose from 800 in 1983, to 4,300 in 1984, to 8,700 in 1985 and 9,300 in 1986 (Fullerton 1988, 54 see footnote 81). As the number of refugee applications increased, the public perception of a refugee crisis deepened. While the number of refugees entering Denmark over the last three decades was only 30,000, public opinion polling indicated that the average Danish citizen believed that somewhere between 100,000 and one million foreigners lived in Denmark (Ibid.) These perceptions may have been stoked by the Danish news media who became especially critical of refugees. (Green-Pedersen & Krogstrup 2008).

In response to the growing number of refugee applications and public concern over the size of the refugee flows, Danish politicians moved to modify the law. The governing parties were joined by the Progress Party and the Social Democrats, while parties to the left of the Social Democrats voted against the reform (Green-Pedersen & Krogstrup 2008). Refugees arriving at the Danish border without a proper visa or travel documents were barred from entering Denmark. When a refugee seeking asylum reaches the Danish border, the border guard contacts the Directorate for Aliens who makes an entry decision based upon the information the border guard collects. As most asylum seekers lack documents, most asylum seekers are barred entry (Fullerton 1988).

Following the 1986 reform to the Aliens Act, the immigration issue largely vanished from Denmark's political agenda. This disappearance can be summarized by two related factors: the resumption of the widespread consensus on the immigration issue among the mainstream parties, and the electoral weakness of the Progress Party, who were the only party seeking to make immigration an issue (Green-Pedersen & Krogstrup 2008). In the September 1987 Folketing elections, the four-party coalition of the Conservatives, Liberals, the Christian People's Party, and the Center Democrats was retained (Borre 1987). At the same time, the Progress Party was marginalized, winning just nine seats (Ibid.).

As long as the consensus on liberal immigration policies continued to hold and the right-wing Progress Party was marginalized, one would expect that liberal immigration policies would continue. The refugee situation of the early 1990s brought another change to the Danish Aliens Act. Under these reforms, family unification was made more difficult as persons requesting family unification were required to show financial means to support additional family. The discretionary powers given to alien authorities coupled with the economic standard that many Danish people could not meet, concerned human rights advocates who worried about the violation of international human rights norms of protecting family unity and family life (Vedsted-Hansen 1994, 256).

The 1998 election was another landmark moment for the radical right in Denmark. The Danish People's Party split off from the Progress Party and quickly gained in opinion polls (Elklit 1999). This rapid rise was based on concern for what the influx of immigrants and their good treatment were costing the Danish state. Pressured by the Danish People's

Party, the Prime Minister replaced the Minister of Interior with someone considered 'stricter' on foreigners (Ibid.). Mainstream parties seemed to be caught off-guard by the ability of the DPP to capitalize on voters' fears of immigrants draining the resources of the Danish state. At the polls, anti-immigrant parties (the Progress Party and the Danish People's Party) won seventeen seats (Elklit 1999; Ostergaard-Nielsen 2003). While they did not win the election, the fact that the Danish People's Party forced the government to remove the Interior Minister signaled that immigration was now a significant political issue in Denmark.

The public had demonstrated in the 1998 election that immigration mattered. The rapid rise of the Danish People's Party alarmed the mainstream parties into sacking an Interior Minister during the course of an election campaign. With the Danish People's Party's good showing in the election, they were able to put external pressure on the Center-Right government to enact tougher immigration policies in an effort to prevent the Danish People's Party from winning more seats. The period from 1998-2001 shows that the Center-Right government attempted to co-opt the anti-immigrant rhetoric of the Danish People's Party by reforming the Aliens Act and introducing integration policies.

The 1998 amendment upheld the three years lawful residence requirement for a permit, but added three conditions. First, the alien must participate in an integration program. Second, the alien must get an order signed by the Minister of Interior verifying that they have not been imprisoned in Denmark. Lastly, the alien must not have outstanding debts totaling more than 500 Danish Kroner to any public authority (Guild & Minderhoud 2001). Failure to comply with the above provisions left the applicant with a continuous temporary residence

permit that could be withdrawn, if the situation that brought an immigrant into the country changes (Ibid.).

In addition to amending the Aliens Act, Denmark also introduced an Integration Act for the first time in 2000. Under the act, those persons wishing to immigrate to Denmark would have to pass courses on Danish language and culture. In some cases, there are additional requirements of educational and vocational training for immigrants (Hervik 2011). Further, the legislation mandated where a resident has to stay for three years of residency. A system was introduced that made each municipality take a certain number of refugees (Carrera et al. 2009; Hervik 2011).

The combined effect of the revision to the Aliens Act and the Integration Act was to create barriers to immigration in Denmark. While it is difficult to demonstrate causality, mainstream political parties were concerned about the sudden and rapid rise of the anti-immigrant Danish People's Party. We have seen in majoritarian cases that mainstream parties will adopt tougher immigration policies in an effort to undercut the support of the anti-immigrant party. It is possible that mainstream political parties believed that by changing the Aliens Act and broadening efforts to integrate immigrants, they could marginalize the Danish People's Party.

The Center-Right government had to move cautiously however because of their lengthy history of supporting liberal immigration policies. These policies were more moderate than a supporter of the Danish People's Party would want, but perhaps the Center-Right was hoping to win the support of less ideologically committed voters. However, these more

moderate reforms which mirror those enacted in France did little to halt the momentum of the Danish People's Party prior to the 2001 Folketing election.

The November 2001 Folketing election proved to be a key moment in ushering in a long period of immigration restriction in Denmark. The governing coalition led by the Social Democratic Party attempted to highlight recent restrictions on refugee policy outlined earlier (Ostergaard-Nielsen 2003). Meanwhile, the Liberal Party used the slogan of "Time for a Change" alongside images of migrant workers celebrating a low sentence for rape in order to paint the Social Democratic Party as soft on immigration (Ibid.). The Danish Peoples Party's platform of cultural protectionism and less immigration appealed to voters who saw immigrants as a threat to the economic and cultural future of the Danish state (Andersen 2006; Ostergaard-Nielsen 2003).

The Liberal Party won the election and sought to form a coalition government with the Conservative Party. Between the Liberal and Conservative Parties, they held seventy-two seats in the Folketing. In order to gain a majority in the 179 seat Folketing, they had to rely on the twenty-two seats of the Danish People's Party to create a majority. While the twenty two seats from the DPP gave the Liberal-Conservative government the majority necessary for governing, it allowed the DPP to push for more restrictive immigration policies once they entered office. Though the policies may have been more extreme than the Liberal and Conservative parties wanted, the Danish People's Party could credibly threaten to abandon the government (Sartori 1973).

Denmark provides a real life example of Sartori's parties with blackmail potential. Parties with blackmail potential are those that are ideologically unacceptable to mainstream political parties as coalition partners, yet because of their sheer size they have to be considered an effective political party (Sartori 1973). Things become complicated because only parties with sufficient size can be coalition partners (Lijphart 1999; Sartori 1973). Following the 2001 election, the Danish People's Party was a rational if undesirable choice to form a government. Attempting to produce a government without the Danish People's Party would have required five or six smaller parties, which presents problems in terms of government functionality and the Danish People's Party could claim that any attempt to exclude them would leave a significant population without any representation.

Allowing anti-immigrant parties to have internal influence in proportional representation systems will produce more restrictive immigration policies because as a coalition partner they can push for policies that are closer to their preferred policy. This is in contrast to majoritarian systems where anti-immigrant parties have little influence. The co-opted policies of anti-immigrant parties are typically more moderate than anti-immigrant parties would want because mainstream parties have to balance the desire to appeal to these voters, yet cannot move so far as to alienate their core base of supporters. With that in mind, I turn to an examination of immigration policies that the Liberal-Conservative coalition produced.

The Danish People's Party wasted no time in pressing for more restrictive immigration policies. In January of 2002, the Liberal and Conservative Government presented a series of

new policies for aliens with the goal of restricting the number of aliens coming to Denmark, while still abiding by its international law obligations. In addition, the legislation also made reference to approximating the asylum policies in other EU member states. This policy change was rationalized on the grounds that thousands of refugees were granted asylum status in Denmark without meeting all, or any, of the criteria in the international refugee conventions to which Denmark is a party.

Under the “Aliens Package” the informal name given to the package of legislative acts aimed at curbing the number of refugees, residence permits would only be given to those asylum seekers eligible for protection under international convention. Section 7 (2) of the new statute reads:

Upon application, a residence permit will be issued to an alien if the alien risks the death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his country of origin (...). (Kjaer 2003, 261)

This policy amendment squares Denmark with several articles of The European Convention on Human Rights. The above article is inspired by Article Three, which protects persons from being subjected to torture or inhumane punishment. The Sixth protocol of Article One prohibits states from employing the death penalty on persons staying within their territory or returning people to such places where they may receive such treatment or from where a person risks such treatment (Refworld: European Convention for the Protection of Human Rights and Fundamental Freedoms). While on paper, the Aliens Package more closely integrates Danish asylum law with its international obligations, Denmark’s only real

obligation under international law is to “tolerate such persons presence in its territory” (Kjaer 2003).

A new visa regime was instituted in 2004 to crack down on immigrants who went to Denmark on short term visas and stayed once their visas expired. If a person applying for a visa to Denmark was suspected of seeking residency in Denmark, they would have their visa application denied. Visa applicants are divided into three categories: asylum, immigration, and tourist. This is based on the risk that applicants will attempt to overstay their visa. The general requirements for a visa in Denmark include: having funds for arrival and return from Denmark, a travel health insurance policy totaling at least 30,000 euros, and not being registered as a threat on the Schengen, or Danish entry lists (Adamo 2007).

Family unification for third country nationals who marry Danes also became more difficult. The requirements introduced in 2002-03 included: a minimum age of 24 for both parties (Aliens Consolidation Act, Section 9 Articles 8 & 9). The marriage must be considered legitimate (not between two close family members) to obtain a residence permit (Ibid.), and the Danish resident must also illustrate financial means to sustain the applicant and pay a financial security of 50,000 kroners for any future expenses incurred by the state in caring for the spouse. Further, Danish residents must not have been on public assistance for the year prior to the family unification, have not been arrested for domestic violence, and the partner’s ties to Denmark must be greater than their ties to any other country (Ibid. , Section 9 Article 7).

These new requirements align with the stated desire of the Danish People's Party to reduce the population of immigrants in Denmark, while integrating the population that already resides in Denmark. The ambiguity of some of these provisions led some critics of the system to argue that decisions were made in a rather random and arbitrary manner. Even worse, the financial provisions to cover the potential burden that a spouse might have on the Danish state could be construed as an undue burden on spouses and a violation of European Charter on Human Rights, and the Danish constitution, which guarantees the privacy of family life.

International attention was focused on relations between the Christian and Muslim populations in Denmark. Danish daily Jyllands-Posten published a series of cartoons depicting the Prophet Muhammad. The publication of the cartoons had tremendous implications, both internationally and domestically. In January 2006, the Danish Ministry of Foreign Affairs received protests from The League of Arab States and pressure from Muslim groups within Denmark (Bille 2007). Several Arab states threatened to institute trade restrictions. The crisis escalated further between February 4-6 of 2006 when Muslim demonstrators burned down Danish government buildings in Damascus, Beirut, and Iran (Ibid.). The ultimate domestic beneficiary of the controversy was The Danish People's Party.

In the aftermath of the cartoon crisis, the Liberal-Conservative government was retained. A four seat loss by the Liberals was offset by two seat gains by both the Conservatives and the Danish People's Party (Andersen 2006). The fact that the Danish People's Party gained relative to their coalition partners gave the Danish People's Party leverage to further tighten immigration policies. Following their return to office, the Danish

People's Party moved to implement more restrictive policies on family reunification and integration.

A new integration law took effect in 2006 which introduced an integration contract similar to the contract used in France. The law requires immigrants to integrate and actively participate within Danish society. It was assumed that this contract would endure until the applicant received a permanent residence permit. Provisions of the contract include: learning Danish and passing an exam on Danish values and culture (Carrera et al. 2009). Further, future welfare payments would depend upon the immigrant and his dependents being employed. These policies were enacted in the belief that successful integration policies would benefit Denmark in the competition for foreign workers (Ibid.).

In 2007, an immigration test was instituted as an amendment on the Aliens Act as a requirement for family unification (Carrera et al. 2009; Oers 2010). It was hoped that the immigration test would rapidly facilitate integration into Danish society and allow foreigners to take control of their own integration (Carrera et al. 2009). While the Immigration Minister did not state that the law was designed to decrease the amount of foreigners, the imposition of these tests, when combined with the asylum requirements set forth previously, represented a significant disincentive to immigrate to Denmark.

Discussion

Denmark had one of the most liberal immigration policies in the entire world with the 1983 Aliens Act that extended refugee protections to persons who were fleeing war, Eastern Bloc countries, or persons who it was reasonably believed were covered under the 1951 Refugee Convention, but lacked physical evidence. These policies endured because of a shared consensus on liberal immigration policies among the mainstream parties both inside and outside of government. Meanwhile the Progress Party, the only party willing to campaign on restrictive immigration policy was marginalized. As long as the liberal consensus endured, liberal immigration policies continued.

Beginning with the 1994 election, the immigration issue took on a greater salience. This did not automatically correspond to stricter immigration policies. The movement towards more restrictive immigration policies started following the 1998 elections when the Danish People's Party emerged on the political scene. In an effort to stop the rise of the Danish People's Party, the Center-Right government enacted fairly moderate immigration restrictions designed to integrate immigrants while limiting the flow of further immigrants. Immigration restriction accelerated once the Danish People's Party entered the government in 2001.

The policy changes in asylum policy and family reunification cannot be divorced from the electoral rise of the Danish People's Party. Previous changes to asylum policy represented a gradual move towards a slightly more restrictive policy. However, the general character of the Aliens Act itself had not been threatened. In a political climate where many smaller parties tend to win a small number of seats, the Danish People's Party won twenty five seats,

which gave them a place of influence within the Folketing. Ultimately, the Danish People's Party was one of the few coalition options for the Liberal-Conservative government, given the bitter campaign with the Social Democrats. It is questionable whether the Liberals and Conservatives could have formed a government without the Danish People's Party.

The Social Democrats were the largest party holding fifty-six seats, but the Liberals and Conservatives would not or could not form a government with them. This left the Liberal-Conservative government with a stark choice: either partner with the Danish People's Party or form a narrow coalition with a number of smaller parties. This would have been problematic because the latter government would face potential opposition from both the Social Democrats and the Danish People's Party. This would make governing difficult because of over forty percent of the Folketing could be in opposition to anything the government attempted to pass.

The sheer size of the Danish People's Party in combination with the potential lack of viable coalition partners gave them a large amount of blackmail potential over the Liberal-Conservative government. If the Liberal and Conservative parties failed to go along with more restrictive immigration policies then they could credibly threaten to derail the government. Therefore, the Liberal-Conservative coalition traded more restrictive immigration policies for the Danish People's Party support of the government.

CHAPTER FIVE

SWITZERLAND

The electoral institutions in Switzerland matter less for the formation of immigration policy than the other cases because the highly federalized nature of the Swiss political system and the frequent use of legislative referenda have given anti-immigrant parties the opportunity to maintain a consistent influence whether they had seats in government or not. What one does see is that as the Swiss People's Party wins more seats, their ability to push through increasingly restrictive immigration and asylum measures increases. However, because of the referendum system, legislation does not automatically become law when it passes through the legislature.

Switzerland features a bicameral legislature comprised of the National Assembly and the Chamber of Deputies. The National Assembly has 200 members and they can be elected either through single or multi-member constituencies depending on population. In multi-member districts, members are elected by proportional representation using the Hagenbach-Bischoff formula with remaining seats being distributed via highest average. Voters have several options available to them: voting for a party list, modify it by crossing out or repeating names, split their vote between different lists or create their own using a blank ballot. The five single member districts are elected under majoritarian rules. The Chamber of Deputies

features twenty multi-member constituencies with two seats each and six single member constituencies. Electoral law for these elections are determined at the canton level (IPU Parline: Switzerland; Rivera 2011; “Swiss Confederation Federal Assembly Elections” 2012⁸).

The highly federalized nature of the Swiss electoral system has restricted the presence of strong, centralized, political parties, while creating stronger parties at the canton level. Therefore, a tremendous variation can exist between a given party’s strength at the national level and the strength of that party in any given canton. Because of this variation, it has been said that instead of one national party system, Switzerland has twenty six party systems (Ladner 2001, 124). It is worth noting that while the diverse range of electoral formulas often produces a large number of political parties in the National Assembly, power has traditionally been distributed between four parties: the Radical Democrats (FDP), Christian Democrats (CVP), the Social Democrats (SDP), and the Swiss People’s Party (SVP).

Switzerland also makes extensive use of legislative referendums. Swiss law allows for a statutory referendum provided that 50,000 Swiss citizens sign a request within three months of a law being published (Frey 1987). Legislative referendums are conducted on the basis of majoritarian vote. This means that a majority of voters and cantons must approve the referendum. For constitutional referendums and citizens initiatives, a double majority of votes and cantons is required (“Swiss Confederation Federal Assembly Elections” 2012). The large number of political parties, combined with the relative ease with which referendums can be

⁸ Elections to the Chamber of Deputies will not be discussed in detail because the canton to canton variation in how they are elected makes direct comparisons difficult.

called, has made the passage of meaningful immigration reform since World War II a challenge.

Anti-immigrant political parties have been particularly active in calling referendums on the matter of immigration and naturalization legislation over the last thirty years. During the time period under study, the National Action Party and The Swiss People's Party have initiated four referendums (Skenderovic 2007, 174). The referendum system gives the Swiss People's Party the opportunity to influence immigration policy because even if mainstream parties want more liberal immigration policies they can push the issue to a binding popular referendum and delay the legislation or defeat it altogether. I now proceed to the complex relationship between immigration and economics in Switzerland.

The legislation underpinning the guest worker program in Switzerland dates back to 1931 known as the 'Federal Statute on the Residence and Settlement of Foreigners.' This law had two contradictory goals: providing low cost labor for businesses and industries while protecting Swiss culture. Political elites have often expressed concern about foreign ideas and cultures in Switzerland (Skenderovic 2007). These oft-contradictory aims of immigration policy created the tug of war between economic needs and political pressure from right-wing political parties (Gross 2006; Giugni 2006).

The government attempted to deal with the competing pressures by first instituting a quota system that would ideally limit the amount of foreigners within Switzerland, while respecting the economic benefits of immigration (Skenderovic 2007). The global ceiling policy fixes the amount of new permits for foreign workers and is centrally administered.

Based on the number of foreigners who leave Switzerland each year, and contacts with representatives from canton and business representatives, the government sets the number of work permits to be issued for the year (Gross 2006, 10-11). This policy was aimed at controlling the flow of new immigrants rather than integrating into Swiss society. The character of immigration policy in Switzerland is not about integration, but rather assumes that migrants will enter Switzerland, make money, then leave (Ibid.)

Consequently, naturalization is a very difficult process. One has to live in Switzerland for a period of twelve years, while demonstrating that they have integrated themselves into Swiss society in terms of language, economic activity, not being a threat to national order, and being familiar with Swiss customs and habits (Steinhardt & Wedemeier 2012). Citizenship is a three-level process: federal, canton, and municipality (Achermann et al. 2010). The federal level sets general requirements and starts the application process, while the cantons and municipalities make decisions with a large amount of judicial latitude, and so a wide range of variation in citizenship policies exists (Helbling 2008). Facilitated naturalization is possible for the spouses and children of Swiss citizens, with similar requirements to regular naturalization, except that the residency period is five years (Steinhardt & Wedemeier 2012).

By the early eighties, authorities were confronted with a growing number of immigrants who had settled in Switzerland. Political leaders made plans to move from a model of creating a foreign labor force, to a model of political and social integration for migrants who had stayed in Switzerland (Skenderovic 2007). The government wanted to make the citizenship acquisition easier, but radical right-wing political parties were able to

mobilize to defeat them. In 1982, a proposed revision to the Foreigner Law was defeated by less than 10,000 votes (Nohlen 2007, 1928). The next year, 56% voted against a proposal that would have allowed certain types of naturalization (Ibid.). After the two referendums failed, any efforts at reform were largely halted.

This illustrates why electoral institutions may matter less for policy outcomes. A revision to the citizenship and nationality law was clearly desired by the government. Yet, the referendum system allowed those against immigration to mobilize and defeat the legislation. Once a law is defeated at referendum it is virtually impossible for political actors to override the result of the referendum. This means that the electoral strength of a party in the legislature matters less because it may be ultimately about which side can mobilize their supporters for the referendum vote.

In the early 1980s, Switzerland began to experience an increase in asylum seekers from the developing world and Communist countries. Asylum requests in Switzerland rose from 7,886 in 1983 to 8,546 in 1986 (Frey 1987). While the increase was not massive, around nine percent, the Federal Office for Police Matters, the body charged with making the initial determination of refugee status was understaffed. This understaffing created a backlog of asylum applications that had yet to be ruled on. By August 1987, 21,798 had yet to be decided and 8,000 were being appealed (Ibid. , footnotes 7 and 8.) Further, a majority of asylum seekers were placed in six cantons, rather than an equitable distribution across all of the cantons (Ibid., footnote 10). This put stress on the scarce resources at the canton level and reforms to the Asylum law were proposed.

Refugees can be granted asylum status if they have been exposed to, or have a fear of being exposed to ‘serious disadvantages’ in their own country, or country of last residence on grounds of race, religion, citizenship, affiliation with certain social groups, and/or the alien’s political opinions. Serious disadvantages are defined as “menaces to physical integrity, life, or liberty, as well as any actions causing unbearable psychological pressure.” (Frey 1987). The Swiss Asylum law of 1979 is similar to Denmark’s Aliens Act in that the wording is vague enough that persons who fall outside of the definition provided by the 1951 Refugee Convention could be granted refugee status. That I am aware, there was no set framework to determine what political opinions and social affiliations would be protected under the Asylum Law. The law is equally vague on what constitutes menaces to physical integrity, life, or liberty, or unbearable psychological pressure.

The provisions of the 1986 revision of the Asylum Act began by giving the Federal Council the power to curtail the rights of refugees in times of peace. The legislation also centralized the application process and made the individual cantons responsible for distributing the refugees among the cantons, as well as providing welfare assistance to refugees. The combined effect of these reforms was to centralize the immigration process as opposed to the previous ad-hoc nature of policy.

The National Assembly passed a variation of these reforms in June of 1986. However, those opposed to the legislation argued that the reforms violated principles of due process, personal liberty and threatened refolement, and quickly garnered the necessary signatures to force a referendum. The voters approved the changes by a two to one margin in

September of 1987 (Frey 1987). This illustrates the impact that the referendum system has on immigration policy. It took over a year from the time the legislation passed the National Assembly for it to become law. Anti-immigrant parties are able to influence the outcome by pushing the issue to a referendum. Even if they do not win, they can delay the passage of the law.

Anti-immigrant parties have incentive to use this tactic because if they win the referendum, the legislation is defeated. The citizenship and nationality referendums discussed earlier are instructive. Following two referendums loses, mainstream parties largely abandoned efforts at citizenship and nationality reform. Even if anti-immigrant parties lose they can portray themselves to supporters as campaigning against more liberal immigration policies, which may fire up their base of supporters for the next election. Overall, this illustrates that the changes that do occur in Swiss immigration law tend to be drawn out because of the relative ease of calling a referendum as an obstructing measure.

The 1990s saw the Swiss immigration system changed by two competing pressures: an inflow of immigrants that rendered the previous quota system unworkable, and the increased influence of the Swiss People's Party. In 1991, the Swiss government introduced a "three circles model" towards economic migration. This model gave priority in hiring to applicants from Switzerland or the European Union countries. Third world applicants could be considered only if they had special skills that were unavailable in Switzerland or the European Union. Eventually, employers had to illustrate that they could not find someone within

Switzerland or the EU before they could hire a candidate from another country. These policies were enacted with an eye towards European Union membership.

Agreement between Switzerland and the EU was delayed in large part because of the anti-immigrant parties and their effect on European integration. The debate on European integration often boils down to economic motivations versus multifaceted formations of national identity (see Christin & Trechsel 2002; De Vreese & Bloomgarden 2005; Hooghe & Marks 2004). In December of 1992, anti-immigrant parties succeeded tying European integration to a loss of Swiss national identity and were able to narrowly defeat a proposal that would have integrated Switzerland into the European Union with 50.3% of the vote (NSD European Election Database). Rejecting the European Union framework may not have been particularly impactful for economic migration. Switzerland had already created a migratory framework that conferred preferential status on workers from EU nations over those from other nations.

How different would immigration policy in Switzerland look without the referendum system? One cannot be absolutely sure, but based on the legislation that passed through the National Assembly from roughly 1982-1992, immigration policy would have become more liberal with easier citizenship and naturalization policies, and possibly greater integration with Europe. But anti-immigrant parties were able to maintain a more restrictive immigration policy regime because the referendum system allowed them to have a disproportionate influence over immigration policy. Voter turnout for Swiss elections is typically low (Altman 2013; Blais 2014; Jackman & Miller 1995). If voter turnout is depressed then referendum

outcomes that correspond to the groups that are motivated to vote are likely to win out, rather than what the majority wants. The Swiss People's Party, with their emotive appeals based on people's fears of loss of economic opportunity and national identity have proven more effective at mobilizing voters than those political actors who support more liberal immigration policies.

Immigration policy became still more restrictive from 1994-96 as voters approved a series of referenda that gave police broad powers to arrest, and detain illegal immigrants and for some constituted a criminalization of immigration (Hughes & Liebaut 1998). The 'Federal Law on Security Measures in Relation to Foreigners' allowed authorities to imprison foreign nationals without a residence permit for a period of three months rather than thirty days, as previously stipulated, while a temporary residence decision is made (Ibid.).

In December of 1996, Swiss voters went to the polls to determine the fate of a proposal advocated by the Swiss People's Party labeled the 'popular initiative against illegal immigration' (Hardmeier 1997, 506). The Swiss People's Party campaigned on the idea that many asylum seekers abuse the asylum system. Therefore, the Swiss People's Party sought to make Switzerland less attractive for immigrants. The proposal would have allowed for the refusal of refugee applications if they enter Switzerland illegally, and limited rights of appeal of refugee status determinations. Fifty-four percent of voters rejected the proposal because, although they sympathized with the reasoning of the proposal, they felt that the proposal was outdated because asylum requests had declined (Ibid.)

Negotiations between Swiss leaders and the European Union began in 1998. As part of the bilateral agreement, Switzerland agreed to allow for the freedom of movement of EU nationals throughout Switzerland, along with six other provisions. The negotiations were concluded in December of 1998, but a referendum was expected because of the steadfast opposition of the Swiss People's Party among other groups. This would seem to create a clash between the positive economic aspects portrayed by mainstream political parties, and the massive unemployment and cultural degradation portrayed by the Swiss People's Party. Before that referendum could take place, there was the 1999 National Council Election and a referendum that proposed changes to the Asylum Law.

The revision to the Asylum Act was put to a referendum in June of 1999. Switzerland followed other states in Europe by creating a category for persons needing temporary protection. Comprehensive asylum procedures could be refused if a person was found to misuse the asylum system. It also compelled refugees to provide documents that could be potentially used to expel said refugee (Hardmeier 2000). On this occasion, it was actually a coalition of left-wing political parties and human rights organizations that pushed for the referendum (Ibid.). Seventy percent of the voters approved these changes to the Asylum Act (Ibid.).

The 1999 National Council elections brought an end to the grand coalition of the Radical Democrats, Christian Democrats, Social Democrats, and the Swiss People's Party. Christoph Blocher, a Swiss People's Party leader, distanced himself from his coalition partners by advocating a "Switzerland First," anti-immigrant, anti-European immigration

platform (Rose 2000). These views had a highly receptive audience in Switzerland (Kriesi & Sciarini 2004; Rose 2000). The Swiss People's Party won 22.5% of the vote during the 1999 election making themselves the largest political party in terms of vote share (Hardmeier 2000). They also gained fifteen seats. Forty-four seats were enough to make the Swiss People's Party the second largest party in the National Assembly (Hardmeier 2000). With a fifteen seat gain and a doubling of their vote share, one might expect that more restrictive immigration policies would soon follow the Swiss People's Party electoral success as happened in Denmark with the Danish People's Party in 2001. Because of Switzerland's referendum system, such an effect can be hard to discern. Any contentious legislation issue is virtually guaranteed to be settled via referendum because of the clash of interests involved. This process can take several years as illustrated by the popular initiative against illegal immigration that the Swiss People's Party championed in 1997.

The 2000 referendum on European integration pitted mainstream parties and business groups, who saw integration with the European market as a boon for the Swiss economy, against the Swiss People's Party and other anti-immigrant groups, who warned about the cultural degradation, mass Swiss unemployment, and criminality of prospective immigrants in similar fashion to the arguments they made in 1992. On this occasion however, the radical right was defeated by a 2-1 margin (Hardmeier 2000). The most notable provision related to immigration policy was that the free movement of persons was now permitted in Switzerland. Considering Switzerland's economic migration policy that already favored European workers, this could be viewed as merely upholding the status quo.

The Swiss People's Party began to pursue its electoral agenda of immigration restriction with a referendum on 'Against the abuse of asylum rights' in November of 2002. The proposal would have barred all refugees who arrived in Switzerland from a safe third country from seeking asylum. Because Switzerland is surrounded by EU member states, this constituted a heavy restriction on the right to asylum (Henely 2002). Officials with the UNHCR worried that such proposals would transfer responsibility for refugee status determinations to third states without assurance that those countries would take responsibility ("Swiss vote could turn genuine refugees away, warns UNHCR"). This proposal would further alienate Switzerland from UNHCR guidelines as "According to UNHCR guidelines, refusing to hear asylum seekers' claims simply because of the route they have taken, is unacceptable" (Ibid.).

While the referendum was narrowly defeated by voters, this did not halt the electoral momentum of the Swiss People's Party. The Swiss People's Party portrayed immigrants and asylum seekers as criminals and drug addicts, campaigning on a platform of tougher entry requirements and restricted access to welfare (Dardanelli 2005; Riano & Wastl-Walker 2006). This approach gave the Swiss People's Party 26.4% of the vote and 55 seats in the National Council (Church 2004; Dardanelli 2005). Most notably, this ended the Grand coalition that had endured since 1959 as the Swiss People's Party earned two cabinet posts, including the Ministry of Justice and Police, the body responsible for immigration and asylum policy (Riano & Wastl-Walker 2006).

Foreigners have represented 20% of the population in Switzerland for years (Afonso 2004), partly because of the countries restrictive integration policies. In September of 2004, the government presented a plan for the naturalization of multiple-generation immigrants. Three separate proposals were submitted to voters: planned naturalization for second generation immigrants, a simplified process for federal naturalization, and naturalization at birth for third generation immigrants. The Swiss People's Party campaigned against the proposals using the slogan 'mass naturalization' would lead to the 'Islamification of Switzerland' (Riano & Wastl-Walker 2006). The initiative was rejected by 58% of the Swiss population.

Yet the Swiss People's Party had an alternative rationale for campaigning so vigorously against liberal naturalization policies. The Swiss People's Party had electoral success because of their anti-immigrant rhetoric that resonated with voters because of the large number of immigrants living and working in Switzerland. If naturalization was liberalized, then the immigrant population would decline. A significant decline in the immigration population could have a big effect on the electoral fortunes of the Swiss People's Party.

In December of 2005, the Swiss People's Party pushed through a series of more restrictive policies concerning the movement of foreigners and asylum seekers throughout Switzerland. The party was able to push the legislation through because of their electoral strength following the 2003 election. However, those opposed to the legislation mobilized to collect the signatures necessary to force the issue to a referendum.

Switzerland's new asylum law would require prospective refugees to have valid travel documents or identity cards to have their claims evaluated within Switzerland. As most persons fleeing their country of origin lack such documents, there exists the potential for refoulment. The authorities would also be allowed to share data on rejected asylum seekers with their country of origin before all appeals of the asylum determination are exhausted, putting asylum seekers and their families back home in danger from potential reprisals. The proposal also introduced "complementary protection" which would protect those fleeing from war and generalized violence if they could show that returning to their country of origin was life-threatening. Under former legislation, return had to be merely unreasonable. UNHCR objected to the lack of a humanitarian provision which would allow for family unification and access to the Swiss labor market. Under the new legislation, one has to wait three years for such processes (Switzerland: UNHCR Deeply Regrets Adoption of New Asylum Law 2005).

Although political parties on the left were joined by the Social Democrats and Greens in their opposition to the legislation, the policies were approved by 68% of voters (Milic 2007). Thus, the use of the referendum can serve to reinforce the cooperative nature of immigration policy-making in proportional representation systems. Not only can the Swiss People's Party credibly threaten to bring down the government because they hold two cabinet posts, but through the referenda process, they can impose policies on the mainstream political parties by getting their supporters to vote in the referendum.

A second proposal effectively closed opportunities for foreigners outside the European Economic Zone to immigrate to Switzerland unless they had special skills. The issue of

economic immigration and the asylum law were voted on together because enforcement of the asylum law depended on the immigration law (Sidler 2007). The law on immigration was also approved by 68% of voters (Ibid.). The impact of such restrictions can be debated, since Switzerland already favored European labor over that from third world countries.

The aim of the Swiss People's Party in enacting these two pieces of legislation was to prevent asylum seekers from receiving asylum in Switzerland on the basis of false and illegitimate claims. The Swiss Migration Office examined 1,000 cases from January to May of 2007 and discovered that more than half of the applications for asylum were denied because of missing documents. These applications were turned down even when identity could be established or deemed highly likely by some means such as a driver's license or birth certificate. The Federal Migration Office rejected any excuses for missing paperwork, including when people were the victims of rape, genital mutilation, or had fled a war zone ("Asylum Seekers without Papers: NGO Concerned").

This serves to illustrate the problem with the new asylum law. If an asylum seeker cannot produce travel documents or identity cards, their asylum application will be automatically denied. The door to Switzerland could be closed to legitimate refugees because, in a situation where one's life is under threat, they may not have access to such documents. Because of the Dublin Agreement, refugees who come to Switzerland without the proper paperwork risk having their application rejected, and since only one EU state can examine an asylum application, refugees are effectively barred from Europe.

Discussion

Switzerland has some of the most restrictive immigration policies in this study, partially because of its electoral system. In the area of economic migration, Switzerland has maintained a preference for European workers, only allowing third country nationals to enter Switzerland, if they have special skills. Migrants wishing to integrate into Switzerland have to pass through a complex tri-level integration process that involves the federal, cantonal, and municipal authorities. The prospective immigrant must stay in Switzerland for twelve years and show that they have integrated themselves into Swiss society economically, culturally, and linguistically. Beyond these parameters, individual cantons and municipalities may set forth their own requirements that can vary from canton to canton.

The Swiss electoral system plays a vital role in this restrictive naturalization policy. Three times during the course of my study Swiss lawmakers attempted to pass legislation that would simplify the naturalization process, but they were defeated and rebuked. Switzerland is unique among my four cases for their extensive use of the legislative referendum. Although most lawmakers preferred a more liberal immigration policy, they were rebuffed because anti-immigrant parties were able to successfully mobilize those in favor of maintaining or expanding the restrictive status quo.

The referendum system has done few favors to asylum seekers. Even when policies are widely supported in the National Council, they are sent to referendum. This makes something as simple as reducing the backlog of asylum seekers a battle. Mainstream political parties were able to defeat several populist proposals to restrict immigration even further.

However, the surge of the Swiss People's Party beginning in 1995 has made defeating these referenda more difficult.

The fragmented and decentralized nature of the Swiss political system helped to make the Swiss People's Party the largest party in the National Council with sixty-four seats following the 2003 election, and gave the party control of the Ministry of Justice and Police, the body responsible for immigration policy in Switzerland. The Swiss People's Party forced through policies that outright barred refugees from seeking asylum in Switzerland unless they had valid travel documents. This has the effect of excluding those most in need of humanitarian assistance, such as those fleeing war and persecution.

In Switzerland, there are two processes at work on immigration policy. The conventional, cooperative, approach occurs when mainstream parties are forced to go along with more restrictive policies than they wanted because they fear government dissolution. Meanwhile, the referendum process can be used as a means to restrict or liberalize immigration policy. Referendums are typically lower turnout affairs, meaning that whoever gets their voters to the polls will win. Once the policy passes public scrutiny, there is little the opposition can do to change them. Both of these processes serve to reinforce the restrictive nature of Switzerland's immigration policy.

CHAPTER SIX

COMPARING THE CASES

Comparing the immigration policy of my four cases is a delicate matter because the differences in the key areas of naturalization/citizenship, family reunification, and labor market access are subtle. When considering whether an immigration policy is permissive or restrictive, I am really asking a question about the condition of immigrants within the four nation-states under study. Are they welcomed with open arms, or has the state erected so many barriers for the immigrant as to discourage him from ever immigrating, or marginalizing him in the state?

Comparing the four cases on the provisions of citizenship and nationality acquisition, the majoritarian cases of Australia and France are more liberal than the proportional cases of Denmark and Switzerland. In Australia, the applicant has to be a permanent resident for two years of the previous five before application, including one year in the two years prior to application. France has an integration program that ties acquiring a ten-year residence permit to completing courses on French culture and society, and being self-sufficient. Denmark has a seven-year period for nationality with language and income requirements that are similar to the majoritarian cases. Switzerland is the most restrictive requiring twelve years of residency

plus other requirements that vary from canton to canton, along with similar cultural and language requirements to the other cases.

The treatment of multi-generational immigrants is where the cases diverge. In Australia, citizenship is automatically granted provided at least one parent is a legal Australian resident. In France, the offspring can be granted citizenship at thirteen with parental consent and at age sixteen by request (Weil 2005). Denmark is far more restrictive as citizenship is a declaration of those between the ages of 21-23 who have been residing in Denmark for a continuous ten-year period provided they have been a continuous resident since sixteen, or in residence for five years before age sixteen. Denmark does not permit an immigrant to hold multiple citizenships, whereas Australian and French immigrants can retain their first country citizenship (Howard 2005, 709). Switzerland is different in that one parent must be Swiss by birth or naturalization for the offspring to be considered Swiss at birth.

The differences in citizenship and nationality regimes is important because whether a person is a naturalized citizen has an impact on their access to the labor market in two of my cases. In Switzerland, the National Council passed legislation that barred non-EU nationals from the labor market, unless they had specialized skills. In Denmark, an amendment to the Aliens Act barred non-EU nationals from seeking work in Denmark without a work visa. This work visa could only be issued if the immigrant had a signed work contract from a registered business in Denmark. These policies restrict third country immigrants from the formal economy and make them dependent on migration networks for survival. Immigrants have a

strong incentive to naturalize, and countries with shorter residency requirements are more appealing than longer ones.

Naturalization has also gotten tied into family unification in Switzerland and Denmark. Naturalization for the immediate family of Swiss nationals can be expedited provided that those who wish to naturalize have been residents of the same canton for five years and have integrated themselves into Swiss society. In Denmark, one has to show that a marriage is legitimate, illustrate the means to support a spouse and pay fifty thousand kroner to insulate the state against future care for the spouse. The provisions rely on the subjective determination of Aliens officials that could lead to a policy administered in an ad-hoc way, subject to individuals' biases and prejudices. They also assume that immigrants may be a burden to the state in the future.

France's policy on family reunification is far more liberal than either the Danish or Swiss cases. Spouses of French nationals have to reside in France for a period of one year, though it has been two years in the past under the framework of the Pasqua and Debre laws. Australia is different in that those seeking family reunification need to have a family member in Australia to sponsor them. Family reunification is important for the psychological health and comfort of immigrants, and is enshrined in several national constitutions and the European Charter on Human Rights. Denmark and Switzerland have the most restrictive policies, while Australia and France are more liberal.

Refugee and asylum protection is where the greatest divergence is seen. All of the states are bound by the 1951 Refugee Convention. Additionally, three of the four cases are

bound by EU directives prescribing the free movement of European nationals across borders and the European Human Rights charter, which in theory should provide refugees greater protection. However, states have often pursued policies that butt up against their international obligations.

Australia is a multicultural society that has fairly liberal immigration policies as evidenced by flows and access to state services. However, the government reaction to the *Tampa Affair* sparked human rights outrage. The government instituted policies that allowed for the detention of boat people who had sought asylum in Australia in third countries. This incited cries from human rights advocates that Australia was abdicating its responsibilities under the 1951 Refugee Convention to protect asylum seekers from non-refoulement. While these human rights concerns are distressing, there was no discernible drop in the number of refugees who were able to get visas to immigrate to Australia for work or tourist reasons. Australia created new immigration programs encouraging people to immigrate to Australia soon after the Tampa Affair.

France is a signatory to the Schengen Agreement, which prescribes free movement of EU nationals throughout Europe. Yet, domestically they have, at times, moved to restrictive frameworks that allowed for French authorities to check the papers of those suspected of being illegal. While this policy may cause immigrants to reconsider immigrating to France, it has the potential to subject lawful French nationals to periods of detention. This has a potential chilling effect on the free movement of immigrants throughout France.

Denmark moved from a fairly liberal de-facto refugee system to a 'bare bones' system that, while adhering to international law, may have subjected thousands of refugees to re-foulment. The new Danish legislation presents a similar problem to the new Swiss regulations. In both cases, if one is fleeing persecution, proper documentation could be difficult to acquire. Previously, Danish authorities made a judgment as to whether asylum seekers likely qualified for protection. Now the prospective refugee has to qualify under a narrow range of conditions, which exclude all but the most extreme conditions.

Switzerland has similar provisions to Denmark. Applicants for asylum must produce proper documentation within forty-eight hours or have their application for asylum rejected automatically. This is problematic because those fleeing persecution may not have access to their documents. Therefore, the people who are most in need of protection may be denied access to it. The Dublin framework(s) which mandate that only one country within the EU handle an asylum application prevents denied persons from seeking asylum in another EU state. The combined effect of Switzerland's restrictive domestic policy and European regulations has generally made Switzerland less desirable for refugees.

Immigration policy is a multi-faceted phenomenon that does not lend itself easily to blanket classifications of being liberal or restrictive. Ultimately, states have few choices to resolve the competing pressures of an economic need for immigration versus the demographic and financial burdens immigrants can have on the state. That is why there is not a large gap between the states with liberal immigration policies and those with more restrictive policies. Some states are liberal in some areas, while sharing common policies with restrictive states in

other areas. What I have attempted to do is focus on the condition of immigrants within the state.

CHAPTER SEVEN

CONCLUSION

To summarize, my study asks whether majoritarian or proportional electoral systems have more restrictive immigration policies. I use an in-depth case study approach of four countries that focuses on four areas: naturalization and citizenship acquisition, economic migration, refugee and asylum policy, and the nature of nation-states' international obligations. All of these factors play an important role in accounting for the variation in immigration policy. The ease or difficulty in achieving these outcomes accounts for restrictiveness or permissibility of a given nation-state's immigration policy. In order to facilitate this analysis, I looked at roughly twenty years of policy changes and electoral results from 1986-2007, and found that the two broad types of electoral systems examined here tend to produce different types of immigration policies.

I argue that the major reason for the variation in outcomes is that proportional electoral systems often require a coalition government, and anti-immigrant political parties have been able to push for stricter immigration policies in exchange for supporting the governing coalition. Without the support of these parties, the governing coalition would be deprived of a working majority, but this also means that anti-immigration parties can essentially force their policies upon the coalition through threat of withdrawal. In the Swiss

case, the Swiss People's Party reinforced their position by gaining control of the ministry responsible for overseeing the country's various immigration policies. In majoritarian systems, mainstream political parties will typically try to co-opt the rhetoric of anti-immigrant parties. Based on the limited evidence presented by my case studies, these are often subject to trade-offs, so that immigration policy is less restrictive in states utilizing proportional electoral systems. I have called this difference "cooperation versus co-option" because in proportional systems the more moderate political parties cooperate through agreeing to restrictive immigration policies in order to preserve the government, while in majoritarian systems political parties will usually co-opt the anti-immigrant rhetoric, because tougher immigration policies are electorally profitable. Additionally, the co-option of a stronger immigration stance helps right-wing parties fend off the electoral threat a radical right party may pose. As in France, Sarkozy's Union pour la Mouvement Populaire (UMP) moved to the right on immigration issues to try and blunt the perceived rise in influence of the National Front.

These findings are particularly intriguing for the study of anti-immigrant political parties because they suggest that parties running on anti-immigrant platforms can always have some influence over the immigration issue. It is the nature, or degree, of this influence that is different. In majoritarian systems it is more indirect because, while they do not have enough strength to win a majority of seats, anti-immigrant political parties 'can' win some seats, which makes mainstream parties nervous about ceding some electoral influence to them. This causes mainstream parties to push for more restrictive immigration policies, but not so

restrictive as to alienate the more moderate voters they are used to courting. In proportional systems the link is more direct. The moderate parties may find they need a coalition partner to form a majority government, and thus pass more restrictive policies in order to gain the radical right's support for the government.

The two different electoral systems also seem to have a pronounced impact on immigration policy-making itself. In majoritarian systems, the main parties converge towards a common conception of immigration policy with little difference between them. In proportional systems, however, immigration policy-making can diverge wildly from a highly liberalized system to a highly restrictive system. This often depends on how much pressure the radical right is able to put on the government and whether that pressure is exerted from inside or outside government. When radical right parties had little influence i.e. when the immigration issue was not salient, liberal policies were the norm. As concerns over unemployment and the welfare state grew, the immigration issue became salient and the influence of the radical right grew. Australia is a good example of the former as both parties reached a consensus on multicultural policies that encouraged mass immigration. Meanwhile Denmark is an example of the latter. The Danish People's Party was able to force the replacement of the Interior Minister while outside of government in 1998. Once they were inside government in 2001, they pushed through packages of restrictive policies.

The immigration policies of the four nation-states under study may lack variation because they contain similar provisions such as: language requirements, periods of residency before naturalization, and financial support requirements. However, when one digs deeper

into immigration policy, the variation is found. While requirements such as lengthy nationality periods, means of financial support, and citizenship tests may not appear restrictive because many immigration laws have them, they in fact constitute a heavy burden to immigration. This burdening of immigrants has the effect of dissuading immigrants from coming to certain countries. I have suggested in this thesis that it is not just the content of immigration policy that matters, but the burden that such policies place on immigrants practically as well.

I need to mention what I am not arguing. I am not arguing that proportional systems always have more restrictive immigration policies than their majoritarian counterparts. There are too many variables to account for when considering immigration policy to substantiate such a claim. At best, I can say that when comparing these four cases, proportional representation systems have more restrictive immigration policies than majoritarian ones. These results could change if the analysis was performed with a different set of cases. Some majoritarian states have restrictive policies while some proportional states have policies that are quite liberal.

My thesis also only looked at cases that had either majoritarian or proportional electoral systems. This unintentionally neglected cases that have mixed electoral systems, which combine elements of majoritarian and proportional systems. Several established democracies have mixed systems that could make them suitable for future study since they have comparable democratic traditions to the countries under study.

Another area for potential research concerns the immigration policies of those countries whose governments have not fully democratized. All of the countries in my study have lengthy democratic traditions. This leaves a body of cases that are caught somewhere between democracy and autocracy. These countries may hold semi-competitive elections, but immigration policy can range from the bare minimum required under international law to fairly complex institutionalized procedures. In some of these countries, the UNHCR is involved to varying degrees in refugee status determination procedures. In future research, it would be a welcome addition to the literature to ask what type of impact the electoral system has in countries where the UNHCR is involved. There could be a tremendous variation from no impact to a great deal of impact, depending on the level of UNHCR involvement.

This study is an important step in documenting the complex relationship that exists between electoral systems and immigration policy outcomes. I attempted to both describe the outcomes of certain electoral results and examine patterns that occurred across the individual cases to explain why these outcomes occurred. But on a more fundamental level, electoral systems can produce changes in immigration policy that have a real impact on the immigrants both inside a state and those contemplating immigration. It is my hope that future research broadens the linkage between electoral systems and immigration policy because put simply: Electoral systems matter for immigration policy.

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