

**CITIZENS, RESIDENTS, AND GUEST WORKERS:
A TRANSATLANTIC ANALYSIS OF IMMIGRANT RIGHTS AND POLITICAL
CLEAVAGES**

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The fundamental argument of this dissertation is that migrant rights are central to understanding the politics of immigration: by defining what migrants can or cannot do in the receiving state, the bundle of rights granted to migrants conditions the effect that migrants have on domestic groups' interests and therefore which societal groups will favor or oppose immigration liberalization. Increasing migrant rights increases the market, fiscal, and cultural costs of immigration to the right, but decreases the market costs and generates political and cultural benefits to the left. As a result, migrant rights condition preferences over immigration – such that the right (left) should favor (oppose) the admission of migrants with few rights and oppose (favor) the admission of migrants with expansive rights – and immigration policy outcomes – such that immigration reform will focus on increasing the admission of migrants with a limited (broad) set of rights when the right (left) is in government. These policy outcomes will vary in predictable ways under divided government and when policymakers are constrained with respect to the provision of migrant rights.

In the first three chapters, I present the puzzle that motivates my project, my critique of the extant literature, my conceptualization of migrant rights as defining societal membership, and the theoretical framework that links migrant rights, societal interests, and immigration policy

outcomes. In the following four chapters, I test the expectations of the theoretical chapter in the United States and across the European Union. The first two empirical chapters consider the policy preferences of political actors and immigration policy outcomes in the United States. The second two empirical chapters do so across the European Union. In the concluding chapter, I situate the results of the empirical analysis in the contemporary context, highlight some of the implications for scholarship in both political economy and immigration politics, and consider the compatibility of extending and withholding rights in a liberal democratic society.

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PREFACE

It was far from inevitable that a child from a historically working-class family in Aberdeen, Scotland would go on to obtain a Ph.D. That I am here today is not merely the result of my own hard work and dedication, but also that of a small army of mentors, colleagues, family, and friends. The following is but a small token of my gratitude to those who have contributed to the successful completion of this process.

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Finally, thank you to my family – by blood and by law, near and far – for your unconditional love and support as I have pursued a career unlike anything we have collectively

done before. In particular, mum and dad, your hard work, dedication, and leaps of faith – bringing us from Aberdeen, to London, to Atlanta, and beyond – have encouraged me to pursue what others would tell me I could not. Your passion for bettering the lives of others has inspired me to undertake projects that similarly promote social justice. Your unwavering support has made my success possible. Jordan, you have been my partner and my rock throughout this process. Words are insufficient to describe the many ways in which you and Rafael – my constant writing companion – have supported me. “Thank you” will never be enough.

1.0 INTRODUCTION: WHO'S AFRAID OF IMMIGRATION?

Across the advanced industrial democracies few policy debates are as divisive and laced with vitriol as those over immigration. The charges against immigrants are numerous. For many, immigrant labor displaces domestic labor. In 2004, for example, former United States Representative Elton Gallegly (R-CA) claimed “wages across the board are depressed by the overwhelming influx of cheap and illegal labor.” Moreover, as a part of its 2015 electoral campaign, the United Kingdom Independence Party declared “British workers are hit hard by unlimited cheap labor.” For others on either side of the Atlantic fiscal burdens incurred as a result of “welfare tourism” and “anchor babies” are unacceptably costly. For others still, the cultural effects of immigration are sources of angst. In 2007, for instance, Dutch politician Geert Wilders bemoaned the “Islamification” of Europe. In that same year, American pundit Bill O’Reilly lamented that immigration liberalization is a strategy employed by those who “hate America [...] because it’s run primarily by white, Christian men” in order “to change the complexion [...] of America.”

Far from an idiosyncratic feature of popular rhetoric, scholarship remains divided over the causal role of market, fiscal, and cultural interests in the politics of immigration. This debate remains at an impasse, with each explanation providing a robust account of some aspects of immigration politics while failing to provide traction on others. The account proffered in this dissertation breaks this impasse by providing a generalizable theory of the conditions under

which each of these factors affects societal interests with respect to immigration and the related politics of immigration.

By teasing out the role of market, fiscal, and cultural interests, we can begin to make sense of the varieties of immigration policies observed across the globe. What determines cross-national, temporal, and inter-program variation in immigration policy restrictiveness? Why, for example, do some states, such as Germany following World War II, actively pursue short-term migrant labor but enact restrictive resident and naturalization programs while other states, such as Finland and Ireland opt for the opposite policy mix? This is not simply a question of trade-offs between policy alternatives. Some states, including the United States, make extensive use of both temporary and permanent migration programs, while others still, such as Austria and Switzerland, limit both.

The fundamental argument of this dissertation is that migrant rights are central to understanding the politics of immigration: by defining what migrants can or cannot do in the receiving state, the bundle of rights granted to migrants conditions the effect that migrants have on domestic groups' interests and therefore which societal groups will favor immigration liberalization. I argue that much of the politics underlying immigration policy can be understood using a standard left-right ideological dimension along which the political left represents the interests of workers in the market, supports the welfare state as a means to redistribute income and risk, and promotes cultural diversity and change while the right represents the interests of employers, seeks to reduce the size and scope of the welfare state, and strives to preserve traditional culture. Increasing migrant rights increases the market, fiscal, and cultural costs of immigration to the right, but decreases the market costs and generates political and cultural benefits to the left. As a result, migrant rights condition preferences over immigration – such that

the right (left) should favor (oppose) the admission of migrants with few rights and oppose (favor) the admission of migrants with expansive rights – and immigration policy outcomes – such that immigration reform will focus on increasing the admission of migrants with a limited (broad) set of rights when the right (left) is in government. These policy outcomes will vary in predictable ways under divided government and when policymakers are constrained with respect to the provision of migrant rights.

Parties are central to this account of migrant rights, societal interests, and immigration policy outcomes. As agents of interest articulation and aggregation (Almond and Powell 1966), parties represent and promote their constituents' interests, albeit imperfectly. If, as I argue, migrant rights condition societal interests over migrant admissions, in order to adequately represent their constituents, party positions over migrant admissions will similarly vary with migrant rights.

Parties also feature in this account by virtue of their governing function (e.g., Almond and Powell 1966). Indeed, during their tenure in government, parties play a crucial role in the policy-making process (Schmidt 1996). While the policy-making ability of governing parties will vary by institutional configuration – with those in predominantly majoritarian systems facing fewer obstacles than those in predominantly consociational systems – parties holding power will be more likely to secure their preferred policy outcome than will opposition parties. This is not to suggest that the government is the only influential actor in shaping policy outcomes, but more modestly that the government's effect is both significant and reflective of its constituents' interests.

To better understand the observed variation in immigration policy outcomes, I follow the standard approach in political economy research (Rogowski 1987, 1989; Frieden 1991, 1999;

Lake 2009). This involves first identifying the policy preferences of interested actors and then showing how these preferences aggregate through strategic interaction within a particular institutional environment to determine policy outcomes. I use both micro-level and macro-level empirical analyses to better understand the politics surrounding immigration policy. In the micro-level analysis, the goal is to identify immigration policy preferences of interested actors by manipulating the types of policies over which these actors have an opportunity to express either support or opposition. Specifically, I examine whether and how political elites' preferences over immigration vary as a function of migrant rights. The objective driving the macro-level analysis is to explain immigration policy outcomes. This requires either an institutionally grounded aggregation of preferences or focus on powerful actors. In this case, I consider how variation in elite preferences – observed in the micro-level analysis – affects the immigration policies produced by in a given state at a given time.

To better understand the difference between the micro-level and macro-level empirics, consider the following example from the American case. The micro-level analysis might identify that individual members of the Democratic Party are more likely to support liberalizing the rules that govern the admission permanent residents and restricting those governing the admission of guest workers. This result provides an important part of the micro-foundation for understanding the politics of immigration policy in the United States, but taken alone this finding tells us nothing about whether the United States is more or less likely to liberalize its permanent residency programs or restrict its guest worker programs. To explain this sort of immigration policy outcome we need to know whether the Democrats have a majority in the houses of Congress or perhaps whether a Democrat controls the Presidency.

1.1 THE POLITICS OF IMMIGRATION

The extant literature identifies three broad sets of interests that affect immigration preferences and policy outcomes: cultural interests, economic self-interest, and security. In seeking to understand these purported sources of immigration preferences and policies, scholars have studied the effects of cultural, economic, and security variables at the individual, elite, policy, and state levels. The following enumeration of existing work examining the sources of immigration preferences and policy outcomes will make reference to works at each of these levels jointly. While I do not deal explicitly with the individual level in this project, inclusion of individual-level analysis is important because of elites' representative function in the advanced industrial democracies. Although individuals and their representatives may at times exhibit different preferences – and irrespective of whether such differences are attributable to a principal-agent problem or to representatives acting in their constituents' best interests rather than a particular mandate (e.g., Pitkin 1967) – this literature provides important information about societal cleavages over immigration.

Cultural – or nativist – explanations argue that immigration preferences are determined by conceptions of “self” and “other” (Bauer et al. 2000; Burns and Gimpel 2000; Chandler and Tsai 2001; Citrin et al. 1997; Dustmann and Preston 2007; Espenshade and Hempstead 1996; Hainmueller and Hiscox 2007, 2010; Fetzer 2000; Gang et al. 2002; Lahav 2004; Leblang et al. 2009; McLaren 2003). This body of literature typically assumes that immigration preferences are shaped by public perceptions of racial, ethnic, linguistic, religious, and other cultural differences between the receiving state's population and would-be migrants. Cultural arguments differ in the purported source of group identity, and these sources vary from ethnic nationalism, to the

institutionalized definition of group membership (e.g., citizenship), to societal heterogeneity, to racism. Ultimately, however, these explanations assert that domestic group interests with respect to immigration are shaped by the (actual or perceived) effect of immigration on the receiving state's culture and society.

Explanations predicated on economic self-interest constitute the primary rival explanation to cultural arguments. Common to the literature linking economic self-interest to the politics of immigration is the assertion that immigration cleavages form according to which groups will gain and/or lose economically from liberalized or restrictive immigration policies. Among this body of literature, scholars identify two primary sources of economic gains and losses from immigrants (Borjas 1999; Simon 1989). The first considers the impact that migrants have on the receiving state's market (Briggs 1984, 2001; Kessler 2001; Peters 2011; Mayda 2006; Scheve and Slaughter 2001; Timmer and Williamson 1998; Facchini and Steinhardt 2011), while the second considers the fiscal impact of migrants (Facchini and Mayda 2009; Gimpel and Edwards 1999; Hanson 2005; Hanson et al. 2007; Hatton and Williamson 2005; Money 1999).

The first, which Hainmueller and Hiscox (2010) identify as the labor market competition model, includes a variety of explanations bound by a shared general argument: by changing the labor pool, migrants have a distinct impact on the earning potential of domestic groups, and in rational anticipation of that impact, affected or potentially affected domestic groups pursue policies that maximize or protect their earning potential. Yet this shared general argument masks significant variations in these approaches. The most prolific variation of the market competition model focuses on labor's reaction to a potential increase in the supply of labor, which is expected to decrease wages (Briggs 1984, 2001; Kessler 2001; Mayda 2006; Scheve and Slaughter 2001; Timmer and Williamson 1998; Facchini and Steinhardt 2011). Immigration increases a country's

supply of labor, which, in turn, decreases the price and demand for labor. Laborers therefore have less money, less opportunity for self-betterment, and less power. Yet the seemingly obvious assertion that labor, and particularly organized labor, will oppose increased immigration is challenged by recent research indicating that under certain conditions organized labor acts in support of apparently migrant-friendly policies (Caviedes 2010a, 2010b; Haus 1995, 2002; Watts 2002).

The second variant of the market competition model argues that owners of capital and their representatives will pursue immigration policy liberalization in order to increase returns on investment through decreased costs in terms of wages. This is a logical extension of the previous argument that labor and its representatives will oppose liberal immigration policies in that both consider the role of factor- or class-based interests. More radical variants of this argument posit that immigration is a tool employed by capitalists to structure class relations. For some, the introduction of foreign laborers serves as a basis of differentiation between the capitalists and the proletariat, with migrant labor constituting a lower class than domestic labor (Bovenkerk et al. 1991). For others, immigration is intended to foster intra-class divisions (Freeman 1978). If the proletariat is to rise up against the capitalists, it must be able to unite and overcome internal divisions. Internal divisions, in turn, are more difficult to resolve when confronted with linguistic and cultural differences. Immigration, according to this literature, serves as a mechanism employed by capitalists to quell the impending working-class revolt.

A final variant of the market competition model takes a more holistic view of the market (Peters 2011, 2014). Relying on Mundell's (1957) argument about the substitutability of trade and factor mobility, this scholarship builds upon the international trade and, to a lesser extent, capital literature and argues that immigration policy is a reaction to the impact that trade policies

have on the domestic market (Peters 2011). Specifically, because trade protection in labor-scarce states stimulates domestic production of labor-intensive goods,¹ the domestic price for labor will rise with the increasing demand unless there is a commensurate rise in the supply of labor. As such, capital interests in labor-scarce states can offset the costs associated with increased demand under a fixed labor pool by pursuing open immigration policies.

The second set of explanations based upon economic self-interest, which Hainmueller and Hiscox (2010) identify as the fiscal burdens model, holds that domestic groups pursue immigration restrictions in order to forego additional burdens on the welfare state and other public services (Facchini and Mayda 2009; Gimpel and Edwards 1999; Hanson 2005; Hanson et al. 2007; Hatton and Williamson 2005; Money 1999; Zimmerman and Tumlin 1999). For this argument to hold, immigrants must be net-recipients of public services, a proposition that receives significant support in the short-run (Borjas 1999; Fix and Passel 2002; Hanson 2005), but receives less support in the long-run (Fix et al. 1994; Krugman and Obstfeld 2000; Smith and Edmonston 1997). In a recent survey experiment, Hainmueller and Hiscox (2010) fail to find evidence in support of either the fiscal burdens model or the labor market competition model.

The final body of literature posits that security concerns inform immigration policy preferences, and largely – although not exclusively – draw on realist theories in international relations. According to these approaches immigration policies are drafted in order to maximize the state's security and/or power. These policies are the product of the state's rational self-interest as viewed through the lens of the anarchic, self-help international system (Meyers 2000). For some, migration can be viewed as a variant of the security dilemma (Alexseev and Hofstetter

¹ Relative to the production of labor-intensive goods in labor-scarce states under free trade, which struggle to compete with labor-intensive goods from labor-abundant states in terms of price.

2006). Classically use to define situations in which actions intended to increase state security result in a decrease in state security (Jervis 1978), an extensive body of literature has applied the security dilemma to inter-ethnic group relations (Posen 1993; Snyder and Jervis 1999; Van Evera 1995). The security dilemma explains group preferences vis-à-vis immigration as a reaction to “perceived [...] “borderlessness” and, hence, of declining state sovereignty and government authority,” fear of misperception of migrants intentions, and ethnic and economic tensions between the domestic and migrant population (Alexseev and Hofstetter 2006, 4).

Others argue that immigration policies are a matter of state sovereignty and, therefore, survival (Weiner 1985). If a state abnegates its right to control immigration (and emigration for that matter) a large influx of individuals from one “country could peacefully invade another [country] through colonization” (Weiner 1985, 443). Finally, some scholars have demonstrated that security crises, such as the September 11th attacks on the United States, significantly impact societal willingness to accept migrants (Branton et al. 2011). In the security framework, therefore, state survival and power and domestic security serve as motivations for immigration policies. While the role of security concerns in immigration policy-making is not the focus of this dissertation, this literature is included here to provide an accurate and, in so far as is possible, complete review of the literature.

Most existing work implicitly assumes that societal cleavages over immigration are the same irrespective of the type of policy under consideration. That is, for instance, if we accept the labor market competition model,² labor and its representatives should equally oppose the liberalization of all immigration policies while employers and their representatives should

² While I use the labor market competition model as an example here, the same point could have been made using any of the competing explanations outlined above.

equally favor the liberalization of all immigration policies. On the basis of this assumption, the extant literature treats migrant groups as *homogeneous* and immigration preferences as *static* and, as a result, can neither explain some commonplace observations about the politics of immigration nor provide sufficient analytic leverage on the policy-making process. I develop an argument that reconciles these literatures by demonstrating the importance of migrant rights in shaping both migrant impact and, as a result, societal interests. In so doing, I untie the Gordian Knot, developing an account of the politics of immigration that has a nuanced understanding of the salient differences among groups of otherwise similar migrants and that treats the formation and alignment of societal preferences as a dynamic process. The result is an explanation of immigration politics that integrates both economic and cultural accounts, and one that better explains the politics of immigration than either does alone.

Assuming a stable cleavage structure is only a useful assumption if at least one of two conditions holds. The first condition is the uniformity of immigration policies, which masks the significant variety of such policies found not only across the advanced industrial world, but also within a given state. These policies differ most fundamentally according to the bundle of rights granted to migrants and according to admissions criteria (Ruhs 2013, 55). The second condition is that all groups of migrants admitted have an equivalent impact on a particular domestic group, irrespective of the policy under which migrants are admitted. The degree to which this second condition holds is a function of domestic institutional arrangements, regime type, and – most importantly for present purposes – the types of immigration policies that exist in the receiving society. The vast majority of work that differentiates between immigration policies does so on

the basis of admissions criteria, focusing almost universally on the types of migrants admitted.³ Yet such an approach cannot explain why a given domestic group, such as labor, and its representatives may simultaneously oppose and support liberalized admissions for the same group of migrants, say low-skilled labor, to be admitted under different immigration programs. Classifying immigration programs by their second major point of variation – migrant rights – can provide the analytical precision to understand the conditions under which the same domestic interest group can hold opposing preferences over the admission of the same group of migrants. Moreover, as demonstrated by Ruhs (2013), such a classification is generalizable across countries.

This is not the first work to highlight the interaction between migrant rights and immigration control policies (Ruhs and Martin 2008; Ruhs 2013; Tichenor 2002). In his independent and co-authored work, Ruhs (Ruhs and Martin 2008; Ruhs 2013) posits that in high-income states, there is a trade-off between migrant rights and the openness of labor migration policies. The greater the rights extended to migrant workers, the fewer migrant workers states are willing to admit, and this relationship is attenuated with increasing migrant skills. Using an approach familiar to students of international relations, Ruhs (2013) treats states as autonomous actors pursuing the national interest (e.g., Krasner 1978). In this account, the state is the pivotal interested actor. State preferences over immigration policy are defined by the national interest, which is a function of market, fiscal, cultural, and security concerns, and the relative importance of each component varies across states and over time. Because of these oftentimes-competing

³ For instance, whether admitted migrants are low-skilled or high-skilled or whether migrants are admitted for family reunification, employment, or humanitarian reasons.

components of the national interest, states do not have total freedom over immigration policymaking, but rather face choice under constraints.

In his examination of immigration politics throughout American history, Tichenor (2002) presents a rich historical-institutionalist account of American immigration policy. He argues that immigration policy outcomes across American history have been the result of changes and stasis in the domestic institutional structure and the effect of these institutions and prior immigration policies on interest group powers and preferences, left-right coalitions made possible at various junctures by shared positions over rights and admissions, the narrative of immigration and immigrants produced by experts, and exogenous shocks produced by international crises. Most important for present purposes is his treatment of how positions over migrant rights and admissions have shaped the immigration policy-making process. In addressing this relationship, Tichenor suggests that an actor's "immigration orientation" can be mapped on a two-dimensional space according to that actor's preferences over whether migrant admissions should be expanded or restricted and whether migrant rights should be expanded or restricted (Tichenor 2002, 36). His two-dimensional model yields four ideal types of immigration orientation in which "cosmopolitans" pursue both expanded migrant admissions and expanded migrant rights, "free-market expansionists" pursue expanded migrant admissions and restricted migrant rights, "nationalist egalitarians"⁴ pursue restricted migrant admissions but expanded rights for those admitted, and "classic exclusionists"⁵ pursue restrictions on both rights and admissions. The importance of this typology for Tichenor's purposes is to demonstrate the varying ideological

⁴ Which he alternatively calls "economic protectionists" (e.g., Tichenor 2002, 8)

⁵ Which he alternatively calls "cultural exclusionists" (e.g., Tichenor 2002, 8)

commitments that have made cross-partisan coalitions frequent and, often successful, advocates for immigration policy reform in the United States.

There are several important and related differences between these three accounts⁶ of the relationship between migrant rights and migrant admissions. Most fundamentally, these works differ in their purpose. Taken together, the works of Tichenor and Ruhs demonstrate that the literature on rights and admissions is currently one of extremes. Where Tichenor privileges explanatory power over generalizability, Ruhs does the opposite. The results of each work are impressive and consistent with their respective goals. While a trade-off will always exist between pursuing these goals, however, social scientists should strive in so far as is possible to maximize both generalizability and explanatory power. In contrast to Tichenor, this work presents a generalizable explanation of how migrant rights affect societal group preferences over migrant admissions. In contrast to Ruhs, this work opens the black box of the state, uncovering the mechanisms by which migrant rights shape the “national interest” with respect to migrant admissions.

A second point of difference, and one that is directly related to the purpose of each work, is in their account of the significant actors in immigration policy making. While all three works share the assumption that the state is not merely a neutral arbiter for societal interests, the works differ on the primacy of various actors. For Ruhs, the state is the most important actor; he treats states as if they have their own interests that are distinctive of the interests of domestic groups. As he correctly asserts, this is common practice in third image approaches to international relations. This “state as actor” model is particularly useful when one wishes to understand how

⁶ That is Ruhs (2013), Tichenor (2002), and this dissertation.

international relations and the international system affect state actions. That is, by bracketing discussions of domestic decision-making, we can paint a clearer picture of the international and systemic mechanisms affecting an outcome.⁷ The utility of the state as actor approach is the subject of a broad and contentious body of literature, and it would be impossible to do justice to that debate here. It is clear, however, that black boxing the processes by which states come to define their interests and formulate policies provides very little utility in furthering our understanding of how and under what conditions states choose to balance the theorized trade-offs. Indeed, without considering domestic mechanics, it is impossible to understand why such a trade-off even exists, never mind when states choose to extend rights as opposed to increase openness. Put another way, the state as actor approach greatly increases our ability to generalize across states, but oftentimes does so at the expense of explanatory power.

Familiar to students of comparative and American politics, Tichenor follows in the tradition established by E.E. Schattschneider (1960) and treats interest groups, politicians, and activists as important actors working within shifting institutional contexts that privilege some societal groups over others. Relatedly, parties and representatives constitute the central actors in this dissertation. Working in a party as agent framework, I maintain that parties and, in more individualistic systems, representatives promote the interests of particular societal groups. That is, in contrast to Ruhs, this dissertation focuses on political elites, and their partisan interests, as the central actors in forging the national immigration policy. In contrast to Tichenor, I examine

⁷ More tangentially, Ruhs's decision to treat states as having their own interests that are more than the outcome of bargaining between domestic groups is thus useful if he is interested in modeling international dynamics. He later, however, excludes "internationally negotiated" immigration programs, among others (Ruhs 2013, 57), which includes "intra-company transferees" (covered under GATS Mode 4) and migrant labor covered under regional trade agreements (e.g., NAFTA visas and intra-EU migration). This is quite clearly logically inconsistent with the appropriate use of the state as actor model. That is, if the state as actor model is useful for understanding international dynamics, then excluding internationally negotiated immigration programs is inappropriate.

political elites as conduits for the interests of domestic groups and focus less on the independent influence of these groups.

A third point of difference among these three works is in the ascribed source of immigration interests. For Ruhs, states are interested in obtaining the outcome that most closely matches the national interest (utility maximization), which is driven by some varying and contingent combination of market, fiscal, societal, and security concerns. While consistent with his purpose and approach, as discussed above, this is symptomatic of the familiar concern that what he gains in generalizability he also loses in explanatory power. In Tichenor's account, immigration preferences are the outcome of domestic group interests, but these group interests (in addition to their ability to affect immigration policy outcomes) are contingent on the prior immigration regime and changing national institutional and party system, among others. As such, groups with a nationalist egalitarian immigration orientation in one period might, as a result of changing institutional and immigration conditions, be cosmopolitans in later periods (as was the case with organized labor in the United States over the course of the 20th Century). This suggests that immigration interests are, to some extent, ephemeral and contextual rather than being rooted in a more fundamental set of interests. Indeed, the importance of institutional context is the crux of his argument: shifting political contexts shape policy interests and outcomes.

In this dissertation, by contrast, immigration preferences are driven by more fundamental interests, which are rooted in a group's general economic and cultural interests. This is not to suggest that immigration preferences do not change or even that political context plays no role in this process. On the contrary, I hope to provide a systematic explanation – grounded in migrant rights and fundamental group interests – of the conditions under which group preferences over immigration change.

The final and most substantively important difference, and one that I expect will elucidate the previous point, rests in the various accounts of the relationship between migrant rights and migrant admissions proffered in these works. In Ruhs's account, the relationship between rights and admissions exists at the level of policy outcomes. Specifically, increasing admissions makes the costs of admissions higher because of the costs (fiscal, market, societal, and security) associated with extending rights to a larger pool of people; the optimal level of admissions is contingent on the number of inevitably costly (on many metrics) rights that states might extend to migrants. That is, in pursuit of the national interest, states face a trade-off between rights and admissions. As a result, with respect to policy outcomes, there exists an inverse relationship between the provision of rights and the level of admissions.

For Tichenor, the relationship between rights and admissions exists at the level of group preferences over immigration. In fact, "immigration orientation" is defined as a function of a group's preferences over rights expansion or restriction and admissions expansion or restriction, and it is possible for a given group to prefer any combination of policies along the rights and admissions dimensions of immigration policy preferences. As a result, Tichenor's account implies an orthogonal relationship between preferences over rights and admissions.

My account of the relationship between rights and admissions differs from both of these previous accounts in that preferences over admissions levels are *conditional* on rights. In contrast to Tichenor, I argue that individuals and groups have general interests with respect to policies that affect the market, fiscal arrangements, and socio-cultural composition, among others, and that these policy interests are driven by fundamental economic and cultural interests. Yet we cannot simply extrapolate preferences over admissions from these fundamental interests; indeed, this is where many accounts of immigration policy preferences break down. Rather, I argue that

variations in migrant rights condition whether and how migrant admissions affect domestic groups and, as a result, rights shape group preferences over the level of admissions. As I shall demonstrate, variations in rights *activate* different sets of societal interests; under extremely limited rights, for instance, migrants will have an extremely limited effect on the receiving state's culture and, as a result, cultural interests are unlikely to become salient. Thus, my argument is conditional in the sense that *variations in the bundles of rights granted to migrants conditions domestic group preferences over admissions*.

Yet my contention about the relationship between rights and admissions levels is conditional in a second sense. In contrast to Ruhs, I argue that the relationship between rights and levels of admission (e.g., whether that relationship is inverse or positive) is conditional on these deeper interests. Specifically, for some domestic groups the relationship between rights and admissions is negative – increasing rights will yield preferences for decreasing admissions – but for others the relationship is positive – increasing rights will yield preferences for increasing admissions – and the sign of the relationship depends upon more fundamental economic, political, and cultural interests. Herein lies another challenge with the state as actor approach: the assertion of a single national interest is optimistic at best. Indeed, at any given time various societal groups are likely to have competing definitions of the national interest. We have long understood that the state is not simply a neutral actor, but rather is one that privileges some interests over others (Schattschneider 1960). The ideological composition of those at the helm of the state will therefore have an important effect on not only the definition of the national interest, but also the policies designed to pursue that interest.

1.2 SCOPE: IMMIGRATION CONTROL POLICIES

The distinction between various types of immigration policies has long been recognized (Freeman 2006; Geddes 2003; Hammar 1985), though work harnessing these distinctions for expository purposes is rare (but see: Freeman 2006; Ruhs 2013). Where these distinctions are made, the programs are generally differentiated according to whether migrants are admitted to pursue employment, for the purpose of family reunification, or for humanitarian purposes. As a significant problem in the extant literature is its failure to differentiate between various types of immigration related policies, it is important to outline what immigration policy is – as well as what it is not – before trying to understand the politics of immigration policy formation.

For the purposes of this dissertation, I am interested in the sub-set of immigration related policies that govern the admission of legal voluntary migrants: immigration control policies. As a general category, admissions policies consist of the myriad of policy instruments that states use to govern non-citizens' access to their territory. Immigration control policy is a subset of admissions policies that governs the flow of consenting migrants, and govern the admission of economic migrants as well as migrants seeking entry for the purpose of family reunification. These policies include a variety of programs, which can be distinguished as a function of migrant rights and will be discussed at length in the next chapter. Immigration control policies may set categorical limits (such as the United States' H-1B cap) or ethnic, racial, or sending state quotas (as in the now-defunct "White Australia" and "National Origins" programs in Australia and the United States, respectively), and define "acceptable" immigrants (as in the Canadian "points system"), among others. In the remainder of this section, I outline what immigration control policy is not: immigrant policies, forced migrants, and citizenship policy.

Immigrant policies logically follow immigration control policies, and specify the rights and obligations of foreign nationals once admitted into the host state. Such policies may limit a foreign national's ability to change employment (either at the employer level or the industry level), define foreign nationals' abilities to participate in the political process, specify foreign nationals' abilities to travel domestically and/or internationally, prohibit or obligate foreign national participation in collective bargaining agreements, and determine the extent to which foreign nationals may retain their distinctive culture or must assimilate into the receiving state's culture. Although immigrant policies are not the dependent variable in the dissertation, these policies are an important part of the theoretical story. Indeed, immigrant policies are significant explanatory variables insofar as immigrant policies determine many of the rights of foreign nationals in the receiving state. Specifically, because immigrant policies define the rights and obligations of foreign nationals admitted to the receiving state, these policies shape which domestic groups will benefit – and which will be hurt – by an increase in migrant admissions and, in so doing, shape the cleavages that form over immigration control policies.

As the emphasis on *voluntary* migrants suggests, this dissertation will neither address questions of trafficking in human beings, nor questions of refugee and asylum admissions. Trafficking in human beings, or human trafficking, is a form of forced migration that occurs when the migrant is either coerced or deceived in to crossing international borders and is often forced in to exploitative occupations upon arrival. In addition, because trafficked human beings are victims of transnational crime, these individuals are not generally the subject of traditional admissions debates.

Refugees and asylum seekers constitute a second form of forced migration, in which individuals flee persecution in their home country. While acceptance of these migrants

constitutes a subset of admissions policies, refugee and asylum programs differ significantly from voluntary migration programs. While states retain the right to restrict the entry of voluntary migrants, international treaty law limits sovereign discretion over the admission of refugees and asylum seekers. Because of states' international commitments to refugees and asylum seekers, the admission of refugees and asylum seekers will have an exogenous impact on immigration control policies, but the reverse should not also be true.

Citizenship policies constitute the final category of immigration related policies and determine the basis for citizenship claims at the time of birth. Typically classified according to *jus sanguinis* (citizenship by descent), *jus soli* (birthright citizenship), and mixed regimes (which include elements of descent and birthright citizenship but stop short of extending full *jus soli*), citizenship policy is distinct from questions of immigration control policy, including naturalization policies. Theoretically citizenship policies provide an excellent metric for ascertaining a state's *a priori* acceptance of societal heterogeneity, with *jus sanguinis* states defining membership in the national community according to ethno-national ties and *jus soli* states defining membership in the national community according to civic nationalism. Empirically the assertion that citizenship policies are distinct from immigration control policies is supported as increasingly restrictive citizenship policies⁸ (Bertocchi and Strozzi 2010) and increasingly restrictive immigration control policies⁹ are correlated only at approximately 0.277.¹⁰

⁸ With the least restrictive being full *jus soli* and *jus sanguinis*, moderately restrictive being *jus sanguinis* with elements of *jus soli*, and the most restrictive being pure *jus sanguinis*.

⁹ Operationalized as the number of years of residency required for naturalization (my own coding from the United States' Office of Personnel Management's 2001 document on "Citizenship Laws of the World" and national legal codes). This is a more detailed operationalization than that provided by Bertocchi and Strozzi (2010), who lose significant details of naturalization restrictions by coding residency requirements as follows:

1.3 CASE SELECTION

In this dissertation, I focus on two cases, the United States and the European Union and its member states. As the world's two most common migrant destinations, these cases are important in their own right. Between 2000 and 2005, the United States was the top migrant-receiving state in the world, receiving almost seven million migrants, a figure accounting for approximately 16.5% of all migrants in that period. During this same time span, four European states – Spain, Italy, the United Kingdom, and France – were among the top ten receiving states and the EU15¹¹ jointly received almost ten million migrants, or approximately 23.5% of all global migrants, more than eight and a half million of which were from outside of the EU15. Certainly the admissions policies enacted by these states have a significant impact not only on those seeking to migrate to these states, but also on global migration patterns.

In addition to their intrinsic significance, these cases provide an important opportunity to examine the role that migrant rights play in shaping the politics of immigration. In the United States, policymakers have a significant degree of latitude over migrant admissions and crucially over migrant rights, as it is possible to grant migrants the right to enter and work while simultaneously withholding broader rights. That is, policy makers in the United States may choose to expand or restrict the admission of migrants under programs that offer varying bundles

-
- Less than 4 years
 - 5 years
 - 6 to 14 years
 - More than 14 years.

Bertocchi and Strozzi provide no justification for the cut-points selected.

¹⁰ When using Bertocchi and Strozzi's ordinal scale, this correlation increases to 0.33.

¹¹ EU 15 refers collectively to the first 15 member states of the European Union: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and the United Kingdom.

of rights. If rights do indeed condition preferences over immigration, then in the United States we should observe different groups advocating increased admissions under some programs and opposing increased admissions under other programs. Moreover, this latitude provides the opportunity for flexible policy-making coalitions that cross partisan lines.

In the European case, however, it is increasingly difficult to make this trade-off between admissions and rights. While this is most correct in the case of intra-EU migrants, it has become increasingly true of third-country nationals (TCNs). Among the EU's Migration Directives, a 2004 Regulation (EC No. 883/2004) requires that certain TCNs be granted equal access with EU citizens to many public services. That is, policy makers in the EU member states can only affect the admissions levels of those excluded from the free movement of labor regime, thus limiting the set of possible policy-making coalitions. As a result of these differences in discretion over migrant rights, the cleavages and coalitions that form in the European Union member states should differ from those that form in the United States, which should in turn have a significant effect on immigration policy outcomes. That is, because rights do not vary as significantly in the European Union as they do in the United States, pro- and anti-immigration coalitions should reflect these differences. The relatively limited variation observed across the European Union member states has posed a significant challenge for scholars as it has impeded the formation of explanations that generalize beyond the European context. My account of the role of rights in the politics of immigration not only provides such a generalizable explanation, but also makes clear *why* there is greater variation in the United States than there is in Europe.

There are two empirical chapters for each case. In the first, I examine how variations in migrant rights affect partisan support for admissions liberalization. In the second, I examine how migrant rights and government partisanship affect immigration policy outcomes. At the most

basic level, the connections between the cleavages and outcomes chapters demonstrate whether and how the interests observed in the cleavages chapters aggregate under particular sets of constraints to produce policy outcomes. Perhaps more important are the insights that we can glean from the cross-case connections, which will demonstrate how the ability to expand or limit the pool of migrants with access to various rights affects both policy preferences and outcomes.

1.3.1 Plan of the Dissertation

I begin this examination of the effect of migrant rights on the politics of immigration with two conceptual and theoretical chapters that lay the foundations for the remainder of the dissertation. In Chapter 2, I consider the relationship between rights and societal membership. While the majority of empirical work on immigration differentiates between citizens (members) and foreigners (strangers), I demonstrate that there are varying degrees of societal membership between members and strangers and that these can be distinguished most fundamentally by the *bundle of rights* granted to newcomers. This conceptualization is critical to the remainder of the dissertation for two reasons. First, it provides a metric for making systematic comparisons across countries, time, and policies. Second, if rights condition the effect that migrants can have on society, support and opposition to immigration should vary as a function of these rights.

Chapter 3 presents a theory of immigration policy preferences and outcomes that is based upon migrant rights, societal interests, and institutional configuration. The competing explanations for immigration policy preferences and outcomes rely on differing assumptions about the effect of migrants. While economic explanations assume that migrants shape the domestic market, cultural explanations assume that migrants have a broader effect on the

receiving society. I reconcile these competing explanations by treating migrant impact as a variable rather than an assumption. By defining what a foreign national may do in the receiving state, *rights* condition the effect that migrants have on the receiving society and therefore which societal groups and their representatives will favor immigration liberalization. Where migrants are granted a limited bundle of rights – admitted for a short duration of stay, under industry or employer specific work authorization, lacking access to social services, and remaining on the fringes of society – migrants will primarily impact the receiving state’s market. Because these limited rights increase the pool of labor while granting employers flexibility over employment decisions, minimize migrant effect on public expenditure, and limit migrant cultural impact, I argue that the right (left) will support (oppose) increasing migrant admissions under such programs. Where, by contrast, migrants are granted an expansive bundle of rights – admitted for longer-term durations, permitted to change jobs at will, granted access to public services, and even a pathway to citizenship – migrants impact the receiving society in addition to the market. Because these rights diminish employers’ power over migrant labor, increase public expenditure, and increase cultural diversity, I argue that the right (left) should oppose (support) increasing migrant admissions under such programs. Moreover, we should expect economic (cultural) explanations to better explain the politics of programs governing the admission of migrants granted a limited (expansive) bundle of rights. Immigration policy outcomes will crucially depend upon the bundle of rights granted to migrants, the partisan composition of governing institutions, and the domestic institutional environment.

I begin the empirical analysis in Chapters 4 and 5 with the world’s largest migrant receiving state: the United States. Chapter 4 considers elite preferences over various immigration policies by examining legislative voting patterns on immigration-related roll call votes. I classify

roll call votes from the United States Senate by the type of immigration policy under consideration. As expected, I find that support for immigration liberalization varies as a function of the type of immigration program under consideration. Most importantly, I find that legislator ideology remains significant across the different types of immigration, but that the direction of the effect changes, with increasingly conservative Senators being increasingly likely to support admissions liberalization for immigrants admitted with few rights but decreasingly likely to support admissions liberalization for immigrants admitted with expansive rights.

How do these preferences aggregate in the American institutional context? In Chapter 5, I create regime liberalization variables for the three key types of immigration policy: permanent residents, temporary residents, and guest workers. Using a discrete-time hazard model, I evaluate the effects of median legislator economic and cultural ideology, as well as the partisanship of the President. These results also indicate that policy type – defined by rights – affects policy outcomes. As the median member of Congress becomes increasingly rightist, the probability of liberalization decreases for programs that grant migrants an extensive bundle of rights, but increases for programs that limit migrant rights.

Turning to Europe in Chapters 6 and 7, I demonstrate that these results are generalizable across the advanced industrial world. In Chapter 6, I examine elite preferences over immigration in Europe. In contrast to the American case, where representatives have significant latitude over their policy positions and voting behavior, European politics is characterized by significantly greater party discipline. As a result, I examine party positions over the various ways in which migrants can affect the receiving state – a more direct test of group interests – using data from the Euro Manifesto Project (Braun et al. 2010; Schmitt and Wüst 2012). Here I again find

differences across different bundles of rights, with the effect of partisanship differing before and after the obligation to extend significant rights to third country nationals.

In Chapter 7, I examine whether these preferences are reflected in immigration policy outcomes across the European Union. Following EU enlargement, citizens of new member states residing across the EU are granted expansive rights commensurate with their status as EU citizens. Yet existing member states are permitted to restrict labor market access for up to seven years following accession through “transitional arrangements.” I estimate the effects of institutions and government partisanship on decisions to voluntarily liberalize labor market access using a discrete time hazard model. As is expected of policies governing the admission of migrants with a significant bundle of rights, I find that increasingly rightist governments are decreasingly likely to liberalize transitional arrangements voluntarily.

In a brief concluding chapter, I synthesize the results of the empirical chapters and reflect upon the ways in which the extension of migrant rights affects domestic groups’ willingness to admit migrants. I situate these findings within the contemporary debates on immigration policy, particularly in the United States and the European Union. Additionally, I question the compatibility of liberal democracy and the practice of liberalizing immigration admissions only to withhold rights.

2.0 MIGRANT RIGHTS AND SOCIETAL MEMBERSHIP

There exists an imperfect relationship between country of citizenship and country of residence. In most – if not all – states, non-citizens live among citizens, choosing to be subject to the laws of a foreign government. Yet to define all non-citizens as strangers – or non-members – betrays the great variety of groups that exist between members and strangers. I posit that the rights granted to the various groups that exist between members and strangers signify and frequently reinforce the difference between these groups of individuals. Indeed, this variation in rights constitutes the primary difference between groups of migrants admitted under various immigration control policies. In this chapter, I demonstrate that there are varying degrees of societal membership between members and strangers and that these can be distinguished most fundamentally by the bundle of rights granted to newcomers. This conceptualization is critical to the remainder of the dissertation for two reasons. First, it provides a metric for making systematic comparisons across countries, time, and policies. Second, if rights condition the effect that migrants can have on society, support and opposition to immigration should vary as a function of these rights.

2.1 A THEORY OF RIGHTS AND SOCIETAL MEMBERSHIP

We can understand societal membership groups as a continuum, with the excluded and citizens constituting the opposing poles (Figure 1). With each category of membership, we observe an increasing level of societal integration and acceptance, with excluded persons completely lacking membership and citizenship being conferred upon full members. In what follows, I demonstrate that variations in societal membership can be understood in terms of the rights given to the individual members of a particular group. This is not to suggest that variations in bundles of rights exclusively define societal membership, but rather that these rights are a useful and under-utilized indicator of the degree to which a receiving society accepts a foreign-born individual as a member of that society.

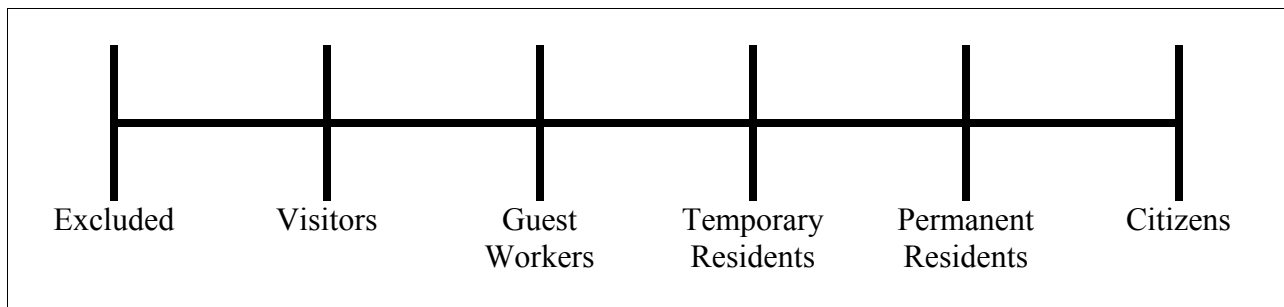


Figure 1. Continuum of Societal Membership Groups

Why do rights matter for societal membership? As some persuasively argue, societal membership is a function of the degree to which the foreign-born individual has integrated into the receiving society (Carens 2000). Surely an individual who has lived in the receiving state for 20 years, has married a natural born citizen, is a parent to citizens, and is an active member of his or her community is an almost full, if not full, member of society. From a social justice

perspective, one would be remiss to suggest that this individual *should not* be considered a full member of society. Indeed, such an individual *ought* to be a full member of society. Problematically, however, this is merely one side of the empirical reality. If we consider societal membership as the relationship between the foreign-born individual and the receiving society (as I do), then societal membership must be measured not only by the demand side – how well the foreign-born individual has integrated into the receiving society – but also by the supply side – the degree to which the receiving society accepts the foreign-born individual as a member. As Walzer argues: “The primary good that we distribute to one another is membership in some human community” (Walzer 1983, 31). Thus, societal membership requires that both the foreign-born individual *and* the receiving society agree that the foreign-born individual is, at least in part, a member of the receiving society.

Societal membership is notoriously difficult to capture. First, there are significant schisms in how scholars understand foreign-born individuals’ abilities to integrate into a receiving society. Communitarian scholars, for instance, contend that ascriptive characteristics – such as ethnicity, language, culture, and bloodlines – condition foreign-born individuals’ abilities to become a part of a society (Miller 1988; Taylor 1993, 1997; Walzer 1981, 1983). Liberal scholars,¹² by contrast, assume that foreign-born individuals can become a part of the receiving society through participation in that society and through shared values (Carens 1987, 2000; Dummett 1992; Dummett 2001). Undergirding these different approaches to societal

¹² In this context I use “liberal” to denote liberal democratic theorists whose arguments rest on the moral equality of individuals, the freedom owed to such individuals, and the obligation to treat such individuals with impartiality. Though the terms are related, I neither mean to signify economic liberals (e.g., Adam Smith) nor the liberalism of international relations scholarship.

membership are different conceptualizations of the nation, with the former based on ethnic nationalism and the latter predicated on civic nationalism.

Second, it is not clear how we “know” societal membership when we observe it. For communitarians, the answer is clear: a foreign-born individual who is of the same ethnic group (or some other ascriptive category) as the majority in the receiving state is a member of society upon admittance. Imagine, for instance, a Jewish American immigrating to Israel. By communitarian standards, that individual is a part of Israeli society on day one or shortly thereafter. There is a clear difference, however, between how that individual relates to the rest of Israeli society on day one as opposed to following ten years of residence. After ten years, that individual will understand the cultural norms that are particular to Israel specifically but not to the Jewish community more generally. The communitarians’ ascriptive understanding of societal membership cannot adequately capture this difference. For liberals, by contrast, societal membership is a function of interpersonal relationships, comprehension of societal norms, shared values, and participation in a shared community. While this better reflects the reality of societal membership than the communitarian understanding does, there are few (if any) concrete and consistently observable indicators of an individual’s degree of societal membership.

What should be clear from the preceding paragraphs is that existing conceptions of societal membership are insufficient in specifying how we know societal membership when we observe it. Thus, rather than focusing on the demand side of societal membership, I propose focusing on the supply side of societal membership. If, as Walzer (1983) contends, membership requires that existing members extend membership to newcomers, then we cannot understand societal membership absent some metric of how the members of the receiving society view the place of foreign-born individuals in their society. The key contention of this chapter is that

existing members of receiving societies signify their willingness to accept foreign-born individuals as members of their society by extending various bundles of rights to these individuals. Where the rights extended to foreign-born individuals are limited, the receiving society is curtailing these individuals' ability to *legally* impact the receiving society. As these rights increase, so does the foreign-born individual's latitude to impact society. This conception of rights as indicative of societal membership thus suggests that full societal membership is only attained when the existing members of the receiving society entrust the foreign-born individual with the ability to fully participate in the economic, social, and political destiny of the community.

A supply-side oriented conception of societal membership has the added advantage of accounting for demand-side factors in so far as foreign-born individuals must at least nominally apply to become members at each level of rights. That is, a foreign-born individual must apply for citizenship before the rights associated with this level of membership are granted to that individual.¹³ We thus observe a two-stage process where in the first (demand) stage, a foreign-born individual decides whether to request a particular bundle of rights, a process that likely includes consideration of whether the individual believes that he or she is sufficiently integrated into society to expend the resources necessary to make such a request.¹⁴ In the second (supply) stage, existing members of the society or, more typically, their representatives evaluate the

¹³ In practice, of course, foreign nationals applying for various visas may be applying for multiple bundles of rights with a single application. For instance, a foreign national applying for an immigrant visa to the United States from abroad on the basis of family reunification is simultaneously requesting the rights to enter, reside, work, accept employment at will, and – after a finite duration of stay – access social provisions. The conceptualization outlined in this chapter does not preclude this, but rather separates out each set of rights for expository purposes.

¹⁴ These application processes are typically costly in terms of money and time.

foreign-born individual's request for that particular bundle of rights according to the criteria set by society for new members.

I identify five categories of rights that societies may extend to or withhold from foreign-born individuals: entry, work, economic, social (including indefinite residency), and political. In the Western democracies, these rights are generally granted sequentially. As a result, it is rare, for instance, that an individual is granted political rights but excluded from economic rights. A careful reader will note that this sequence contradicts T.H. Marshall's canonical model of the development of citizenship, in which the political rights associated with citizenship are established prior to social rights (Marshall [1950] 1992). Scholars of immigration have understood for some time that the practice of modern polities with respect to the sequence of extending rights to newcomers differs from Marshall's account of the expansion of rights associated with the institution of citizenship (most importantly Brubaker 1989; Soysal 1994). There is nothing contradictory about these competing sequences, as these bodies of scholarship explain different phenomena. Marshall sought to explain the development of citizenship as an institution, the evolution of the relationship between the state and its existing population. This account, and the related works noted above, seeks to describe the development of societal membership, the evolution of the relationship between the state and its existing population, on the one hand, and newcomers, on the other.

In the next section, I will discuss each of the six membership groups to which foreign-born individuals may belong. In so doing, I will demonstrate how the various bundles of rights granted to each of these groups helps us to better understand societal membership.

2.2 WHO EXISTS? FROM STRANGERS TO MEMBERS

As outlined in Figure 1, above, there are six ideal types of societal membership that define the continuum from stranger to member: excluded persons, visitors, guest workers, temporary residents, permanent residents, and citizens. Each of these categories of membership is defined by a particular bundle of rights, which is presented in Table 1 and discussed in greater detail in the remainder of this section.

Table 1. Rights and Societal Membership

Membership Group	Entry	Work	Rights		
			Economic	Social	Political
<i>Excluded</i>	No	No	No	No	No
<i>Visitors</i>	Yes	No	No	No	No
<i>Guest Workers</i>	Yes	Yes	No	No	No
<i>Temporary Residents</i>	Yes	Yes	Yes	No	No
<i>Permanent Residents</i>	Yes	Yes	Yes	Yes	No
<i>Citizens</i>	Yes	Yes	Yes	Yes	Yes

The excluded are those who lack the right to enter the receiving state. Absent the right to enter, these individuals are clearly not privy to the higher-order rights considered in this typology of societal membership. For innumerable possible reasons, individuals and groups that populate “excludable classes” lists have been deemed to be so at odds with the goals and values of the receiving state that even allowing them onto domestic soil would threaten the receiving society. In some cases, states withhold the right to enter from all individuals from a particular receiving state. For instance, the United Arab Emirates and North Korea categorically deny entry to Israeli and South Korean citizens, respectively. In other cases, states withhold the right to enter from all

individuals that share a particular characteristic, such as the United States' 22-year ban on admission for individuals with HIV/AIDS. In yet other cases, states may withhold the right to enter on an individual basis, as was the case when the Norwegian government banned rapper Snoop Dogg from admission after he received a fine for drug possession on a previous visit. As these anecdotes indicate, the right to enter may be withheld from groups of individuals or on an individual basis, but the right to enter is indicative of an assessment that admission would threaten the receiving society because of the foreign-born individual's religion, ideology, potential effect on public health, or disregard for domestic laws, among others.

Visitors are those who have received the right to enter, but neither have the right to work for a firm in the receiving state, nor have broader economic, social, or political rights. Visitors consist of those who may enter a receiving state for vacation or on business (as representatives of businesses in their home state) on a short-term basis (typically not to exceed 90 days). These individuals are not in any sense members of the receiving society. They do not set up domicile or educate their children in the receiving state. Because the receiving society does not consider the individual to pose a threat to their society, however, the individual is welcomed for a temporary period of time, on the condition that he or she will return to his or her home state after that period of time. Ultimately, the foreign-born individual's source of productive activities and locus of social relations are expected to remain in his or her home state. The receiving society owes very little to these non-members, and any obligations are typically limited to hospitality and human rights.

Guest workers are foreign-born individuals who have received the right to enter and to work for a firm in the receiving state, but have not been granted broader economic, social, or political rights. Guest workers differ from visitors in that their primary source of productive

activity occurs in the receiving state. These individuals are employed by firms in the receiving state and have the right to work in that state for the duration of their employment. Yet guest workers remain apart from the majority of the receiving society, frequently being housed in on-site dormitories and interacting predominantly with other guest workers. In addition, guest workers' families frequently remain in the sending state, a factor that facilitates strong ties with the sending state. In fact, the right to work for a firm in the receiving state is an exceptionally limited right. In the United States, for instance, H-2A and H-2B approvals – which govern the admission of temporary agricultural and nonagricultural workers, respectively – are granted to the *hiring firm*, rather than to the foreign national. While the government vets the employees for admission, their lawful duration of stay is at the whim of the hiring firm, as termination of employment also renders the foreign national's presence unlawful. Guest workers remain on the fringes of the receiving society. At this level of rights, foreign-born individuals are treated as a commodity rather than as people. They are allowed into society in order to fill a particular need, and required to leave once that need has been satiated.

Temporary residents are foreign-born individuals who have received the right to enter, to work for a firm in the receiving state, and to exercise broader economic rights (most notably to change employers), but who have neither been extended social nor political rights. In contrast to guest workers, temporary residents' dependent family members typically accompany the temporary resident to the receiving state for his or her duration of stay. Temporary residents live, work, and socialize at will in the receiving state. The primary difference between guest workers and temporary residents lies in temporary residents' broader economic rights. In the United States, for instance, temporary resident approvals are granted to the foreign-born individual, and are generally granted according to merit (education and experience). He or she is free to seek

alternative employment in the receiving state *insofar as the job accepted would require the same visa category*. It is at the level of temporary residents that foreign-born individuals have the latitude to truly integrate into society. These individuals set up homes and educate their children in the receiving state for their duration of stay. Temporary resident status is a function of what the foreign-born individual can add to society, and whether the receiving society will allow the individual to affect the economic fortunes of the receiving state. Ultimately, however, their lawful presence is conditional on maintaining gainful employment. At this level of rights, foreign-born individuals are treated as factors of production. They are granted admission in order to meet the demand for their labor, whether high skilled or low skilled.

Permanent residents are foreign-born individuals who have received all but political rights in the receiving society. For these individuals, lawful presence is not a function of gainful employment. Rather, these individuals have attained sufficient societal membership such that they have attained the right to stay in the receiving state indefinitely, irrespective of economic status. At this level of societal membership, individuals and their dependents have access to many of the social rights that are granted to citizens, such as in state tuition for post-secondary education and unemployment insurance. With the extension of social rights, the receiving society indicates that the foreign-born individual has attained a sufficient level of societal membership to be treated as any natural-born member of society, except in his or her ability to participate in the national governance of the receiving state; a privilege reserved for full members. At this level of rights, foreign-born individuals are treated as people, who have needs and wants outside of their capacity as labor.

Citizens constitute the final category of societal membership. Whether naturalized or natural born, citizens are full members of society and have been granted each of the five possible

bundles of rights. As noted above, citizens are distinguished from permanent residents insofar as citizens have the right to participate in the national political process, thereby affecting the governance of society. Citizens and their representatives decide to whom societal membership shall be granted.

These ideal-type categories of societal membership should not be understood as static. Indeed, it is possible for individuals to begin as visitors, but become citizens over time. That is, someone with the right to enter may later be granted a work permit and, with the passage of time, social and political rights. Moreover, an individual's movement between these categories need not be unidirectional. For instance, a temporary resident may choose to return home and give up his or her economic rights in the receiving state, thus rendering him or her a visitor on return trips to the receiving state. Alternatively, the receiving state may revoke the rights of a permanent resident and bar his or her future entry into that state, rendering him or her among the excluded. Finally, a given individual need not necessarily be categorized at each of these levels of membership at various times in his or her life. For example, an American citizen living in France may marry a French citizen who has the right to enter the United States. Should the couple choose to live in the United States, the French citizen, who was previously a visitor, can “skip” guest worker and temporary resident status, immediately becoming a permanent resident¹⁵ because of his or her relationship with an American citizen.

¹⁵ More specifically, the French (or any nationality) spouse of an American citizen will obtain “conditional permanent residence” for the first two years of the marriage, and can apply to have the conditions waived after that period should the couple demonstrate that the marriage is/was not fraudulent.

2.3 WHO IS NOT INCLUDED?

The undocumented as well as refugees and asylum seekers are conspicuously absent from the preceding typology. Most superficially, this omission is simply a function of the scope of this project, which seeks to understand preferences over and variation in the policies governing voluntary, regular migration. Yet further consideration of these migrant categories suggests additional reasons to exclude these groups from such a typology. The undocumented present an interesting case when considering societal membership, as members of this group include individuals who have willfully entered the receiving state in pursuit of economic gain or criminal enterprise as well as individuals brought to the receiving state as a child by their parents who have, by all other measures, grown up as “normal” members of the receiving society. While these are clearly not the only types of individuals that constitute the undocumented, the extremity of the types indicates that it is impossible to include all undocumented within a single category of membership.

If the undocumented had remained in the sending state, these individuals would be distributed among the excluded and visitor types outlined above. Some of the undocumented were even guest workers or temporary residents at one stage, but have overstayed their lawful duration of admission. According to some, the mere fact of undocumented status means that these individuals should be expelled and barred from future entry. For others, however, undocumented status is an insufficient indicator of an individual’s societal membership. Regularization programs, such as the 1986 IRCA in the United States and the proposed US Development, Relief, and Education for Alien Minors (DREAM) Act, are attempts to account for this within-group variation: lawful status alone is insufficient to capture societal membership.

Yet this does not change the fact that societal membership must be 1) desired by the foreign-born individual and 2) distributed by existing members of the society. For many undocumented, existing members of the society are unwilling to accept them (the undocumented) as members.

Forced migrants – refugees and asylum seekers – pose a different problem of classification. Where the undocumented have often met the demand-side criteria but not the supply-side criteria for societal membership, forced migrants are frequently granted significant rights but have not (at least initially) sufficiently integrated into society to demand such rights. The extreme plight of refugees and asylum seekers dictates that potential receiving states consider these foreign born individuals' needs for the rights of membership over their level of integration

2.4 MEMBERSHIP, RIGHTS, AND REGIME TYPES

Regime type presents an additional level of complexity to the preceding typology of societal membership. Specifically, not all of these categories of membership exist in all regime types as the curtailment of rights is generally unacceptable in democratic societies and non-democracies generally curtail the rights of the vast majority of subjects. In this section, I will briefly address how regime type limits the categories of membership that exist in a given society.

Democratic regimes are constrained in their abilities to admit guest workers. This is because the logic of democratic governance is based upon the moral equality of individuals and the freedom owed to such individuals. The result is that democratic governments are obliged to provide individuals within their territory with a minimum standard of rights, irrespective of

membership. Guest worker programs run contrary to this logic, as guest workers routinely lack rights that are considered obligatory by democratic standards. As Walzer notes, guest workers enjoy the same bundle of rights as visitors (or tourists in his verbiage), except for the right to work for the company that they are in contract with (Walzer 1983, 59).

To make this more concrete, consider the United States' H-2A and H-2B programs. In these modern-day guest-worker programs, approvals are granted to the American *company* in need of foreign labor rather than to the *foreign national* filling that labor need. The only “rights” that these workers have – beyond those of tourists – are to live in the United States and work for the employing company until the end of the contract or the worker is no longer employed by the petitioner, *whichever comes first*. Because of the asymmetric relationship between employers and foreign labor, foreign laborers routinely fail to report abuses of labor laws and violations of employment contracts. The result is a class of laborers who exist at the fringes of society, with little opportunity to become members of that society.

Walzer extends this discussion to all foreign nationals who live in the receiving state, but lack the opportunity to become citizens (e.g., those subsumed in my guest worker and temporary resident types¹⁶). Walzer likens these individuals to live-in servants who are subject to the rules of the household, but who can never fully become member of the family (Walzer 1983, 52-53). He contends that admitting individuals without the opportunity to become full members of the

¹⁶ The United States requires that most temporary residents prove that they do not intend to become permanent residents. In so doing, temporary residents forego the path to citizenship that is afforded to those who become permanent residents. However, two subsets of temporary resident status holders – specialty occupation workers (H-1B) and intercompany transferees (L-1A and L-1B) – are subject to the “doctrine of dual intent,” meaning that they do not have to prove that they do not intend to pursue permanent residence, meaning that they do have a path to citizenship. There is therefore an imperfect overlap between the set of individuals included in my guest worker and temporary resident categories and those who Walzer refers to as having no opportunity to become a member. This is unproblematic for present purposes, as the primary intent of temporary residents is understood to be temporary in nature, and those who are covered by dual intent must go through an additional application process in order to become a permanent resident, thus securing their path to citizenship.

receiving society is inconsistent with the norms of democracy, as these individuals will become perpetual subjects. If the above assertions – that guest worker programs specifically and admission without the opportunity to become full members of society more generally are inconsistent with democratic norms – are correct, then we ought to observe fewer guest worker and temporary resident programs in democratic states. In addition, we ought to observe a higher naturalization rate among those admitted to democratic states than among those admitted to non-democratic states. This is not to suggest that democracies *neither admit guest workers nor migrants lacking a path to citizenship*, but rather that these programs will be marginal, and kept out of view of the general public. This is more so the case with guest-worker programs, as the virtually complete lack of rights is rather clearly inconsistent with democratic norms and practices.

In contrast to democratic states, which are constrained in their abilities to *limit* rights granted to migrants, non-democracies are limited in their abilities to *extend* rights. Indeed, it is implausible for foreign-born individuals to become full members of non-democratic societies because true citizens rarely exist in these states. In addition, it is highly unlikely that we will observe residents in non-democratic states. While there is evidence that non-democracies do provide some social protection to their subjects (Rudra and Haggard 2005), it is unlikely that these social rights will be extended to the foreign born.

Moreover, Bearce and Laks Hutnick (2011) argue that immigration is used as a method of increasing goods that can be redistributed to the selectorate in order to appease demand for democratization. In light of their evidence, it is unlikely that states would then redistribute to migrants. Specifically, migrants are to be a source of capital used to provide benefits to key groups in society, and the state's ability to quash calls for popular sovereignty requires

maximizing the benefits provided to key groups, which can be done by increasing the amount available for redistribution and keeping the benefits-receiving group as small as possible. By limiting the rights of foreign-born individuals and by limiting these individuals' contact with the wider society, rulers in non-democratic states will be better able to maintain power. Thus, in non-democracies, we ought to observe more guest worker and temporary resident programs, and very few permanent residency and citizenship programs.

2.5 DISCUSSION

In this chapter I have sketched a typology of societal membership in which levels or degrees of societal membership are defined by the bundle of rights granted to individuals. The greater the rights, the greater level of societal membership attained by and, importantly, granted to the foreign-born individual in question. The question of degree of societal membership is important in its own right. This typology is also instrumental to the remainder of the dissertation. As I will argue in the next chapter, the bundle of rights granted to migrants conditions the effect that migrants have on the receiving society thereby conditioning which groups of members – citizens – will benefit from increased migrant admission. Understanding immigration policy outcomes therefore requires that we identify which groups of migrants will impact which societal groups, how this impact shapes societal group interests, and how these societal groups' interests affect immigration policy outcomes.

3.0 MIGRANT RIGHTS AND THE POLITICS OF IMMIGRATION

Often treated as competing explanations for immigration preference cleavages and policy outcomes, I argue that cultural and economic explanations are instead complementary. That is, rather than asking whether cultural or economic approaches provide a better explanation of immigration preferences and policy outcomes, I seek to understand the conditions under which cultural and economic interests explain these preferences and policy outcomes.

Implicit in the extant literature is an assumption about the role of migrants in the receiving state. While cultural explanations implicitly assume that migrants have a significant impact on domestic society, economic scholarship generally limits migrants' impact to the realm of the domestic economy. In many ways, both of these assumptions are correct, and yet they are contradictory. That is, migrants cannot simultaneously impact the domestic society and impact *only* the domestic market. Reconciling these contradictory assumptions requires a theory outlining the conditions under which each of these assumptions holds. In this chapter, I present such a theory, arguing that the bundle of rights extended to migrants conditions the effect that migrants have on the receiving society.

I present this argument in three stages. The first stage uses the literature on political cleavages and partisan representation in western democracies to elucidate my initial assumptions about the foundational sets of interests that exist in these societies and how these interests are

represented in partisan politics. In the second stage, I argue that both economic and cultural interests drive societal preferences over immigration policy. Because the bundle of rights granted to migrants shapes the effect that migrants have on the receiving society, however, societal group support or opposition to liberalized admissions policies will vary as a function of these rights. Specifically, increasing migrant rights increases the market, fiscal, and cultural costs of immigration to the right, but decreases the market costs and generates political and cultural benefits to the left. As a result, migrant rights condition preferences over immigration such that the right (left) should favor (oppose) the admission of migrants with few rights and oppose (favor) the admission of migrants with expansive rights. In the third stage, I argue that the interests of the governing elite and of those they represent will have a significant effect on immigration policy outcomes such that immigration reform will focus on increasing the admission of migrants with a limited (broad) set of rights when the right (left) is in government. These policy outcomes will vary in predictable ways under divided government and when policymakers are constrained with respect to the provision of migrant rights.

3.1 SOCIETAL INTERESTS AND DEMOCRATIC REPRESENTATION

Since at least the end of World War II, political conflict in Western Europe and in the United States has primarily formed along a single ideological dimension (Lipset and Rokkan 1967; Bartolini and Mair 1990; Mair 1997; Poole and Rosenthal 2007). In addition to this predominant left-right ideological dimension, a second ideological dimension has described political conflict

across Western Europe and in the United States at intermittent periods in history and over various issues.

The predominant ideological dimension across the Western world most clearly falls along the classic left-right spectrum, on which the left represents the interests of labor, supports the welfare state as a means to redistribute income and risk, and promotes cultural diversity and change while the right represents the interests of employers, seeks to reduce the size and scope of the welfare state, and strives to preserve traditional culture. That is, in Western Europe, the first ideological dimension is consistent with the issues that typically distinguish social democratic parties and their typical coalition partners from Christian democratic and conservative parties and their typical coalition partners, while in the United States, the first ideological dimension is consistent with the issues that traditionally distinguish Democrats from Republicans. More concretely, among the advanced industrial democracies, leftists are more likely to represent the interests of labor, support social spending, and favor culturally progressive policies. By contrast, rightists are more likely to represent business interests, oppose social spending, and favor culturally traditional policies. This, it seems, maps rather cleanly on to the platforms of typical center left and center right parties in Western Europe and in the United States.

This is not to suggest that the second dimension is unimportant. Often referred to as the authoritarian-libertarian dimension (Flanagan 1979, 1982a, 1982b; Flanagan and Lee 2003), this second dimension maps the degree to which groups wish to maintain¹⁷ (authoritarians/traditionals) or overthrow (libertarians/progressives) the societal *status quo*. The authoritarian-libertarian spectrum is thus one on which authoritarians promote maintenance of

¹⁷ Or, in some cases, even return to the *status quo anti*, where they believe that their position has already been threatened.

traditional cultural values and respect for traditional authority, while libertarians pursue individual freedom and cultural pluralism. The clearest manifestation of this conflict is the rise of extreme right-wing parties in Western Europe that focus on national independence from the European Union, law and order, decreasing immigration, extreme assimilation programs, and national security. In the United States, this conflict is most clearly evidenced by the so-called “culture wars,” which pits social conservatives against social progressives on issues such as abortion, same-sex marriage, gun control, and capital punishment.

In a survey of advanced industrial democracies, Flanagan and Lee (2003) have found attitudes on the left-right dimension to be largely orthogonal to those on the authoritarian-libertarian dimension. The expansion of the individual-level political space beyond the traditional left-right dimension has generally been accepted by scholars studying the politics of Western Europe (Middendorp 1991; Kitschelt and McGann 1995; Van Der Brug and Van Spanje 2009), yet there exists significant debate over whether and how this change has manifested in partisan representation of these interests. While some suggest that parties have adjusted to individual-level preference cleavages by filling vacant niches in this two-dimensional policy preference space (Kriesi et al. 2008), others contend that party politics continues to coalesce along a single, predominant dimension (Oppenhuis 1995; Van der Eijk and Franklin 1996; Van der Eijk et al. 1999; Kitschelt 2004; Van Der Brug and Van Spanje 2009).

As is often the case, however, reality is likely somewhere between these two positions; the manner in which parties and their members respond to the expansion of societal interests onto a two-dimensional space is likely a function of cross-national institutional, party-system, and even party-level differences. In systems in which party members are relatively less constrained by their party, such as the United States, second dimension issues are those that

divide the party internally. Except under extreme circumstances, such as the early 20th Century schism between northern and southern Democrats, these second dimension divisions are unlikely to precipitate changes in the party system. As a result, individual representatives, rather than parties more generally, are likely to respond to changes in the individual-level ideological space. As the incentives for members to conform to party interests – such as those identified by Carey and Shugart (1995) – increase, however, second dimension issues should be increasingly likely to yield changes in the party system. The current wave of Conservative Party defections to the United Kingdom Independence Party (UKIP) appears to be a manifestation of this phenomenon, with second dimension issues – primary among which being European Union membership – threatening to put asunder the Tory and Whig fractions within the Conservative Party.

As the preceding discussion suggests, political divisions in the countries under examination stem from differing economic (both market and fiscal) and cultural interests. While market, fiscal, and cultural interests have generally coalesced along a single ideological dimension in the post-World War II era, some cultural issues have yielded divisions within the electorate, if not within parties. As I shall argue below, societal preferences over immigration stem from these more fundamental market, fiscal, and cultural interests and, as a result, partisan preferences over immigration should reflect those of their constituents.

3.2 SOCIETAL INTERESTS AND IMMIGRATION POLICY

In order to examine societal preferences over immigration policy, I begin by outlining the anticipated effects of immigration on the receiving society and the societal preference cleavages

that emerge over these anticipated effects. Throughout, I show how variations in the bundles of rights granted to migrants condition migrants' ability to affect the receiving society and the effect this has on domestic groups' preference over immigration.

3.2.1 Migrants and the Market

Do market interests affect preferences over immigration? There is a significant body of economic literature detailing the effect of international migration on the receiving state's market. While some variation in prediction exists between economic models, the consensus is that international migration benefits abundant factors in the receiving state and hurts scarce factors in the receiving state (see Rogowski 2006 for a comprehensive review).¹⁸ In labor-scarce states, such as those examined in this project, this implies that a class-based preference cleavage will emerge, pitting pro-immigration employers against anti-immigration labor.

As Hiscox (2001, 2002) has shown in international trade, increasing factor specificity – which results in decreasing ability to move between sectors – will result in gains and losses being distributed as a function of sector of employment and/or investment. The result is that where factors are sufficiently general that they can be moved costlessly, or at least sufficiently so, across sectors, interests should be homogenous across factor group. Where, by contrast, it is costly to repurpose a factor across sectors, interests should align according to sector of employment and/or investment.

¹⁸ An important deviation to this consensus suggests that abundant factors *and* scarce factors employed in exporting sectors will benefit from international migration, while scarce factors engaged in import-competing sectors will lose from international migration.

This dichotomy is easily understood, and more directly applicable to the task at hand, with an example from labor. A general construction laborer with no specialized training (in, say, electrical fittings or carpentry) can relatively fluidly transition from construction labor to another low- or un-skilled occupation in, for instance, agriculture, manufacturing, or custodial services. As a result, an increase in low- or un-skilled labor may have an adverse effect on the wages and/or employment status of low- or un-skilled labor, irrespective of sector of employment.

This is increasingly untrue as skill-specificity of domestic labor increases. Indeed, moving across sectors is significantly more costly for a skilled worker, including master electricians, nurses, and architects to change sector of employment, and these costs increase with the degree of specialization, whether that specialization is the result of formal education, apprenticeship, or on-the-job training. These costs come either in the form of salary, as a highly-skilled worker in one area will command a lower salary working outside of his or her area of expertise, or expenses incurred by re-specializing.

In the extreme, an individual with immense specialization coupled with extraordinary ability may simply not face a threat from immigration liberalization, even if that liberalization is in their exact field of expertise. While exceptionally rare, examples of individuals fitting this profile include professional athletes, internationally recognized performing artists, and distinguished scholars. As a result, an increase in high-skilled labor may have an adverse effect on the wages and/or employment status of high-skilled labor *only* if the foreign-born high-skilled labor has comparable and substitutable skills to domestic high-skilled labor.

To this point, I have assumed that migrants cannot change factors and therefore cannot change their market impact. While this simplifying assumption is obviously untrue, it is a significantly more useful assumption when considering the effect of low- or un-skilled migrants

than that of high-skilled migrants. Acquiring skills is a costly endeavor requiring, in many cases, years of education or on-the-job training, oftentimes both. As a result, low- or un-skilled immigration should not present a market threat to high-skilled labor, at least not in the medium-term. *Not using previously-acquired skills*, however, is far less costly, particularly where low- or un-skilled wages in the receiving state are higher than high-skilled wages in the sending state. In fact, where the receiving state requires high-skilled migrants to re-license, either by sitting for an exam or completing additional coursework or both, in order to use their skills in the receiving state – as is often the case with lawyers, doctors, nurses, architects, and engineers – the immediate costs of using previously-acquired skills may be prohibitive. The developed world is replete with anecdotes about physicians and architects from the developing world working in custodial services or as taxi drivers in the receiving state. The implications for theories of preferences over immigration should be clear: while low- or un-skilled foreign workers do not pose an immediate threat to high-skilled domestic workers, high-skilled foreign workers can and do pose a threat to low- or un-skilled domestic workers.

This simple sketch of the economic effects of immigration suggests that in the capital-abundant, labor-scarce states that constitute typical migrant destinations, there are three important societal groups that stand to gain or lose through migrants' effect on the market: employers, high-skilled labor, and low- or un-skilled labor. On this parsimonious market-based logic, employers' and low- or un-skilled labors' positions are unambiguous, preferring liberalization and restriction, respectively. High-skilled labor, on the other hand, constitutes the "swing voter" among these interested groups, as its position is contingent and at times ambiguous. This model of factor group preferences over immigration based on market interests yields clear predictions about partisan preferences over immigration. As representatives of

employer's interests, center-right parties – conservatives and Christian democratic parties in Western Europe and the Republican Party in the United States – should favor immigration liberalization, while those representing labor interests – social democratic parties in Western Europe and the Democratic Party in the United States – should oppose immigration liberalization. Again, the corollary for high-skilled labor is less precisely identifiable, as its interests align with labor on some issues and with employers on others. As a result, this group's partisan affiliation and representation is likely to be volatile, switching at various points between the center-left and the center-right. In the United States, this likely means that representation of high-skilled labor's market interests is best represented by moderate factions of the Democratic and Republican parties. Across Western Europe, this is consistent with liberal parties, whose stable voter base is generally small comparative to that of the center-left and the center-right, and consists of members of the middle-class and skilled workers (Kirchner 1988).

While these expectations are founded on well-established tenets of market-based interest, they are likely to strike even the casual observer as being inconsistent with observed modern partisan preferences over immigration. These seemingly inconsistent observations can be reconciled if we consider the role of migrant rights. What effect do migrant rights have on the market impact of liberalized immigration? By specifying what migrants can and cannot do in the receiving state, the bundle of rights granted to migrants conditions the effect that migrants have on these domestic groups' interests. Consider first the impact of migrants granted only the right to work for a particular employer in the receiving state, specifically migrants identified as guest workers in the previous chapter. While these migrants might be granted *de jure* rights and protections in the receiving state – such as the right to participate in collective bargaining arrangements, the right to a safe work environment, and the right to fair compensation – the

effective exercise of these rights is limited by guest workers' inability to change employers. Because guest workers' lawful admission and continued lawful presence is contingent upon maintaining their contract with the employer, guest workers are significantly less likely to seek recourse against negligent or abusive employers. Certainly for domestic employers this is a beneficial arrangement.

Employers will pursue two sets of related interests with respect to labor migration policies: increasing the labor supply in order to decrease costs and increasing their discretion over labor employment decisions. There exists a certain trade-off between these two goals. Because of the relative demand for high-skilled labor and their higher standard of living vis-à-vis low- or un-skilled labor in their country of origin, employers of high-skilled labor will be less able to attract high-skilled foreign labor if these migrants are granted very few rights. In order to increase the supply of high-skilled labor, employers must be willing to temper the degree to which they have discretion over that labor. This suggests that, consistent with Ruhs's (2013) work, employers of high-skilled labor should oppose guest worker program liberalization and support temporary resident program liberalization, while the opposite should be true for employers of low- or un-skilled labor.

Granting migrants economic rights – the right to change employers and the right to participate in collective bargaining arrangements, for instance – makes immigration liberalization increasingly costly to employers. As a result, employers should favor the liberalization of immigration policies that extend few rights to migrants and oppose the liberalization of immigration policies that extend significant rights to migrants. This renders both guest worker and temporary resident programs attractive to employers and their representatives, as these programs give employers a significantly greater degree of control over foreign labor

than domestic labor. This is clearer for guest worker programs, under which foreign nationals lack the ability to change employers, but is also the case for temporary resident programs, where a foreign national's duration of lawful stay is conditional on maintaining gainful *and* approved employment. Even where foreign nationals have the right to change employers, the employer still exercises significant control over the foreign national's status.

In so far as labor is willing to accept immigration, or perhaps treat it as inevitable, we should expect labor to prefer policies that grant migrants significant rights to policies that extend migrants few rights. Specifically, where migrants are granted an expansive bundle of rights, employers benefit little from hiring foreign labor over domestic labor, rendering competition from migrants less threatening than they it otherwise would be. Moreover, some labor groups have begun to view immigration as beneficial. For these groups, immigration is a method of increasing union membership and therefore increasing the power of labor (Haus 1995). Immigration is, however, only beneficial under this logic if migrants receive sufficient rights to participate in the collective bargaining process. This condition is only satisfied if migrants' duration of lawful stay is not conditional on the maintenance of gainful employment. As the above discussion suggests, employers should favor guest worker and temporary resident liberalization and oppose permanent resident liberalization, while labor should oppose guest worker and temporary resident liberalization and support permanent resident liberalization.

As this discussion should have made clear, the market-based preferences outlined in the beginning of this section are consistent with admissions preferences over guest workers and, to a lesser extent, temporary residents, but are inconsistent with preferences over permanent resident admissions. As a result, labor and its representatives should oppose the liberalization of migrant admissions for programs that grant migrants a limited bundle of rights and support the

liberalization of migrant admissions for programs that extend a comprehensive bundle of rights to migrants while employers and their representatives should prefer the opposite policy mix.

3.2.2 Migrants and Public Expenditure

How do interests relating to redistributive programs and public expenditure affect preferences over levels of immigration? Because the average migrant to the advanced industrial world is poorer than the average citizen of these receiving states, scholars note the significance of fiscal interests in shaping preferences over immigration. The traditional argument connecting fiscal interests to preferences over immigration posits that fiscal conservatives – typically those whose affluence renders them net contributors to the public purse – will oppose immigration on the expectation that the state will increase contributions in order to extend public services to newcomers (Hanson et al. 2007; Facchini and Mayda 2009). The interests of fiscal progressives yield more ambiguous preferences over immigration. While the potential – though far from empirically established – effects of increasing migrant admissions on public expenditure is unlikely to result in fiscal progressives' *favoring* liberalized admissions, fiscal effects are less likely to be a salient concern for this group. Thus the typical fiscal burdens explanation would predict that fiscal conservatives and their representatives from the political right would oppose immigration liberalization and that fiscal progressives and their leftist representatives would be indifferent to admissions liberalization.

Migrant rights again provide a more nuanced picture. Those who prefer a more limited welfare state should be less likely to oppose admissions liberalization for policies under which migrants lack access to redistributive services and that tie lawful duration of stay to the

maintenance of gainful employment, as is the case under guest worker and temporary resident programs, than they are to oppose immigration liberalization for policies under which migrants will be granted access to redistributive services and need not maintain gainful employment, as is the case for permanent resident programs. Here again, parties and representatives on the right should favor or be indifferent to the liberalization of guest worker and temporary resident admissions and oppose permanent resident liberalization. This more nuanced picture of the role of economic self-interest in preferences over immigration policy suggests that the same domestic groups will have opposing preferences for policies that provide migrants with different bundles of rights.

3.2.3 Migrants and Society

Do non-economic interests affect preferences over immigration? The answer to this question seems rather obvious, as there are clearly members of society whose primary, if not sole, contention against immigration lies in the cultural differences between migrants and the core of the receiving society. Indeed, who has *not* heard vitriol about the overwhelming prevalence of a foreign language or the erection of places of worship for adherents to a “foreign” religion? While less blatant than the attitudes of those who find immigration to be culturally threatening, there also exists a group in society for whom immigration and cultural diversity promise to enrich the receiving state. For these individuals the threat exists *not* in increasing cultural diversity, but rather in perpetuating a system and attitude that permits societal divisions on the basis of ascriptive distinctions.

The challenge, however, is to define these groups *a priori* rather than simply invoking their existence to mop up any remaining unexplained variance. The examples outlined above point to two ideal-type groups, traditionals and progressives, respectively. Traditionals are typical social conservatives, those who have benefitted from the prevailing social and cultural *status quo* and whose societal position would be threatened by a shift away from the *status quo*. The *status quo* benefits these individuals because they are a part of the societal core as members of the dominant¹⁹ ethnic, racial, linguistic, or religious groups. Yet membership in the core is not a sufficient condition to render one a traditional. Rather, traditionals are those members of the core for whom societal cultural diversity *threatens* their cultural identity. As cogently argued by Kriesi and his colleagues, “immigrants of ethnically distinct origins pose a potential threat to the collective identity of the native population.” (Kriesi et al. 2008, 6-7) The degree to which members of the dominant group perceive diversity as a threat, however, is conditional on education, which has a liberalizing effect (Lipset 1981).

Progressives, by contrast, are generally those for whom the prevailing social and cultural *status quo* is insufficient or those for whom a change in the *status quo* does not threaten their cultural identity. In the former, as a part of the societal periphery, progressives are not members of the dominant social group. In the latter, prior exposure – through education – to alternative ideas and cultures can be viewed at minimum as non-threatening and at maximum as enriching. While traditionals and their representatives on the political right will almost universally oppose immigration liberalization, progressives and their representatives on the political left will support

¹⁹ “Dominant” does not necessarily equate to “largest,” but rather “most powerful.” While “dominant” group(s) is also often the “largest,” there are numerous examples of societal structures in which the most powerful group in society is a numerical minority.

immigration liberalization. While these expectations are likely consistent with casual observations of partisan immigration politics, reality is again more nuanced.

To what extent do migrant rights affect cultural group preference over immigration? That is, does the extension or restriction of migrant rights impact whether progressives continue to support liberalization and traditionalists continue to oppose liberalization? Like economically-based preferences, culturally-based preferences are likely to be conditional on migrant rights. Where economic and social rights are withheld from migrants, progressives are likely to *oppose* increasing admissions. For progressives, admitting migrants with limited rights constitutes a threat to the liberal democratic values of freedom and equality. This is a problem for progressives both on principle and strategically. On principle, progressives contend that treating some groups as having less value and therefore fewer rights than others is unjust. In a strategic sense, treating any group of individuals as less than equal provides a precedent for treating others as less than equal, opening the door for legal stratification. On the contrary, traditionalists are more likely to support – or at least not expend finite resources opposing – immigration liberalization for guest workers, who largely remain outside of the receiving society. Because guest workers are excluded from the larger society, they will have minimal effects on the receiving society and its collective identity and, as a result, traditionalists should be less opposed to admitting these migrants than they are to admitting migrants with greater bundles of rights. Moreover, as the bundle of rights granted to migrants expands, cultural interests should increase in salience. That is, because migrants granted extremely limited rights are largely unable to affect the receiving culture, there should be limited concern over their cultural impact. This is increasingly untrue as the bundle of rights expands and migrants become more intertwined with the receiving society.

3.2.4 Migrant Rights and Societal Preferences

Above I have presented theoretical expectations about the preferences that exist in receiving societies with respect to immigration liberalization. In so doing, I have outlined migrants' potential economic and cultural effects on the receiving society, identified domestic groups that benefit or lose from these potential economic and cultural effects, and argued, consistent with the dominant paradigm in political economy scholarship, that those who benefit from immigration will favor immigration liberalization and those who are hurt by immigration will oppose immigration liberalization. Moreover, I have demonstrated that various bundles of rights alter these expectations and preferences.

Under what conditions are economic and social concerns salient for group preferences over immigration policy? As alluded to above, not all potential migrants are equivalent in their effect on the receiving society and as a result increasing admissions affect different groups in the receiving society in disparate ways. Indeed, the same migrant or group of migrants may have a divergent impact on the same individual or groups of individuals in the receiving society through economic and cultural channels. Consider a hypothetical employer in an advanced industrial, Western receiving state who also holds culturally traditional values and a hypothetical low- or un-skilled migrant worker whose values and norms are dissimilar to that of the receiving state. The employer would benefit economically from liberalizing admissions for this type of migrant, implying that he or she would support immigration liberalization, but he or she would also anticipate cultural losses from liberalizing admissions for this type of migrant, implying that he or she would oppose immigration liberalization. Which of these interests will win out?

While the above theories specify which domestic groups stand to benefit and lose economically and culturally from admissions of particular groups of migrants, they tell us little about the relative impact of groups of migrants on the economy or the social fabric of the receiving society. The degree to which migrants can affect the receiving society is conditional upon the rights that are granted to them. Where migrants are extended limited economic rights and no social rights, as is the case in the guest worker and temporary resident programs discussed above, factorally-driven economic interests will predominate. Where, by contrast, migrants are granted an expansive bundle of rights – including access to redistributive social services and a pathway to citizenship – both economic and cultural interests will be salient. That is, the interests associated with full economic rights will continue to play a role where migrants have social and political rights, but they will be considered alongside cultural interests.

Why are economic and cultural interests salient when considering liberalizing admissions for migrants with different bundles of rights, but less-so where migrants are not granted social and political rights? Cultural interests will be salient for programs in which migrants are granted significant social and political rights exactly because they are being granted admission in to the society, not just the market. These individuals will be able to affect the receiving society through their membership in that society, a condition that forces existing members of the receiving society to consider whether or not liberalization will undermine the shared goals of the existing society. Based on the profiles of partisan representation presented earlier in this chapter, as representatives of labor, fiscal progressives, and cultural progressives, parties on the political left will favor the liberalization of programs that grant migrants an expansive bundle of rights and oppose liberalization of programs that offer migrants few rights. The opposite is true of parties on the political right. The second ideological dimension, which represents cultural interests that

crosscut traditional left-right positions, will be salient only for programs that grant migrants an expansive bundle of rights. Parties towards the authoritarian pole of this dimension will oppose immigration liberalization for such programs while parties towards the libertarian pole will support such liberalization.

3.3 POLITICAL COALITIONS AND POLICY OUTCOMES

The simple knowledge that these preferences exist cannot, taken alone, tell us whether policy liberalization will occur. Indeed, this knowledge is necessary for explaining immigration outcomes, but it is far from sufficient. How do immigration policy interests and preferences aggregate to determine policy outcomes? The ideological composition of governing elites and the groups they represent matter for policy outcomes. Policy outcomes are then relatively easy to predict in systems characterized by single party majority governments and high party discipline. In these cases, policy outcomes should be a function of the ideological composition of the party in power. Where parties govern in coalition, immigration policy outcomes should be a function of the joint ideological profiles of the parties in government. Where individual legislators have significant latitude in their legislative actions, immigration policy outcomes should be a function of the overall ideological profile of the legislative body and other important veto players.

The expectations outlined above are indicative of which groups would need to be in power in order to achieve immigration policy liberalization for a particular sub-set of immigration policies. Specifically, where leftist parties control the key decision-making institutions, we are more likely to observe liberalization of permanent resident programs. Where

the right controls key decision-making institutions, by contrast, we are more likely to observe liberalization of guest worker and temporary resident programs.

3.4 DISCUSSION

In this chapter I have argued that migrant rights are central to understanding the immigration policy-making process. Throughout I have demonstrated that under differing bundles of rights, successful pursuit of domestic groups' economic and cultural interests yield *opposing* preferences over immigration. Specifically, increasing migrant rights increases the market, fiscal, and cultural costs of immigration to the right, but decreases the market costs and generates political and cultural benefits to the left. As a result, the right (left) will favor (oppose) the admission of migrants with few rights and oppose (favor) the admission of migrants with expansive rights, and these interests will be reflected in immigration policy outcomes such that immigration reform will focus on increasing the admission of migrants with a limited (broad) set of rights when the right (left) is in government.

In the next four chapters, I evaluate these claims based upon evidence from the United States and the European Union member states. For each case, I first examine whether the extension of migrant rights has the anticipated effect over immigration policy preferences, and then examine whether partisan representation of these societal interests has the anticipated effect on immigration policy outcomes. Through these cases, we will also be able to observe the extent to which limits on decision-maker's ability to liberalize different migration policies has an effect on societal interests with respect to immigration policy and these same policy outcomes. While

policymakers in the United States have significant latitude on admissions levels for migrants with varying bundles of rights, the same is not true of policymakers in the EU member states. This difference in the set of policy alternatives is likely to have significant effects on the ability to form successful immigration policy-making coalitions.

4.0 IMMIGRATION POLICY CLEAVAGES IN THE UNITED STATES

As the world's largest immigrant receiving state, the United States is an important case for the study of immigration policy. Despite its storied history as a "nation of immigrants," immigration is among the most contentious policy areas in the United States, with the descendants of reviled immigrant groups of the past, such as Irish and Italians, opposing the influx of today's new arrivals. There is much that we still do not understand about the nature of Congressional immigration politics. Consider the puzzling coalition of Senators known as the "Gang of Eight," which includes extreme liberals, such as Chuck Schumer (D-NY), Dick Durbin (D-IL), and Bob Menendez (D-NJ), and extreme conservatives, such as Lindsey Graham (R-SC), Jeff Flake (R-AZ), and Marco Rubio (R-FL). This unlikely coalition not only produced a proposal for comprehensive immigration reform amongst their typically competing interests, but also crafted a bill that passed the Senate in a 68-32 roll call vote in June 2013.²⁰ While surprising, these sorts of coalitions are not uncommon in immigration policy making. Why is this the case? More generally, what explains the political coalitions that form over immigration policies in the United States?

In this chapter, I examine the role of migrant rights in shaping American preferences over admissions liberalization. I make claims about the *cleavages* – the lines of societal conflict –

²⁰ Despite these efforts being a bipartisan success story in the Senate, the same was not true in the House.

that arise over immigration policy; I do not, at this stage, make claims about immigration policy outcomes. In order to understand policy outcomes we must first understand the conflicts and preferences that exist over immigration, then use this knowledge to demonstrate how societal preferences aggregate in a particular societal and institutional context. Only once we understand immigration preference cleavages can we then understand the dynamics that drive immigration policy outcomes, a task I turn to in the next chapter.

I begin with the United States, as opposed to Western Europe, because of the flexibility granted to American decision makers in the immigration policymaking process. American policymakers have choices over various combinations of immigration policies, which include expanding or restricting migrants admitted under any, or indeed all, of the three significant societal groups – identified by the varying bundles of rights granted to migrants – highlighted throughout this dissertation: guest workers, temporary residents, and permanent residents. As a result, it is possible to observe preferences over various types of immigration.

4.1 IDEOLOGICAL SPACE IN THE UNITED STATES

Once a highly contested argument, it is now relatively uncontroversial to note that the majority of United States' Congressional politics – including the ideological positions of individual legislators and shifting Congressional coalitions – can be aligned along a single ideological dimension (Poole and Rosenthal 2007). In addition to this predominant ideological dimension, a second ideological dimension has described Congressional politics at intermittent periods in history and over various issues.

The predominant ideological dimension in the United States Congress most clearly falls along the classic economic left-right spectrum, with the extremes consisting of those who desire greater government intervention in the market (labor and fiscal progressives) on the left and those who desire a market entirely free of government intervention (employers and fiscal conservatives) on the right. That is, in the United States, the first ideological dimension is consistent with the issues that distinguish democrats from Republicans. Given that this first ideological dimension has consistently correctly accounted for in excess of 80% of roll call votes in the period under study (Poole and Rosenthal 2007, 65), however, it seems unlikely that this dimension *only* explains legislator economic positions. Rather, many cultural and economic positions in the contemporary United States appear to have largely coalesced along a single ideological dimension, with employers, fiscal conservatives, and cultural conservatives populating the right-hand side of the spectrum and labor, fiscal progressives, and cultural progressives on the left. More concretely, in modern American politics, leftists are more likely to represent the interests of labor, support a robust welfare state, and favor culturally progressive policies. By contrast, rightists are more likely to represent business interests, oppose the welfare state, and favor culturally traditional policies. This, it seems, maps rather cleanly on to the platforms of typical contemporary Democratic and Republican legislators, respectively.

This is not to suggest that the second dimension is unimportant. The second dimension is orthogonal to the first dimension, and consists of issues over which intra-party divisions exist. While the content and salience of this second dimension has changed over time, the consensus is that in the history of the current party system, which dates back to the New Deal, this second dimension has captured cultural issues, particularly civil rights. While Poole and Rosenthal demonstrate that this second dimension has captured intra-party divisions over immigration

policy during some Congresses (2007, 58-62), immigration does not consistently show up as a second dimension issue. Indeed, many scholars have consistently found partisanship to significantly affect legislator preferences over immigration (Fetzer 2006; Gimpel and Edwards 1999; Gonzalez and Kamdar 2000; Leal 2009; Milner and Tingley 2008)

This empirical regularity masks the significant intra-party divisions that have existed over immigration policy and, in particular, that the preponderance of *successful* immigration policy reforms has been the product of bipartisan efforts (Tichenor 2002; Wong 2006; Zolberg 1990). Republicans, for instance, must choose between supporting immigration policy liberalization for economic purposes and opposing such liberalization for cultural purposes. Similarly, Democrats must choose between opposing immigration because of its labor market impact and supporting such liberalization on cultural grounds.

Moreover, in contrast to their Western European counterparts, legislators in the United States are significantly more beholden to their constituents than to their political party (Carey and Shugart 1995). As a result, legislators are responsive to constituency demands, favoring policies that would benefit their constituents and opposing those that would be detrimental. Because legislators pursue reelection (Mayhew 1974) and reelection is attained primarily through satisfying the constituency, legislators in the United States can be expected to pursue policies that are in the interest of their constituents.

Given this, it seems reasonable to expect to observe intra-party divisions on immigration policy; such divisions emerge over a subset of immigration policy domains and are difficult to observe when we aggregate all immigration policies together. As demonstrated by the cursory overview of recent immigration policy-making coalitions below, by differentiating between migrant groups according to rights, it will be possible to observe which policies have promoted

intra-party divisions and which have yielded a unified left and a unified right. Indeed it appears that the parties have frequently used the flexibility of policy tools available to mitigate the otherwise inevitable intra-party divisions between groups with opposing preferences over admissions levels.

4.2 INTERESTS, RIGHTS, AND SUPPORT FOR IMMIGRATION

As noted in earlier chapters, existing theories of societal preferences over immigration make significant assumptions about how migrants impact the receiving state. While economic explanations assume that migrants primarily – or at least most saliently – affect the labor market or state budget and expenditure, cultural explanations assume that migrants primarily affect the receiving society and culture. By specifying what migrants may or may not do in the receiving state, rights condition the degree to which migrants affect the receiving state’s economy and culture. As a result, rights impact which groups in the receiving state will gain or lose from increased immigration.

Given the significant variation in migrant rights as a function of class of admission, the coalitions that form in favor of/against liberalizing immigration should also shift as a function of class of admission. The simple labor market competition model would suggest that Democrats (Republicans) would oppose (support) any policy that liberalizes immigration because of the wage-decreasing effect of an increased labor pool. Yet these expectations change when we consider the possible bundles of rights that we might grant to migrants. Granting migrants economic rights – the right to change employers and the right to participate in collective

bargaining arrangements, for instance – makes immigration liberalization increasingly costly to employers. As a result, employers and their representatives should favor the liberalization of immigration policies that extend few rights to migrants and oppose the liberalization of immigration policies that extend significant rights to migrants. This renders both guest worker and temporary resident programs attractive to employers and their representatives, as these programs give employers a significantly greater degree of control over foreign labor than domestic labor. This is clearer for guest worker programs, under which foreign nationals lack the ability to change employers, but is also the case for temporary resident programs, where a foreign national's duration of lawful stay is conditional on maintaining gainful *and* approved employment. In addition, where temporary residents are covered by the doctrine of dual intent – the right to enter the United States on a temporary visa *but* with the intent to either remain temporarily or permanently – adjustment of status to a permanent resident visa requires employer sponsorship, except where the foreign national marries a citizen or permanent resident and seeks a permanent resident visa under a family-based program. That is, even where foreign nationals have the right to change employers, the employer still exercises control over the status of foreign nationals admitted under temporary resident programs.

In so far as labor is willing to accept immigration, or perhaps treat it as inevitable, we should expect labor and their representatives to prefer policies that grant migrants significant rights to policies that extend migrants fewer rights. Specifically, where migrants are granted an expansive bundle of rights, employers benefit little from hiring foreign labor over domestic labor, rendering competition from migrants less threatening than it otherwise would be. Moreover, some labor groups – most notably the Service Employees International Union (SEIU) – have begun to view immigration as beneficial. For these groups, immigration is a method of

increasing union membership and therefore increasing the power of labor (Haus 1995). Immigration is, however, only beneficial under this logic if migrants receive sufficient rights to effectively – and not merely nominally – participate in the collective bargaining process. This condition is only satisfied if migrants' duration of lawful stay is not conditional on the maintenance of gainful employment. Otherwise stated, as representatives of employer interests, Republicans should favor guest worker and temporary resident program liberalization and oppose permanent resident program liberalization, while Democrats, as representatives of labor interests, should oppose guest worker and temporary resident program liberalization and support permanent resident program liberalization.

The typical fiscal burdens hypothesis would predict that those who are concerned about expanding welfare programs – fiscal conservatives and their Republicans representatives – would oppose admissions liberalization. Migrant rights again provide a more nuanced picture. Those who prefer a more limited welfare state should be more likely to support admissions liberalization for policies under which migrants lack access to redistributive services and that tie lawful duration of stay to the maintenance of gainful employment, as is the case under guest worker and temporary resident programs, than they are to support immigration liberalization for policies under which migrants will be granted access to redistributive services and need not maintain gainful employment, as is the case for permanent resident programs. Here again, Republicans, as representatives of fiscal conservatives, should be less likely to oppose guest worker and temporary resident liberalization by virtue of their limited fiscal impact, but should oppose permanent resident program expansion. On fiscal concerns alone and as representatives of fiscal progressives, Democrats should be more likely to oppose guest worker and temporary resident liberalization and more likely to support permanent resident liberalization than their

Republican counterparts. This more nuanced picture of the role of economic self-interest in preferences over immigration policy suggests that the same domestic groups will have opposing preferences for policies that provide migrants with different bundles of rights.

Finally, a general nativist theory would predict that cultural traditionalists would oppose immigration liberalization, while cultural progressives would support immigration liberalization. Yet migrant rights condition the degree to which a group of migrants can impact the receiving society. Where migrants are unable to affect the receiving society, because of limited duration of stay and limited social and political rights (e.g., guest worker and temporary resident programs), cultural concerns should not have a significant impact on preferences over immigration policy liberalization. Where, by contrast, migrants are granted significant social rights and the ability to remain indefinitely in the receiving state, as is the case in permanent resident programs, cultural conservatives will oppose admissions liberalization while cultural progressives will support admissions liberalization. Partisan expectations are less clear here. While this suggests that Republicans, as representatives of cultural conservatives, will oppose permanent resident program liberalization and that Democrats, as representatives of cultural progressives, will support permanent resident program liberalization, we should also observe intra-party divisions along the second ideological dimension such that representatives who are cultural progressive (traditional) on issues that divide the parties will favor (oppose) the liberalization of resident program admissions.

Because temporary resident programs provide migrants with fewer rights than permanent resident programs, but more expansive rights than guest worker programs, temporary resident programs can be viewed as policies in which competing groups can find compromise over desired policy outcomes. As a result, the anticipated effects should be substantively smaller for

temporary resident programs than they are for guest worker programs. As the preceding discussion makes clear, varying the bundles of migrant rights provides a more nuanced theory of the politics of immigration, and leads to the following testable hypotheses:

H_{4.1}: Increasing levels of conservatism along the left-right ideological dimension will result in increasing support for guest worker and temporary resident program liberalization, all else held equal.

H_{4.2}: Increasing levels of conservatism along the left-right ideological dimension will result in decreasing support for permanent resident program liberalization, all else held equal.

H_{4.3}: Increasing levels of authoritarianism along the libertarian-authoritarian ideological dimension have no effect on support for guest worker and temporary resident program liberalization, all else held equal.

H_{4.4}: Increasing levels of authoritarianism along the libertarian-authoritarian ideological dimension will result in decreasing support for permanent resident program liberalization, all else held equal.

4.3 IMMIGRATION POLICY-MAKING IN THE UNITED STATES

According to the theory outlined above, we should see both economic and cultural conservatives (progressives) supporting (opposing) guest worker and temporary resident program liberalization and opposing (supporting) permanent resident program liberalization. Are these expectations consistent with observed patterns of behavior among policy makers in the United States? Before

turning to the quantitative empirical analysis, I present some illustrative examples of the theory of rights shaping admissions policy cleavages at work in the United States.

In the post-WWII United States, significant immigration policy reform has been attempted, often successfully, approximately once every ten to twenty years. As detailed by Gimpel and Edwards (1999) and Tichenor (2002), the primary focus of immigration reform has varied over time, with policymakers focusing on permanent resident policy in the 1960s, refugees and asylum seekers in the 1970s, illegal immigration in the 1980s, and legal immigration of permanent residents, temporary residents, and guest workers in the 1990s. The major players in the immigration reform debates during this time illustrate rather nicely how legislator ideology and the more fundamental interests of those they represent yields vastly different preferences over different types of immigration policy. Senator Ted Kennedy (D-MA) was a prototypical left-progressive Member of Congress and remained active in the immigration policy-making process throughout his lengthy political career. As a junior Senator, Kennedy worked alongside Senator Philip Hart (D-MI) and Representative Emmanuel Celler (D-NY) to promote the Immigration and Nationality Act (INA) of 1965 (commonly referred to as “Hart-Celler”), which replaced the existing national origins system of resident admissions.²¹ This set the tone for the remainder of his career, throughout which he pursued permanent resident program liberalization and stringently opposed the expansion of guest worker and temporary resident programs. The core of the 1990 INA, sponsored by Kennedy, was the significant expansion of permanent resident programs by increasing the worldwide ceiling by over 100,000.

²¹ True to its name, the national origins system was a quota system that extended admissions to would-be migrants as a function of their national, racial, or ethnic group. This systems strongly favored migrants from Western Europe and the Western Hemisphere.

Senator John Cornyn (R-TX) is a conservative leader in the immigration policy debate and former chair of the Senate Subcommittee on Immigration. Throughout his legislative career, he has frequently fought against Kennedy on immigration reform. In 2006, for instance, Cornyn and his colleague, Senator Jon Kyl (R-AZ), introduced a bill to counter Kennedy's efforts. The Cornyn-Kyl bill proposed an uncapped guest worker program and left resident programs virtually untouched.

To further illustrate the point, consider some of the surprising coalitions of co-sponsors that have produced immigration reform bills in recent decades: Ted Kennedy (D-MA) and John McCain (R-AZ); Ted Kennedy (D-MA), Jim Kolbe (R-AZ), and Jeff Flake (R-AZ); and the so-called "Gang of Eight" in the 113th Congress. There are many more unlikely partnerships that could be added to this list. The most recent effort to produce comprehensive immigration reform has been spearheaded by the Gang of Eight, a bipartisan group of Senators that includes Michael Bennet (D-CO), Richard Durbin (D-IL), Jeff Flake (R-AZ), Lindsey Graham (R-SC), John McCain (R-AZ), Bob Menendez (D-NJ), Marco Rubio (R-FL), and Chuck Schumer (D-NY). There exists significant variation among these Senators' ideological positions. Such a coalition is only possible if each side is able to obtain some of its preferred policies, meaning that Democrats should be able to secure the liberalization of permanent resident programs and Republicans able to secure the liberalization of guest worker and temporary resident programs. The proposed legislation (S. 744) necessarily produced a compromise that would have simultaneously liberalized permanent resident, temporary resident, and guest worker program admissions. This

bill passed the Senate in late June 2013, but was opposed by 32 conservative senators.²² While this bill was a bipartisan success in the Senate, the same was not true in the Republican-majority House and ultimately Congress failed to pass comprehensive immigration reform in the 113th session.

4.3.1 Analysis of Congressional Votes

In order to more systematically test this argument, I analyze Senate roll call voting patterns since World War II. The sample includes all votes on each of the three major types of legal immigration control policies: permanent resident, temporary resident, and guest worker. Throughout the analysis, I split the sample of votes into each of these three policy types in order to examine how legislator preferences over migrant admissions differ across programs that grant varying bundles of rights to migrants.

In order to create the dependent variable – immigration policy liberalization – I began by isolating immigration-related roll call votes by examining the congressional roll call codebooks compiled by Poole and his colleagues (Poole 2009; Poole and Lewis 2009; Poole and McCarty 2009) and cross-checking the identified votes against Poole and Rosenthal’s (2007) issue codes and votes identified in Gimpel and Edwards’s (1999) study of Congressional immigration policy making. I then classified each according to the vote content. I defined vote content at three

²² These Senators are: John Barrasso (R-WY), Roy Blunt (R-MO), John Boozman (R-AR), Richard Burr (R-NC), Saxby Chambliss (R-GA), Daniel Coats (R-OK), Tom Coburn (R-OK), Thad Cochran (R-MS), John Cornyn (R-TX), Mike Crapo (R-ID), Ted Cruz (R-TX), Michael Enzi (R-WY), Deb Fischer (R-NE), Chuck Grassley (R-IA), James Inhofe (R-OK), Johnny Isakson (R-GA), Mike Johanns (R-NE), Ron Johnson (R-WI), Mike Lee (R-UT), Mitch McConnell (R-KY), Jerry Moran (R-KS), Rand Paul (R-KY), Rob Portman (R-OH), James Risch (R-ID), Pat Roberts (R-KS), Tim Scott (R-SC), Jeff Sessions (R-AL), Richard Shelby (R-AL), John Thune (R-SD), Pat Toomey (R-PA), David Vitter (R-LA), and Roger Wicker (R-MS).

levels. The first level indicates whether the vote pertained to legal migration or illegal²³ migration. The second level defines whether an immigration-related vote covered immigration control (admissions) policy, immigrant policy, citizenship policy, naturalization policy, or refugee policy. The third level specifies the subset of policies within the second-level classification. In the case of votes pertaining to immigration control policy – the focus of this project – I classified the content of these votes as permanent resident, temporary resident, or guest worker. Finally, I coded each vote such that a liberalizing vote or a vote against a restricting measure was coded as a 1 otherwise the vote cast was coded as a 0. In order to isolate the content of each specific vote, I examined each vote in the Congressional Record and, where possible, its treatment in Gimpel and Edwards (1999). Votes that covered more than one issue were excluded from the analysis because it would be impossible to isolate the effect, for instance, of the guest worker portion of the bill vis-à-vis the permanent resident portion of the bill. Because the preponderance of immigration bills are necessarily compromise bills (Tichenor 2002) that include provisions addressing more than one portion of the immigration code, the majority of the votes included are amendments rather than final passage.

While consistent with the approach to roll-call vote analysis in the political economy literature (see for example Milner and Tingley 2008; Peters 2014), the conventional approach in the immigration literature is to primarily (or, at times, only) examine votes on a bill’s final passage (for instance Casellas and Leal 2013; Fetzer 2006). It is well known that immigration bills that successfully become law are large compromise bills, which typically encompass reforms on legal and illegal immigration, regularization components, and enforcement

²³ While the use of this phrase is highly contested, I use “illegal” here for the sake of simplicity and without any normative content

provisions, among others. Indeed, it is this compromise that often makes final passage possible. Yet it is my primary contention in this dissertation that not all of these components are alike and have differing effects on various societal groups. More specifically, that rights-based differences among these programs cause increased migrant admissions to have opposing effects on any given societal group and, as a result, patterns of support for liberalization will vary as a function of these rights. While instructive for some purposes, the practice of examining final passage votes is unlikely to shed light on the underlying political cleavages. A list of votes included in the sample is provided in Appendix A.

I operationalize the primary independent variable, legislator ideology, using the first dimension of DW-NOMINATE (Poole and Rosenthal 2007),²⁴ which captures the left-right dimension along which we observe partisan divisions in the contemporary United States. The scale for this variable runs from -1 to 1, and increasing values indicate greater levels of conservatism. I also include the second dimension of DW-NOMINATE, which captures cultural preferences that are orthogonal to the first dimension. Here again the scale runs from -1 to 1 and

²⁴ Because DW-NOMINATE scores are estimated using a legislator's roll call voting history there is some concern over using DW-NOMINATE scores as independent variables in models in which roll call votes are the dependent variable. This is not a significant problem here for two reasons. First, DW-NOMINATE scores are an aggregate measure across all roll call votes and, as such, allow us to capture a general profile of a legislator's ideological position. Second, immigration-related votes constitute only a very small portion of these votes. 15 of the 55 Congresses since 1900 included no immigration related roll call votes. Of the remaining 40 Congresses, on average only 2.1% of votes were related to immigration, there were only five Congresses in which immigration votes constituted greater than 5% of all roll call votes, and the maximum was 8.1% in the 110th Congress. In addition, these statistics overstate the degree to which the roll call votes in the dependent variable contribute to the DW-NOMINATE scores that I use as independent variables. Specifically, these descriptive statistics use the most expansive definition of immigration related votes, which includes any vote indicated as "Immigration/Naturalization" by Poole and Rosenthal (2007), irrespective of whether "Immigration/Naturalization" is identified as issue 1 or issue 2. Put another way, these data include votes not only on immigration *qua* regular admissions, but also on immigrant policy, refugee policy, naturalization policy, appropriations for the agencies administering immigration and naturalization law, and bilateral treaties relating to immigration. Because I have varying theoretical expectations about different types of immigration policy, my analysis is restricted to immigration votes and does not include any of these other immigration-related issues, resulting in a significantly smaller proportion of votes in each Congress.

increasing values correspond with increasingly culturally traditional Members of Congress. As discussed above, this dimension only captures cultural preferences that are not subsumed in the first dimension. Substantively, the first dimension of DW-NOMINATE identifies a legislator's ideological position along the left-right spectrum, which encompasses market, fiscal, and cultural interests. Increasingly negative values on this dimension indicate interests that are consistent with those of the Democratic Party and its constituents, while increasingly positive values on this dimension indicate interests that are consistent with those of the Republican Party and its constituents. The second dimension of DW-NOMINATE identifies a legislator's ideological position on issues that *divide the parties internally*, with increasingly negative values indicating culturally progressive interests and increasingly positive values indicating culturally traditional interests.²⁵

There is, of course, some debate over whether the ideal-point estimates produced by the first dimension of DW-NOMINATE capture ideological positions or partisanship (see for example Lee 2009). While this distinction is important for some purposes, it rather trivializes the relationship between ideology and partisanship. If interests shape ideology and parties aggregate and articulate interests, then ideology and partisanship are intimately related and not merely correlated. There are undoubtedly times and places in which this relationship breaks down, the clearest example of which being parties of power that are prevalent in the developing world. In the developed world, however, incongruence between partisanship and ideology typically precipitates party realignment. Indeed, in the United States, co-partisans' ideological positions have become increasingly cohesive since the moderate party realignment of the 1970s. As a

²⁵ Historically, for example, negative second-dimension values have been indicative of civil rights proponents while positive second dimension values have been indicative of those favoring continued segregation.

result, party loyalty and ideological position are generally observationally equivalent during that period. In any event, inclusion of a partisan dummy variable in place of the first dimension of DW-NOMINATE has little to no effect on the models presented below, with the occasional exception of the loss of explanatory power.

I also include standard control variables for various other factors in different model specifications. These controls include regional dummy variables, a dummy variable border states, foreign born as a percent of state population (U.S. Bureau of the Census various years-c obtained from Peters 2014), state unemployment rate (Bureau of Labor Statistics 2014), percent of workforce that is salaried (U.S. Bureau of the Census various years-b obtained from Peters 2014), percent of state income produced through agriculture (Bureau of Economic Analysis 2012), trade openness (Peters 2014), firm mobility (Chinn and Ito 2008 obtained from Peters 2014), and welfare expenditure per inhabitant (U.S. Bureau of the Census various years-a obtained from Peters 2014). I also include state and year fixed effects in some models in order to control for any state-specific and temporal effects not already accounted for in the model. The inclusion of these fixed effects results in an exceptionally conservative test of my hypotheses.

Tables 2 and 3 present the results of probit models, estimated with robust standard errors clustered by Senator. Models 1 through 3 in Table 2 are the base models for permanent resident, temporary resident, and guest worker votes, respectively. Models 4 through 6 in Table 2 demonstrate that the results in the first three models are robust to the inclusion of state and year fixed effects. Finally, Models 1 through 3 in Table 3 demonstrate that the effects of rights on immigration policy preferences are robust to the inclusion of standard control variables. The results illustrate that as anticipated the *type* of admission policy in question has a significant effect on the likelihood that Members of Congress support policies that liberalize immigration.

Table 2. Senate Votes on Immigration Bills and Amendments

Model	2.1	2.2	2.3	2.4	2.5	2.6
Sample	Permanent Resident	Temporary Resident	Guest Worker	Permanent Resident	Temporary Resident	Guest Worker
<i>DW-NOMINATE</i> <i>1st Dimension</i>	-1.423*** (0.097)	1.080*** (0.126)	0.637*** (0.096)	-1.322*** (0.131)	1.372*** (0.254)	0.417*** (0.116)
<i>DW-NOMINATE</i> <i>2nd Dimension</i>	-0.502*** (0.061)	0.014 (0.092)	0.009 (0.065)	-0.381*** (0.091)	0.178 (0.199)	-0.150* (0.0756)
Constant	0.048 (0.029)	0.766*** (0.043)	0.005 (0.029)	0.581* (0.248)	0.056 (0.388)	-0.406 (0.270)
n	3880	1158	2711	3880	1134	2711
Pseudo R ²	0.1047	0.0726	0.0257	0.1833	0.3036	0.0972
State/Year	N	N	N	Y	Y	Y
Controls						
Correctly Predicted	65.696%	76.252%	60.015%	71.881%	84.744%	64.183%
PRE	28.594%	0%	19.584%	41.469%	37.089%	27.967%

Table reports probit coefficients with robust standard errors clustered by Senator in parentheses below.

*p<0.05, **p<0.01, ***p<0.001 (two-tailed values)

Table 3. Senate Votes on Immigration Bills and Amendments, Additional Controls

Model	3.1	3.2	3.3
Sample	Permanent Resident	Temporary Resident	Guest Worker
<i>DW-NOMINATE 1st Dimension</i>	-1.400*** (0.127)	1.179*** (0.168)	0.463*** (0.124)
<i>DW-NOMINATE 2nd Dimension</i>	-0.254** (0.082)	0.043 (0.130)	-0.310*** (0.092)
<i>Percent Foreign Born</i>	1.380* (0.659)	0.260 (0.926)	-0.248 (0.656)
<i>Unemployment</i>	-0.050** (0.018)	-0.055 (0.042)	0.022 (0.021)
<i>Percent Salaried Workers</i>	0.170 (0.098)	-0.592 (0.460)	0.204 (0.586)
<i>Agriculture as a percent of GSP</i>	-0.042 (0.022)	0.041 (0.033)	0.051** (0.016)
<i>Trade Openness</i>	-10.042 (5.814)	-80.538*** (19.055)	-127.989*** (16.644)
<i>Firm Mobility</i>	0.459 (0.336)	3.323*** (0.708)	6.625*** (0.813)
<i>Welfare Expenditure per Inhabitant</i>	-0.001** (0.003)	0.001 (0.001)	-0.001 (0.0002)
<i>Southern Border</i>	-0.123 (0.143)	-0.030 (0.189)	0.034 (0.124)
<i>Region: Midwest</i>	0.159 (0.127)	-0.188 (0.176)	-0.244* (0.120)
<i>Region: West</i>	0.220† (0.123)	-0.165 (0.186)	0.183 (0.120)
<i>Region: South</i>	-0.053 (0.117)	-0.179 (0.166)	0.025 (0.127)
Constant	9.350 (5.327)	74.799*** (17.629)	114.801*** (15.140)
n	2967	978	1820
Pseudo R ²	0.1330	0.1139	0.0720
State/Year Controls	N	N	N
Correctly Predicted	67.341%	74.438%	62.967%
PRE	32.896%	-2.457%	22.617%

Table reports probit coefficients with robust standard errors clustered by Senator in parentheses below.

*p<0.05, **p<0.01, ***p<0.001 (two-tailed values)

The central result is that the sign on legislator left-right position (1st dimension of DW-NOMINATE) switches from negative to positive *and remains significant* when we move from permanent resident admissions (long-term migrants with access to many social rights) to temporary resident and guest worker admissions. This finding is robust to the inclusion of state and year fixed effects. Substantively, and consistent with my expectations, this suggests that increasing levels of conservatism *increase* the likelihood of voting in favor of admission liberalization for migrants who have limited employment rights, no recourse to social services, and only permitted a limited duration of stay, but *decrease* the likelihood of voting in favor of admission liberalization for migrants who will have full employment rights, access to redistributive services, and unlimited right to reside. This fits clearly with the ideological profile of rightists outlined above. Indeed, these results are consistent with the hypotheses outlined above: where migrants are extended social rights, as they are in permanent resident programs, increasing levels of conservatism yield decreasing support for immigration policy liberalization, and where migrants are not extended social rights, as is the case under temporary resident and guest worker programs, increasing levels of conservatism yield increasing support for immigration policy liberalization.

While the first dimension of DW-NOMINATE captures positions on multiple issues, as discussed above, the second dimension accounts for position on issues *that divide the parties internally*. To the extent that the predominant left-right dimension inadequately explains preferences over admissions liberalization, we ought to observe the second dimension of DW-NOMINATE as being significant and negative for permanent resident programs. As anticipated, I find that increasing levels of cultural conservatism along the second, orthogonal dimension result in *decreased* likelihood of voting to liberalize permanent resident admissions and that the

second dimension has no significant effect on preferences over temporary resident admissions. This is an interesting finding for the study of American politics, as the second dimension has been of decreasing importance since the civil rights era. Counter to expectations, however, legislator second dimension position has a significant and negative effect on voting to liberalize guest worker admissions. One plausible explanation for this unexpected result is that guest worker programs have frequently been considered in conjunction with legalization proposals as a method of regularizing the undocumented without granting these individuals permanent residence. Indeed, punitive approaches to law and order are routinely highlighted as a characteristic of authoritarian positions on the second ideological dimension across the Western world. In later revisions, I intend to examine the explanation by including a control for contemporaneous legalization proposals.

Overall, legislator ideology is least well suited to explaining voting patterns over temporary resident programs, which is clear from the proportionate reduction in error statistics in each model. In fact, the basic model (Model 4.2) is no better at predicting legislator voting patterns than simply predicting the modal category. Including state and vote dummy variables increases the predictive power of these models significantly. This should not be surprising, as temporary resident programs are a compromise position between the extension of expansive rights and granting very limited rights and are therefore often the result of compromise between groups that are willing to liberalize immigration policies that grant migrants opposing bundles of rights. Or, similarly, can be used as a method of attracting support for packages that would otherwise find insufficient legislative support.

How does the central finding – that increasing levels of conservatism decrease the likelihood of voting to liberalize permanent resident programs but increase the likelihood of

voting to liberalize temporary resident and guest worker programs – fare over time? As demonstrated in Table 4, the results for the permanent resident and guest worker samples remain remarkably stable when examined decade-by-decade. In all decades in which the Senate voted on permanent resident and guest worker programs, increasingly conservative Senators were less (more) likely to vote in favor of liberalizing permanent resident (guest worker) programs. The results are far less consistent for votes over temporary resident program liberalization. As noted above, this should be somewhat unsurprising because temporary resident programs can be used by either the left (right) to persuade moderates from the right (left) to support an immigration package that would otherwise fail to garner enough support.

Table 4. Senate Votes on Immigration Bills and Amendments, by Decade

		1950s	1960s	1970s	1980s	1990s	2000s
Permanent Resident	DW-NOMINATE	-1.826***	-1.024***		-0.241*	-0.782***	-3.141***
	1 st Dimension	(0.224)	(0.286)		(0.103)	(0.165)	(0.176)
	DW-NOMINATE	-0.592***	-1.944***		-0.144*	-0.703***	-0.689***
	2 nd Dimension	(0.097)	(0.220)		(0.062)	(0.155)	(0.178)
	Constant	-0.148**	0.851***		0.001	0.0206***	0.062
		(0.057)	(0.103)		(0.035)	(0.065)	(0.064)
	n	415	260	0	1453	495	1257
	Pseudo R ²	0.1272	0.3135		0.0038	0.0641	0.4320
Temporary Resident	DW-NOMINATE			-1.909***	-2.379***	3.485***	2.587**
	1 st Dimension			(0.295)	(0.233)	(0.518)	(0.330)
	DW-NOMINATE			-0.181	1.237***	-0.405*	-0.293
	2 nd Dimension			(0.151)	(0.202)	(0.205)	(0.186)
	Constant			0.505***	1.417***	0.789***	1.286***
				(0.083)	(0.097)	(0.177)	(0.126)
	n	0	0	181	196	294	487
	Pseudo R ²			0.1463	0.3345	0.4962	0.2996
Guest Worker	DW-NOMINATE	0.983**	1.074***		1.162***		0.366**
	1 st Dimension	(0.360)	(0.111)		(0.131)		(0.121)
	DW-NOMINATE	-0.565***	0.499***		0.308***		-0.692***
	2 nd Dimension	(0.167)	(0.085)		(0.080)		(0.117)
	Constant	-0.162	0.222***		-0.149***		0.077
		(0.089)	(0.042)		(0.044)		(0.045)
	n	152	728	0	570	0	1261
	Pseudo R ²	0.0721	0.0710		0.0572		0.0538

Table reports probit coefficients with robust standard errors clustered by Senator in parentheses below.

*p<0.05, **p<0.01, ***p<0.001 (two-tailed values)

The results thus far suggest a significant impact of legislator ideology on support for different types of immigration reform. However, the probit coefficients reported in the above tables do not provide an intuitive or substantive understanding about the effect of legislator ideology on preferences over various types of immigrant admissions policies. Table 5 presents the predicted probabilities of various legislator types voting to liberalize different types of admissions policies. These predicted probabilities were calculated using Models 2.1 to 2.3 in Table 2²⁶ and allow us to make meaningful interpretations about the varying effect of legislator ideology on support for immigration by admissions policy type. Throughout Table 7, liberals are identified as legislators in the 25th percentile of the first dimension of DW-NOMINATE in the period under study, moderates are identified as legislators in the 50th percentile, and conservatives are identified as legislators in the 75th percentile, and the second dimension of DW-NOMINATE is held at its median value.

Table 5. Predicted Probabilities of Voting to Liberalize Immigration Policies by Legislator Ideology and Immigration Policy Type

	Left	Moderate	Right
<i>Permanent Residents</i>	0.708***	0.559***	0.360***
<i>Temporary Residents</i>	0.654***	0.758***	0.861***
<i>Guest Workers</i>	0.416***	0.486***	0.576***

^{2nd} dimension of DW-NOMINATE held at its median value.

These estimates suggest that leftists are significantly *more* likely to vote in favor of liberalizing permanent resident admission policies than their rightist counterparts (0.348 difference in probabilities), all else held equal. Conversely, leftists are significantly *less* likely to

²⁶ Each of these is significantly different and the results do not change if I calculate these probabilities using other variants of the model.

vote in favor of liberalizing guest worker admission policies than their rightist counterparts (0.161 difference in probabilities), all else held equal. Aside from considering how different types of legislators' propensity for voting for the same type of policy differs, we can look at how a particular type of legislator's support is likely to vary across different types of immigration policy. The results in Table 5 suggest that leftist Senators are significantly *more* likely to vote in favor of a permanent resident program than a guest worker program (0.292 difference). Conservatives, by contrast, are significantly *more* likely to vote in favor of a guest worker program than a permanent resident program (0.216 difference in probabilities). As these predicted probabilities make clear, the differences between the same types of legislator across different types of immigration policy and between different legislator types across the same type of immigration policy is not only statistically significant, but also substantively important. Figure 2 demonstrates the key result graphically, showing that the probability of voting to liberalize permanent resident admissions *decreases* as a function of increasingly conservative ideology, but the probability of voting to liberalize temporary resident and guest worker admissions *increase* as a function of increasingly conservative ideological position.

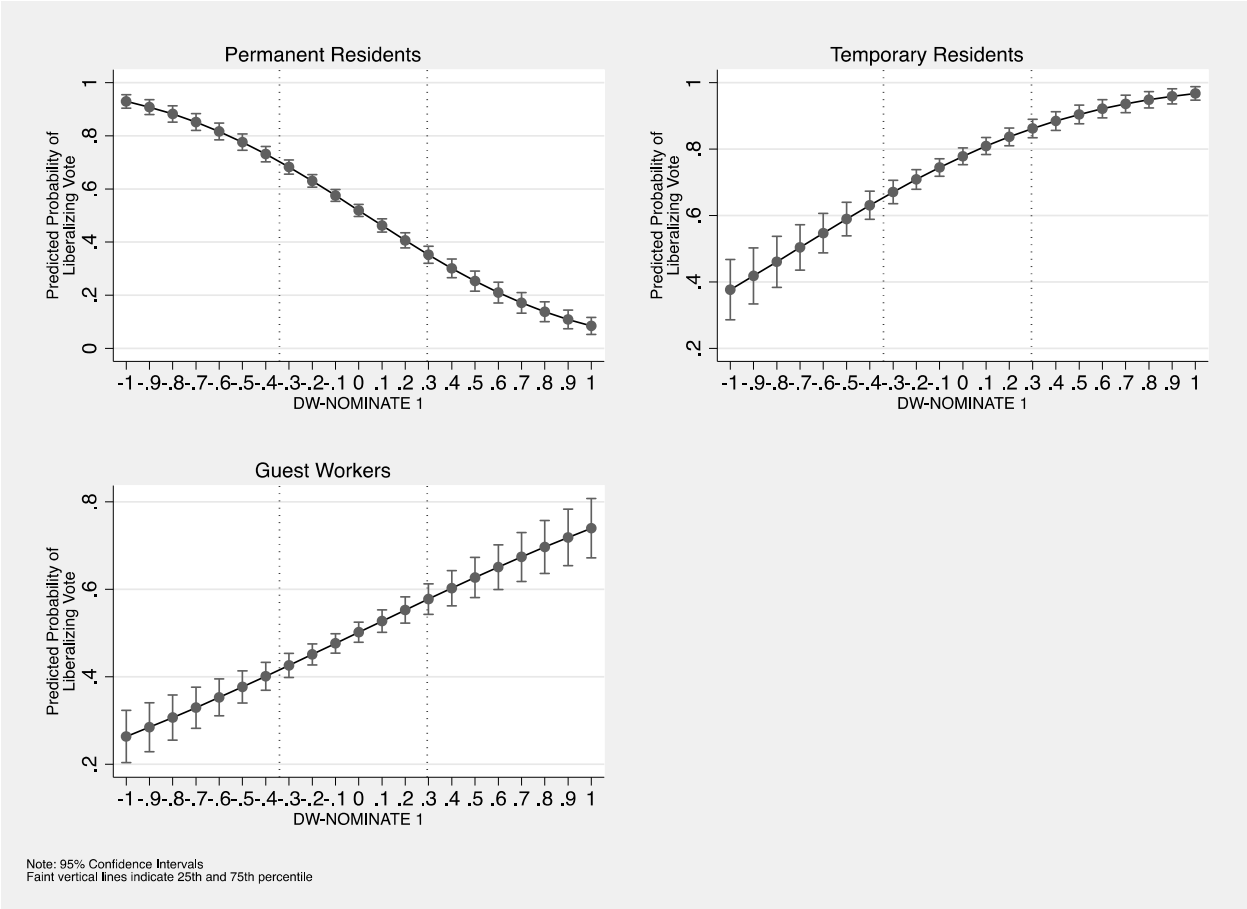


Figure 2. Predicted Probabilities of Voting to Liberalize Various Immigration Policies at Increasing Values of Economic Ideology for Cultural Moderates

Perhaps more theoretically important for the purposes of political coalition building and policy-making is the behavior of moderates. As shown in Table 5, moderates are significantly less likely to vote in favor of permanent resident programs than are leftists, but are significantly more likely to do so than rightists. Moreover, moderates are significantly more likely to vote in favor of guest worker programs than their leftist counterparts, and significantly less likely to vote in favor of guest worker programs than their rightist counterparts.

The evidence presented in this chapter has been supportive of the theory and hypotheses outlined above. Not only does ideology have a significant effect on positions over immigration, but the sign on this significant effect varies as a function of migrant rights, with leftists voting in favor of permanent resident programs, which grant an expansive bundle of rights to migrants, and rightists voting in favor of guest worker programs, which admit migrants with few rights. Support for temporary resident programs was far less clear-cut, which is likely the result of these programs being a compromise position between the expansive rights granted to permanent residents and the limited rights granted to guest workers.

4.4 DISCUSSION

Migrant rights appear to have an important effect on political elites' support for liberalizing migrant admissions in the United States. Because variations in migrant rights condition the market, fiscal, and cultural effects that migrants have on the receiving society, domestic group interests over admission levels will vary as a function of these rights. Consistent with the anticipated effects on their constituents' interests, Democratic Senators are likely to support the

liberalization of admissions for permanent resident programs but oppose the liberalization of admissions for temporary resident and guest worker programs. The opposite is true for Republican Senators.

These findings provide an essential element in understanding how societal interests shape immigration policy outcomes in the United States. By identifying how societal interests over immigration vary as a function of migrant rights, it is now possible to consider how these interests aggregate to affect immigration policy outcomes, which is a task I undertake in the next chapter.

5.0 IMMIGRATION POLICY OUTCOMES IN THE UNITED STATES

In the previous chapter, I presented evidence consistent with the fundamental proposition of this project: that migrant rights condition societal groups' interests with respect to migrant admissions. I found that leftist Senators – those who represent labor interests, support a robust welfare state, and value cultural diversity and progress – support the liberalization of programs that admit migrants with a significant bundle of rights and oppose the liberalization of programs that admit migrants with a limited bundle of rights, while rightist Senators – those who represent the interests of employers, seek to limit public expenditure, and advocate for the maintenance of traditional cultural values – display the opposite policy preferences with respect to migrant admissions. In addition, I found that significant intraparty divisions exist alongside partisan preferences over permanent resident program liberalization.

Yet the simple existence of rights-based preferences over immigration liberalization tells us little about how these preferences affect policy outcomes. In this chapter, I consider the political coalitions that are likely to produce more generous admissions policies for migrants granted various bundles of rights. That is, under what political conditions are we likely to observe the liberalization of permanent resident, temporary resident, and guest worker admissions? I argue that permanent resident program liberalization will be most likely to occur when the Congressional majority is both leftist and progressive and when the President is a

member of the Democratic Party. Liberalization of guest worker admissions, by contrast, will be most likely to occur when the Congressional majority is both rightist and traditional and when the President is a Republican. Finally, temporary resident program liberalization will be more likely under right-leaning Congresses than under left-leaning Congresses. Because temporary resident programs grant more rights than guest worker programs and fewer rights than permanent resident programs, however, temporary resident program liberalization is likely to occur in conjunction with other forms of admission liberalization.

5.1 IMMIGRATION POLICIES IN THE UNITED STATES

With almost a hundred classes of migrant admission, the United States boasts an extremely complex immigration control system. Each class of admission is designed to admit migrants for a specific purpose. As we shall see, each of the societal membership groups identified in the second chapter is represented among these classes of admission. The broadest distinction between legal classes of admission in the United States is between immigrants – those admitted for permanent residence – and nonimmigrants – those admitted for a temporary duration of stay. The former, immigrants, can be treated as synonymous with the permanent resident societal membership group, while the latter, nonimmigrants, includes the societal membership groups identified as visitors, guest workers, and temporary residents. Throughout this section, I will examine the development of this complex admissions system, focusing on the creation and evolution of permanent resident, temporary resident, and guest worker programs as well as identifying the modern classes of admission that fit within each of these three types.

5.1.1 Permanent Admission to the United States

At what point in United States' history is it possible to talk of a unified immigration policy? While common rules governing naturalization were implemented in 1790, only a year after federation, it was not until significantly later that the United States established a unified national immigration policy. In 1875, the landmark Supreme Court decision in *Henderson v. Mayor of the City of New York* determined state-level immigration policies to be unconstitutional, establishing federal power over immigration policy.²⁷ That same year, the Page Act became the first federal immigration law to restrict migrant admissions.²⁸ It is with these two decisions – the decision to override state-level immigration policies and the decision to establish a federal immigration policy – that the United States formed a unified national immigration policy.²⁹ Administrative responsibility for immigration regulation was consolidated at the federal level with the Immigration Act of 1891.³⁰

The prevailing assumption of United States immigration policy throughout this history has been that migrants seek to enter the United States in order to remain indefinitely and, after a

²⁷ The majority opinion, written by Justice Samuel F. Miller, argues that laws regulating immigration have the effect of regulating international commerce, a power constitutionally granted to the federal government. While the *Henderson* decision rested on Congress's constitutional power to regulate commerce, in the later *Ekie v. United States* (1892), the Supreme Court held that federal authority over immigration was predicated upon national sovereignty (Senate Committee on the Judiciary 1980, 5).

²⁸ The earlier Alien and Sedition Acts provided for the detainment and deportation of "enemy aliens" and increased the residency requirement for naturalization from five years to 14 years, but did not limit admissions. As a result, the Alien and Sedition Acts are better understood as *immigrant* policy than immigration policy.

²⁹ The absence of federal immigration restrictions prior to the Page Act has led to the received wisdom that the United States had open borders until this period, a claim that Neuman (1993) persuasively rebuts with his discussion of state-level immigration policies throughout the 17th Century. My decision to use 1875 as the beginning of United States' immigration policy is not intended to indicate that borders were entirely open prior to this time, but rather to convey that immigration restrictions prior to this period were too fractured to be conceived of as a single legal framework governing migrant admissions.

³⁰ Though it is interesting to note that, despite the early establishment of national naturalization requirements, administrative responsibility for naturalization was not consolidated at the federal level until after the 1906 Naturalization Act.

period of time, become citizens – full members of society. Indeed, the most significant barrier to naturalization – and thus to becoming a full member of American society – is obtaining permanent residence. Because admission as a permanent resident is a necessary, but not sufficient, condition for naturalization, the application for permanent residence is significantly more arduous. This presumption of immigrant intent has been codified in section 214(b) of the Immigration and Nationality Act, which states: “Every alien [...] shall be presumed to be an immigrant until he establishes [...] that he is entitled to a nonimmigrant status.” That is, those seeking admission to the United States will be evaluated according to the standards set for admitting those who would become a full member of American society, unless they can demonstrate that they are only entering for temporary purposes. As a result, early efforts to restrict admissions, which are documented in Table 6, focused on excluding those considered to be unsuitable to become permanent members of American society. Early debates on admission thus focused on what United States’ immigration law would come to term “immigrants,” analogous for present purposes with the permanent resident group of migrants identified in this dissertation.

Table 6. Categorical Exclusions from Admission

Year	Legal Basis	Excluded Classes
1875	Page Act (§ 5)	Criminals Prostitutes
1882	Chinese Exclusion Act	Chinese Laborers
	Immigration Act (§ 2)	Convicts Lunatics Idiots Those unable to support themselves without becoming a public charge
1887	Contract Labor Law amendment ³¹	Contract Laborers
1891	Immigration Act ³² (§ 1)	Classes excluded in earlier acts Insane Persons Paupers “Persons suffering from a loathsome or dangerous contagious disease” Those who have committed “crimes of moral turpitude” ³³ Polygamists Those “likely to become a public charge” (LPC) ³⁴ Assisted migrants ³⁵
1903	Immigration Act (§ 2)	Classes excluded in earlier acts Epileptics Those who had been insane within the prior five years Those who had been insane twice irrespective of time Professional Beggars

³¹ The 1885 Contract Labor Law punished those who contracted foreign labor (§ 1 and § 3), punished those who knowingly transported contract laborers (§ 4), and rendered all such contracts null and void (§ 2). It was not until the 1887 amendment, however, that contract laborers were added to the list of excludable aliens.

³² This is the first statute that provides for deportation rather than simply debarment, meaning that an individual later discovered to have entered the United States in violation of the law could be expelled. Foreign nationals who became a public charge within one year of admission were deemed to have entered the United States in violation of the law if recourse to public services was caused by conditions predating admission. Expulsion was subject to a one-year statute of limitations.

³³ Like the earlier 1882 Act, the 1891 Act makes exceptions for political offenders (§ 1, Proviso 1).

³⁴ Note the subtle semantic change from the 1882 public charge exclusion. The 1891 Act expanded exclusion from those who would certainly have to rely on public assistance to those who would *likely* have to rely on public assistance. This provision was strengthened under the 1903 Act, which provided for deportation of those who became public charges within two years of admission “for causes existing prior to their landing.” Later this two-year rule would be changed to five years.

³⁵ The Act defined assisted migrants as “any person whose ticket or passage is paid for with the money of another or who is assisted by others to come, unless it is affirmatively and satisfactorily shown on special inquiry that such persons does not belong to one of the foregoing excluded classes” (§ 1). This appears to be an attempt to strengthen the exclusion of contract laborers, as the Act goes on to clarify that this provision does not apply to an individual paying for the passage of a friend or family member.

Table 6 (continued).

		<p>Anarchists Those who seek to over throw the US government Those “who procure or attempt to bring in prostitutes or women for the purposes of prostitution” Those deported as contract laborers within the prior year Aliens accompanying a debarred alien</p>
1907	Immigration Act (§ 2)	<p>Classes excluded in earlier acts Imbeciles Feeble-Minded Persons Those with tuberculosis Those otherwise “mentally or physically defective”³⁶ Those “who admit their belief in the practice of polygamy” Unaccompanied children under 16</p>
1917	Immigration Act (§ 3)	<p>Classes excluded in earlier acts³⁷ Those who had been insane at any previous time³⁸ Those with “constitutional psychopathic inferiority” Alcoholics Vagrants Those affiliated with anarchist organizations Those supported by “the proceeds of prostitution” Stowaways Those from the “Asiatic Barred Zone” The Illiterate³⁹</p>

³⁶ Such a determination was to be made by the examining physician upon arrival and applied specifically to cases in which “such mental or physical defect being of a nature which may affect the ability of such alien to earn a living.”

³⁷ With the 1917 Act, immigrants could be deported for becoming a public charge within five years of admission unless they can demonstrate that their need to access public assistance developed after admission to the United States.

³⁸ Note that this provision is more restrictive than those included in the 1903 and 1907 Acts.

³⁹ “aliens over sixteen years of age, physically capable of reading who cannot read the English language, or some other language or dialect, including Hebrew or Yiddish”

As demonstrated in the previous table, federal immigration restrictions ramped up in the decades following 1875, initially implementing categorical limitations barring specific groups from admission – including Chinese laborers, “imbeciles,” prostitutes, and anarchists – and hitting a crescendo with the 1921 Emergency Quota Act. In addition to the existing categorical limitations, the Emergency Quota Act introduced sweeping quantitative restrictions on admissions, limiting the annual admission of migrants from the Eastern Hemisphere to 3% of the number of their co-nationals living in the United States in 1910 – subject to an overall 350,000 limit – and continuing the prohibition on Asian migration. This Act was extended until 1924, at which time the 1924 Immigration Act established the National Origins System of admission. Built on the foundation of the 1921 Act, the 1924 Act maintained the nation-based quotas established in the 1921 Act, but further limited admissions by restricting national quotas to 2% of 1890 levels, setting the overall cap on immigrant admissions just shy of 165,000. Despite additional changes to the quota, the National Origins System remained the foundation of United States’ immigration law until 1952.

The passage of the 1952 Immigration and Nationality Act (McCarran-Walter Act) did not, however, entirely dismantle the national origins system. Rather, it introduced a preference system for admitting skilled migrants and family members of United State’s citizens to function alongside the national origins system. As a result, those seeking admission to permanent residence under the McCarran-Walter Act had to cross three significant hurdles. First, the applicant had to establish an affirmative case for admission based on skill or family reunification. Second, he or she had to demonstrate that he or she was not among the excludable classes deemed to be unsuited to full membership in American society. Third, the annual quota set for the applicant’s national group must not have been reached.

In 1965, a new Immigration and Nationality Act (Hart-Celler Act) finally did away with the race-based system that had prevailed since 1921. Under this new act, the preference system introduced under McCarran-Walter would become the foundation of the system of permanent resident admissions that prevails today. The passage of Hart-Celler thus marks the beginning of the modern American immigration regime.

While the preference categories and their associated quotas have been altered in the time since the 1965 INA, the broad contours remain the same. Last amended significantly by the Immigration Act of 1990, the contemporary preference system provides for admission to permanent residence for four broad purposes: family reunification, employment, humanitarian need, and diversity.⁴⁰ An annual quota of 416,000 to 675,000 exists for immigrants subject to numerical limitations,⁴¹ the majority of which – between 54% and 72% – are reserved for family-based migrants (Monger and Yankay 2014). From 2004 to 2013 there has been an average of over 1 million new residents admitted annually, 58% of which were already residing in the United States under temporary classes of admission (U.S. Office of Immigration Statistics 2014). Among all new permanent residents, approximately 65% were admitted under family-based programs, 15% under employment-based programs, and 14% under humanitarian programs. The remaining 6% were admitted under various smaller programs, including the diversity program. Finally, no more than 7% of admissions in a given year from a given category

⁴⁰ Introduced in 1990, the diversity category of immigrant visas grants permanent residence to a limited number (up to 50,000 annually across all recipient countries) of foreign nationals from countries whose nationals have received fewer than 50,000 family- and employment-based immigrant visas within the preceding five years (Monger and Yankay 2014, 2).

⁴¹ Immediate relatives and political asylum seekers are the only substantial groups exempt from numerical limitations.

may come from a single country, a rule that only routinely impacts nationals⁴² of the largest sending states – China, India, Mexico, and the Philippines. Table 7, below, details the categories of resident admission and the annual quotas assigned to each category.

⁴² Technically, this only applies to foreign nationals who are *chargeable* to these states. Chargeability is typically determined by country of birth as opposed to country of citizenship so as to preclude those seeking admission to the United States from obtaining another citizenship for the primary purpose of obtaining admission to the United States. Exceptions to this rule do apply, particularly in cases of “cross-chargeability,” which accounts for the country of birth of one’s family members and is an attempt to limit family separation.

Table 7. Contemporary Classes of Resident Admission in the United States

Purpose	Category	Description	Quota ⁴³
Family Reunification	None	Immediate relatives of U.S. citizens ⁴⁴	Unlimited
	Worldwide		226,000 to 480,000 ⁴⁵
	First	Unmarried sons and daughters of U.S. citizens	23,400 ⁴⁶
	Second	Spouses and unmarried children of permanent residents	114,200 to 368,200 ⁴⁷
	Third	Married sons and daughters of U.S. citizens	23,400 ⁴⁸
	Fourth	Siblings of U.S. citizens	65,000 ⁴⁹
Employment	Worldwide		140,000 ⁵⁰
	First	Priority workers	40,040 ⁵¹
	Second	Professionals with advanced degrees	40,040 ⁵²
	Third	Skilled, professionals, and unskilled workers	40,040 ⁵³
	Fourth	Special immigrants ⁵⁴	9,940 ⁵⁵
	Fifth	Investors ⁵⁶	9,940 ⁵⁷
Humanitarian Need	Refugees		70,000
	Asylum Seekers		Unlimited
Diversity	Worldwide		50,000

⁴³ Table lists the basic annual quota for each category of admission. However, the quota for any given year is a function of several factors. See Monger and Yankay (2014, 6).

⁴⁴ Includes spouses, parents, and minor children.

⁴⁵ Plus unused employment-based visas (8 U.S. Code § 1151(c)(3)(C)).

⁴⁶ Plus unused visas from the family-based fourth preference category (8 U.S. Code § 1153(a)(1)).

⁴⁷ Plus unused visas from the family-based first preference category (8 U.S. Code § 1153(a)(2)).

⁴⁸ Plus unused visas from the family-based first and second preference categories (8 U.S. Code § 1153(a)(3)).

⁴⁹ Plus unused visas from the family-based first, second, and third preference categories (8 U.S. Code § 1153(a)(4)).

⁵⁰ Plus unused family-based visas (8 U.S. Code § 1151(d)(2)(C)).

⁵¹ Not to exceed 28.6% of the worldwide employment-based quota plus unused visas from the employment-based fourth and fifth preference categories (8 U.S. Code § 1153(b)(1)).

⁵² Not to exceed 28.6% of the worldwide employment-based quota plus unused visas from the employment-based first preference category (8 U.S. Code § 1153(b)(2)).

⁵³ Not to exceed 28.6% of the worldwide employment-based quota plus unused visas from the employment-based first and second preference categories (8 U.S. Code § 1153(b)(3)).

⁵⁴ Including religious workers, members of the U.S. armed forces, and physicians, among others.

⁵⁵ Not to exceed 7.1% of the worldwide employment-based quota (8 U.S. Code § 1153(b)(4)).

⁵⁶ The so-called “millionaire visa” grants permanent residence to foreign nationals who have invested at least \$1 million in a new commercial enterprise, created ten new jobs, or preserved at least 10 jobs in a troubled business.

⁵⁷ Not to exceed 7.1% of the worldwide employment-based quota (8 U.S. Code § 1153(b)(5)).

5.1.2 Temporary Admission to the United States

This should not imply that early American immigration laws ignored the phenomenon of temporary migration. As early as 1819, the Steerage Act distinguished between temporary visitors and permanent immigrants and required ships arriving at a port of entry to furnish the port's Collector of Customs with a passenger manifest. With the 1855 Passenger Act, ships were required to report immigrant – or permanent – arrivals separately from temporary arrivals.⁵⁸ The primary purpose of these Acts, however, was to ensure the health and safety of those traveling in steerage class as opposed to either documenting migration flows or regulating admission. It was not until 1906 that the distinction between temporary visitors and permanent immigrants began to carry enforceable legal weight. With the passage of the 1906 Naturalization Act, foreign nationals seeking to naturalize were required to obtain a “certificate of arrival,” which was used not only to establish duration of residence, but also as evidence of lawful admission as a permanent immigrant (Winnings 1945, 174). It is at this point that we can begin to differentiate between the legal categories of immigrants – those who intend to remain indefinitely in the United States – and nonimmigrants – those who intend to return home after a period of stay.

The legal distinction between immigrants and nonimmigrants has only increased in importance since this time, and this distinction remains the foundation of foreign national admissions to the United States. The 1924 National Origins Act required that foreign nationals,

⁵⁸ In these earlier laws, ships were required to report on steerage passengers, but not “cabin passengers” – those traveling in first or second-class cabins.

both immigrant and nonimmigrant, obtain a visa at their local embassy or consulate prior to departing for the United States. The granting of an immigrant visa would permit the foreign national to become a permanent resident of the United States and, after a period of five years, apply for naturalization. Admission under a nonimmigrant visa, by contrast, would permit the foreign national to live in the United States for a temporary duration of time and only insofar as he or she maintained his or her status.⁵⁹ Until 1952, any nonimmigrant who wished to become an immigrant would be required to return to his or her home country, apply for an immigrant visa while there, and, if approved, subsequently enter the United States on that immigrant visa. Despite the generally restrictive nature of the 1952 Immigration and Nationality Act (McCarran-Walter), this is the first statute that provides for conditions under which nonimmigrants may apply for an “adjustment of status.”⁶⁰

The Immigration Act of 1917 was the first attempt to unify United States’ immigration policies under a single legal framework. This Act provided the legal basis for the first American guest worker programs. While the 1917 Act upheld the 1885 Alien Contract Labor Laws,⁶¹ the Ninth Proviso of the Act permitted American employers to contract alien labor from abroad if

⁵⁹ First appearing in the 1917 Immigration Act and continuing to be an important component of US immigration law today, the maintenance of status provision states that a foreign national admitted to the US for a particular purpose may only lawfully remain in the US while he or she continues to fulfill that purpose. For example, a foreign national admitted as a nonimmigrant for the purpose of representing his or her home government is only permitted to remain in the United States if he or she continues to be employed in such a capacity by his or her home government. The same is true for all categories of temporary admission.

⁶⁰ “Adjustment of status” is the legal term given to the process by which a foreign national may apply for an immigrant visa from within the United States after being admitted under a nonimmigrant visa.

⁶¹ The 1885 Alien Contract Labor Laws prohibited American employers from soliciting and contracting foreign labor living abroad, but permitted these same employers to hire foreign labor that had already arrived in the United States. That is, an American employer could not advertise in Europe for labor and import that labor to the United States under the promise of employment, but that same employer could hire Europeans already in the United States to work that same job.

the Secretary of Labor determined that there was a domestic labor shortage.⁶² Workers admitted under the Ninth Proviso of the 1917 Act were granted very limited rights, including sectoral and employer limitations. Authorization to hire under the Ninth Proviso was granted to employers within particular sectors who were then given permission to contract labor from abroad (most commonly, Mexico⁶³). Those admitted were limited to working for the sponsoring employer, who was subject to penalties if contract laborers broke their contracts and failed to return to Mexico. As a safeguard against contract laborers breaking their contract with the employer and absconding, employers were permitted to withhold a portion of daily wages from the laborer, payable upon completion of the contract *and* repatriation (Scruggs 1960); many contract laborers never received the withheld wages even once these conditions had been fulfilled. This Ninth Proviso authorization permitted the importation of contract labor to work on the railroads from 1917 to 1918 and in agriculture from 1917 to 1921, with provisions for further admissions under specified conditions. Throughout this authorization under the Ninth Proviso, almost 80,000 Mexican contract laborers were admitted. The Ninth Proviso clearly falls under the category of guest workers, as these migrants were admitted with the right to work, but lacked broader economic, social, and political rights.

As the preceding discussion suggests, the use of guest worker programs in the United States can be traced back to 1917. As detailed in Table 8, there have been multiple other

⁶² The Ninth Proviso of the 1917 Immigration Act (§ 3) reads: “*Provided further*, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in a particular instance may be determined by the Secretary of Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Labor to be reached after a full hearing and an investigation into the facts of the case.”

⁶³ Based upon the Dillingham Commission report (Immigration Commission 1911), Mexicans were viewed as a more appropriate source of contract labor than were Europeans or Asians. Because of the relative proximity to Mexico and the concomitant ease in returning home, Mexican migration was thought to be truly temporary.

significant programs through which the United States has admitted guest workers, some of which continue today. The most well known of these programs, the Bracero Program, ran from 1942 to 1964 and was initially authorized under the Ninth Proviso in conjunction with a series of bilateral agreements with Mexico and later received Congressional approval under numerous different bills. Throughout the duration of the Bracero Program, approximately 4.6 million contracts were signed, admitting an estimated one to two million Mexican agricultural laborers.⁶⁴ Related programs also authorized under the Ninth Proviso and in conjunction with bilateral agreements admitted Mexican non-agricultural workers to work on the railroads from 1943 to 1946 and agricultural workers from British Honduras, Jamaica, Barbados, and the British West Indies starting from 1943 (Senate Committee on the Judiciary 1980, 51).

⁶⁴ Many workers came under multiple contracts during the program's operation and, as a result, there were significantly more contracts signed than unique individuals admitted.

Table 8. Significant⁶⁵ Guest Worker Programs in the United States

Years	Program	Legal Basis
1917-1923	Contract Labor Program	Ninth Proviso of the Immigration Act, 1917
1942-1952	Bracero-Related Programs ⁶⁶	Ninth Proviso of the Immigration Act, 1917 Bilateral agreements with sending states Farm Labor Supply Appropriations Acts (various)
1952-1964	Bracero Program ⁶⁷	Ninth Proviso of the Immigration Act, 1917 Bilateral agreements with sending states Various Congressional Acts
1952-1986	H-2 Program ⁶⁸	Immigration and Nationality Act, 1952
1961-Present	Some J-1 Programs ⁶⁹ (Camp Counselor, Summer Work/Travel, <i>Au Pair</i>)	DOS Authorization pursuant to J-1 Cultural Exchange provisions of the Mutual Educational and Cultural Exchange Act, 1961
1986-Present	H-2A Program H-2B Program	Immigration Reform and Control Act, 1986

⁶⁵ Excluded from this table are personal employees of foreign government officials (A-3 program, first authorized in the Fifth Proviso of the 1917 Immigration Act), personal employees of international organization officers and foreign government officials representing their state in international negotiations (G-5 program, first authorized under the International Organization Immunities Act of 1945), and personal employees of NATO officials and state representatives to NATO (NATO-7 program, first authorized under the NATO Status of Forces Agreement of 1951). Foreign nationals admitted under these programs are admitted to work for that sole employer. While the individuals were exempted from the contract labor laws prior to the 1917 Act, this Act included the additional requirement that individuals admitted under an exempt class must maintain their original status in order to remain within the United States. Thus, an individual admitted as a personal employee of a foreign government representative or international organization official who changed employers would not maintain his or her admitted status and would be subject to deportation. These programs, however, are relatively small, with an average of approximately 1,600 and 1,400 foreign nationals admitted annually under A-3 and G-5 visas from 2004 to 2013.

⁶⁶ The Bracero Program traditionally refers to the admission of Mexican agricultural contract laborers from 1942 to 1964. Yet the legal basis for this program was essentially the same as those governing the admission of Mexican railroad workers, Canadian woodsmen, and agricultural laborers from the British West Indies.

⁶⁷ From the 1952 passage of the Immigration and Naturalization Act (McCarran-Walter), all operational programs classified as “Bracero-Related Programs” were subsumed under the Act’s H-2 program *with the exception of the Mexican Agricultural labor program*, which was governed under Public Law 78 from this point forward.

⁶⁸ With the exception of the Mexican Agricultural labor program, all guest workers admitted from 1952 onwards were admitted under the authority of the H-2 provisions in the Immigration and Naturalization Act of 1952.

⁶⁹ While the J-1 category was designed to admit temporary migrants for the purposes of cultural exchange and diplomacy, several programs authorized under this category are better understood as admitting guest workers as opposed to exchange visitors. See below for a more thorough discussion.

Because of the abuses of the earlier contract labor program, the Mexican government sought greater protections for its citizens contracted to work in the United States, and the terms of the bilateral agreement provided for such protections. In practice, however, the conditions of the programs initiated in the 1940s were little better than those of the earlier program. For instance, wages withheld until the end of the contract and repatriation were to be held in Mexican banks rather than American banks, but as with the earlier program, many contract laborers never received these wages even once these conditions had been fulfilled. More important for present purposes, contract laborers were tied to a particular employer for their duration of their contract and had little *de facto* recourse against employers who violated the terms of the bilateral agreement. Moreover, the safeguards against employer violations, which included inspections by Mexican and American officials, were seldom used and, as a result, protections for contract laborers were rarely enforced. More specifically, workers admitted under the contract labor programs initiated in the 1940s were granted the right to work for a particular employer for a limited duration of time, but were not permitted to change employers,⁷⁰ access broader social rights, or remain in the United States beyond their contract.

The Immigration and Nationality Act of 1952 (McCarran-Walter) introduced more comprehensive provisions allowing for the admission of temporary workers, including the H-2 program, which was designed for unskilled laborers. Under the Immigration and Reform Act (IRCA) of 1986 (Simpson-Mazzoli Act), the H-2 program was split in two, providing separately for seasonal agricultural workers (H-2A) and seasonal nonagricultural workers (H-2B). The H-2A and H-2B programs continue to the present day. While the *de jure* protections afforded to

⁷⁰ Where the guest worker was contracted by the United States' government, however, the guest worker could be moved from one employer to another *without* the worker's consent.

migrants admitted under modern guest worker programs are significantly more robust than the protections granted to those admitted under earlier contract labor programs, workers admitted under these programs continue to be bound to a single employer and often do not report employer violations for fear of reprisals – such as employment termination – that would render their residence unlawful.

At what point did the United States begin to make use of programs that admitted migrants under the societal membership category identified as temporary residents in earlier chapters? That is, migrants with broader economic rights but lacking most social rights. The Immigration Act of 1924 was the first statute that allowed for the blurring of lines between temporary and permanent admissions. Under this legislation, foreign students were admitted as “temporary *immigrants*” as opposed to nonimmigrants and, as a result, “it has been concluded that the law intended that [foreign students] should be admitted for a longer period of time than that granted to ordinary visitors, and while here be entitled to privileges similar to those enjoyed by aliens admitted for permanent residence.” (Griffin 1945, 224) Moreover, foreign students admitted under the 1924 Immigration Act were permitted to accept employment if they were otherwise unable to support themselves, under the condition that such employment did not interfere with their studies (Griffin 1945, 225). Despite this privileged position vis-à-vis other temporary migrants, foreign students were still required to depart the United States at the conclusion of their studies and, as a result, cannot be thought of as residents.

From this point, the use of temporary resident programs has continued to grow. The 1952 Act included provisions for nine categories of temporary admissions, including foreign government officials (A), temporary visitors (B), transit aliens (C), alien crewmembers (D), treaty investors and traders (E), foreign students (F), representatives of and to international

organizations (G and NATO), temporary workers (H), and representatives of international media (I). Since this time, the classification of temporary migrants has become increasingly complex, as categories have been added to account for increasingly diverse groups of foreign nationals and other categories have been refined and subdivided to account for the variety of foreign nationals that qualify under a given category. Among these numerous contemporary categories of temporary admission, many grant foreign nationals with the rights associated with the temporary resident class of societal membership advanced in this dissertation. Among the most important of these are the ability to change employers, the ability to adjust one's status to permanent residence, and the ability of a foreign national's dependents to obtain employment authorization that is not tied to a specific employer. In 2013, in excess of four million foreign nationals were admitted under programs such as temporary resident programs.

5.1.3 Migrant Admission and Rights in the United States

The legal classification of nonimmigrant identifies those who are permitted to enter the United States for a temporary period of time, yet there exists a great variety of societal membership groups that are admitted as nonimmigrants. With in excess of seventy-five specific categories of nonimmigrant admission, the United State's Citizenship and Immigration Services identifies eight themes among these classifications: temporary visitors; temporary employees; treaty traders, investors, and professionals; students; foreign government, organization, or media representatives; aliens in transit and crewmembers; family of United State's citizen and permanent residents; and witnesses, informants, and victims (U.S. Citizenship and Immigration Services 2006, 3). Only the right to enter the United States is common to all seventy-five-plus

categories, and those admitted under nonimmigrant programs may fit within the societal membership categories of visitor, guest worker, or temporary residents conditional on their legal class of admission. In fact, with some classes of admission, societal membership even varies by program of admission.

While I detailed a general outline of the salient societal membership groups Chapter 2, the reality of any individual country case is almost invariably more complex. In order to identify which classes of admission fit within each of the ideal types of societal membership, it is necessary to consider what specific rights are consistent with the general classes of entry, work, economic, social, and political rights. In some cases, such as entry and political rights, this is as straightforward as identifying whether a migrant is *legally* permitted to enter the United States or vote in national elections, respectively. Yet the boundaries of each of the other groups are significantly more nuanced and even at times blurred. In the remainder of this section, I will classify contemporary classes of admission by societal membership group, indicating the various specific rights that provide migrants with the broader bundles of rights highlighted above. Table 9 summarizes the societal membership classification of modern classes of migrant admission in the United States.

Table 9. Migrant Rights, Societal Membership, and Legal Class of Admission

Rights Granted		Classification	Class of Admission
Entry Rights ↓ Yes	→ No	<i>Enemies</i>	Excluded
Work Rights ↓ Yes	→ No	<i>Visitors</i>	Visa Waiver Program B-1, B-2 C D F-3 H-3 ⁷¹ I J-1 (secondary school students) M-3
Economic Rights , includes: <i>Change of Employer; or Dependent May Work; or Adjustment of Status</i> ↓ Yes	→ No	<i>Guest Workers</i>	A-3 G-5 H-1B1 H-2A, H-2B J-1 (<i>au pair</i> , camp counselor, and summer work/travel) ⁷² NATO-7 O-2 P-1S, P-2S, P-3S Q-1 ⁷³
Social Rights , includes: <i>Right to reside permanently; and Access to public assistance; and Permitted to naturalize</i> ↓ Yes	→ No	<i>Temporary Residents</i>	A-1, A-2 E-1, E-2, E-3 F-1 ⁷⁴ G-1, G-2, G-3, G-4 H-1B J-1 (most categories ⁷⁵) K-1, K-2, K-3, K-4

⁷¹ Before the INA of 1990, H-3 status would be classified as a guest worker program. However, the INA 1990 clarified that H-3 trainee programs should “not be designed primarily to provide productive employment.” Since this time, H-3 work authorization is highly restricted and may only be “incidental and necessary to training.”

⁷² These J-1 programs do not permit the J-1 beneficiary to bring J-2 dependents with them. J-2 dependents are typically permitted to obtain employment authorization. On the *au pair* program, see Chuang (2013)

⁷³ Often referred to as the “Disney visa.” See Johnson (2011) for a full discussion of the creation and implementation of the Q-1 class of admission.

⁷⁴ Though the right to work is limited in itself.

⁷⁵ Where J-1 dependents (J-2) are permitted to obtain employment authorization

Table 9 (continued).

			L-1A, L-1B M-1 ⁷⁶ NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, NATO-6, NATO-7 N-8, N-9 O-1 P-1, P-2, P-3 ⁷⁷ R-1 S-5, S-6, S-7 T-1, T-2, T-3, T-4 TN ⁷⁸ U-1, U-2, U-3, U-4 V-1, V-2, V-3
Political Rights	→ No	<i>Permanent Residents</i>	Immigrant Visa
↓ Yes <i>Citizen</i>			

⁷⁶ Though the right to work is limited in itself.

⁷⁷ Excluding support staff admitted as P-1S, P-2S, and P-3S.

⁷⁸ TN visas permit professional workers from Mexico and Canada to enter the United States pursuant to the NAFTA agreement. While TN beneficiaries are not granted “portability,” they may apply for a change of employer from within the United States, and the employer may request “premium processing,” which guarantees adjudication within 15 days of submission, requiring the foreign national to wait only a few weeks – if approved – to change employers. Moreover, while TN applications are approved for three years, there is no limit to the overall duration of stay under TN status. (H-1B, L-1A, and L-2B workers, by contrast, are limited to an overall duration of stay of six, seven, and five years, respectively.)

Visitors, the first societal membership group granted the right to enter, are not permitted to work while in the United States. Classes of admission included in the “visitor” group include, among others, tourists admitted under the visa waiver and B-2 programs and transit aliens admitted under C visas. Some categories of students are best understood as visitors, including border commuter students from Canada and Mexico pursuing academic (F-3) and vocational (M-3) degrees and high school students admitted under J-1⁷⁹ cultural exchange programs. At first glance, some classes of admission, including visitors for business (B-1), representatives of foreign media (I), and alien crewmembers (D), are less obviously consistent with the “visitor” classification. These foreign nationals, however, are coming to the United States *for work* rather than *to work*. That is, they continue to be employed by the foreign entity, but must enter the United States temporarily in order to fulfill their responsibilities to that entity. Those admitted under B-1 may, for example, be international scholars attending a conference in the United States or representatives of foreign companies coming to the United States for business meetings.

B-1 also includes the domestic servant or personal employee of nonimmigrants and of United State’s citizens who reside permanently abroad, under the conditions that the employer has employed the employee for a specified period of time prior to admission and the employer is coming to the United States for temporary purposes. To be clear, these individuals are not granted the right to work in the United States. They are permitted to enter the United States for a temporary period of time in order to meet their prior employment obligations. This rule does *not* allow for the domestic servants or personal employees of permanent residents or United States citizens reestablishing residence in the United States to obtain B-1 status, as the intent is

⁷⁹ While the J-1 class of admission is intended for cultural exchange programs, a great variety of activities are subsumed under this class and, as a result, different categories of J-1 admissions provide fundamentally different rights to the beneficiaries.

considered permanent rather than temporary and the United States would then become the primary location of productive activity (U.S. Department of State 2014, 11).

Some classes of temporary admission are consistent with the guest worker societal membership group, as beneficiaries of these programs are admitted to the United States in order to work for a particular employer, but their duration of lawful stay is conditional on their continued employment with that employer and they lack broader economic rights. Seasonal agricultural workers (H-2A) and seasonal or temporary non-agricultural workers (H-2B) are clear examples of guest worker programs. Less obvious, however, are classes of temporary admission covering the personal domestic employees (e.g., nannies and housekeepers) of representatives of foreign governments (A-3), international organizations (G-5), and NATO (NATO-7). Beneficiaries of these programs are admitted to the United States under the condition that they maintain employment with the representative; unlike B-1 domestic servants, however, personal domestic employees need not establish prior employment with the petitioner. While these foreign nationals are protected under some U.S. labor laws, it is hard to imagine a more tenuous position than one's lawful duration of stay being tied to an employer who is not only covered by diplomatic immunity, but also holds a privileged position in one's home country.

A final group of guest workers includes J-1 cultural exchange visitors admitted under the *au pair*, camp counselor, and summer work/travel programs. The J-1 program was created by the 1961 Mutual Educational and Cultural Exchange Act (Fulbright-Hays Act) as a Cold War cultural diplomacy tool and was intended to foster intercultural understanding and strengthen relations between the United States and its allies. While these visas are ostensibly granted for the purposes of cultural learning and interchange, there is significant evidence that these programs are often used as sources of cheap and vulnerable labor (Chuang 2013; Johnson 2011; Maitra

2013), something that is exacerbated by the fact that as a public diplomacy tool, these programs are administered by the Department of State with no Department of Labor or Citizenship and Immigration Services oversight. The most infamous of these programs – the Summer Work/Travel program – was approved in 1963 and permits foreign university students to enter the United States over their summer break in order to travel throughout the United States. Understanding that many university students would be unable to afford such a luxury, the program permits these students to work while in the United States ostensibly to fund their travel. In practice, this program has become a source of vulnerable and exploitable labor, to the tune of approximately 100,000 annual admissions. The program has recently come under scrutiny, after a series of high-profile violations including 400 J-1 workers protesting working conditions at a Hershey factory in 2011, reports of J-1 workers working up to 25-hour shifts at McDonalds in 2013, and even a 2011 federal indictment alleging the use of J-1 programs to staff mafia-operated strip clubs.

This is not the first time that the veracity of J-1 programs as a means of cultural exchange has been questioned. A GAO report published in response to these concerns found that several programs maintained under J-1 constituted “inappropriate uses of education and cultural exchange visas” (Conahan 1990). When the J-1 programs faced public and Congressional scrutiny in the late 1980s, major J-1 employers – most importantly, Disney – were concerned that they would lose a significant source of labor. In response to this concern, Disney lobbied Congress for a new cultural exchange visa, an effort that resulted in the Q visa, which is often referred to as the “Disney visa.” Much like their J-1 counterparts, Q visas are guest worker visas masquerading as cultural exchange programs (Johnson 2011).

The temporary resident societal membership group includes beneficiaries of classes of temporary admission that provide foreign nationals with wider economic rights supplementary to the right to work. The clearest of these economic rights is the right to change employers, which provides the foreign national with some leverage vis-à-vis the employer (e.g., the ability to seek alternative employment without violating the terms of admission). Of the classes of temporary admission reserved for temporary workers, only specialty occupation workers (H-1B) are granted “portability,” a provision that allows H-1B employees to begin working for a new employer as soon as that new employer files a non-trivial change of employer petition. Some classes of temporary admission unrelated to the beneficiary’s vocation – including certain immediate family members of United State’s citizens (K status) and permanent residents (V status), witnesses and informants (S status), and victims of human trafficking (T status) or certain crimes (U status) – permit the beneficiary to accept and change employment throughout their lawful duration of stay. Alternatively, those admitted under a temporary class of admission may have access to wider economic rights through their right to apply for an adjustment of status⁸⁰ to permanent residence (for example, H-1B, L-1A, L-1B, and O-1) or through their dependents’ right to obtain employment authorization, which permits the dependent to accept and change employment throughout their lawful duration of stay (for example, A-1, A-2, G-1, G-2, G-3, G-4, and most J-1 programs). Each of these rights permits migrants to affect the broader labor market either directly, where the right is bestowed upon the principal alien, or indirectly, where the economic rights are granted to dependents with derivative immigration status.

⁸⁰ Adjustment of status is a process by which foreign nationals initially admitted on a nonimmigrant visa may apply for an immigrant visa while within the United States as opposed to leaving the country and applying from abroad.

Those admitted to the United States under immigrant visas are members of the permanent resident societal membership group. Immigrants are admitted to the United States for permanent residence with access to some social programs and have the right to apply for naturalization after five years of residence. Prior to 1996, immigrants and citizens had virtually equal access to social programs. With the passage of the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), however, immigrants became ineligible to access federal means-tested benefits⁸¹ – including SSI, SNAP, TANF, “full-scope” Medicaid, and CHIP – for five years after admission as an immigrant (National Immigration Law Center 2002). Despite these restrictions, immigrants continue to be granted access to many state and federal social programs, including HUD public housing, Section Eight programs, Title XX Block Grants, and Social Security (National Immigration Law Center 2002). Moreover, immigrants are eligible to apply for naturalization after five years of residence, and recourse to public services – including becoming a “public charge”⁸² – does not affect one’s naturalization application.

As should be clear from the preceding discussion, the United States has developed an exceptionally complex system of migrant admission over the course of 140 years. Over this period, the classes of admission, the rights associated with these classes, and the restrictiveness these classes have changed dramatically. Under what conditions do we observe changes in these various programs? Are some political coalitions more likely to liberalize guest worker admissions and others more likely to liberalize permanent resident admissions? Alternatively,

⁸¹ With the notable exception of those admitted under humanitarian immigrant categories. Humanitarian migrants have access to significantly more expansive benefits as a result of their uniquely vulnerable position.

⁸² The “public charge” doctrine, which has been a feature of United State’s immigration law since 1882, renders inadmissible those who are likely to become dependent on the government for subsistence.

when should we expect to observe admission liberalization for each of these types of programs? I turn to these questions in the next section of this chapter.

5.2 IMMIGRATION REGIMES IN THE UNITED STATES

The decision to amend immigration policy regimes is necessarily a complex process, which cannot be reduced to a single explanation. Tichenor (2002), for instance, demonstrates that shifting political alliances, changing institutional structures, variations in professional expertise, and the pressures of international crises have shaped immigration policy reform in the United States.

Even when the societal context and macroeconomic conditions favor the liberalization of particular immigration programs, liberalization requires political coalitions that support such reform. In the United States, where party discipline is comparatively low, we must consider the ideological composition of the important actors in the policy-making process: Congress and the President. In the United State's system of multiple veto points, successful reform in any policy area is a relatively rare event.⁸³ The low passage rate of bills that receive congressional attention is hardly surprising given the United State's legislative process. Legislative proposals must pass through each chamber of Congress (and their distinct committee systems⁸⁴) separately. If the proposal successfully passes through each chamber, any differences between the two passed bills must be reconciled and the resultant bill passed by a majority in each chamber. Once the

⁸³ Since 1973, for instance, only 4.08% of all incipient legislation has become law.

⁸⁴ In order to reach the floor, a bill must first pass through the pertinent committee, giving committee chairs significant gatekeeping power over which legislation will be considered.

reconciled bill has passed through Congress, the President must choose to sign or veto the bill. If the President signs the bill, it becomes law. Alternatively, if the President vetoes the bill, Congress must decide whether to challenge the veto. In order to successfully override a presidential veto, the challenge must garner the support of two-thirds of the members of each chamber of Congress. The pertinent actors are strategic as, for example, the President is unlikely to veto a bill that he believes Congress can override with ease. This caricature of the American legislative process demonstrates that in order to understand immigration regime liberalization we must consider the preferences and policy-making role of two significant actors: Congress and the President.

Knowing the preferences of these important actors, it is possible to predict which – if any – types of immigration programs are likely to be liberalized at a given point in time. If we consider only policy positions on the predominant left-right ideological spectrum, we should expect permanent resident programs to be liberalized when the left controls these important positions and guest worker and temporary resident program liberalization when the right is in power. As observed in the previous chapter, increasingly rightist members of Congress are decreasingly likely to vote in favor of permanent resident program liberalization and increasingly likely to vote in favor of temporary resident and guest worker liberalization, results that I argue reflect the market, fiscal, and cultural interests of representatives and their constituents.

Extending this argument to the outcome level, we must consider the ideological composition of Congress. While the ideological position of an individual member of Congress has a probabilistic effect on his or her propensity to support permanent resident policy liberalization, such liberalization attempts will only be successful if the majority of members of Congress share that interest in permanent resident policy liberalization. By looking at the

ideological position of the median member of Congress, we can observe whether the Congressional majority is left or right, progressive or traditional. Consistent with the preferences observed in the previous chapter, as the median Congressional ideological position moves to the right, the likelihood of permanent resident regime liberalization will decrease, while the likelihood of temporary resident and guest worker program liberalization will increase.

H_{5.1}: As Congress becomes increasingly conservative on the left-right ideological dimension, the likelihood of guest worker and temporary resident regime liberalization will increase, all else held equal.

H_{5.2}: As Congress becomes increasingly conservative on the left-right ideological dimension, the likelihood of permanent resident regime liberalization will decrease, all else held equal.

Similarly, positions along the secondary cultural ideological dimension should have a distinctive effect on the likelihood of program liberalization. The previous chapter demonstrated that increasingly culturally conservative members of Congress are decreasingly likely to vote in favor of resident program liberalization. The same trend should exist at the policy outcome level: as the median Congressional ideological position becomes more culturally conservative, the likelihood of observing permanent resident regime liberalization will decrease. The results of the elite-level analysis were less clear about the effect of second-dimension cultural interests on preferences over temporary resident admissions; where cultural ideology had a significant effect on these outcomes, that effect was invariably negative. Because temporary resident and guest worker programs do not grant social rights to migrants, second-dimension cultural ideological position should have no independent bearing on the likelihood of observing temporary resident and guest worker regime liberalization.

H_{5.3}: *Variations in Congressional second-dimensional cultural ideology will have no independent effect on the likelihood of guest worker and temporary resident regime liberalization, all else held equal.*

H_{5.4}: *As Congress becomes increasingly culturally conservative along the secondary ideological dimension, the likelihood of permanent resident regime liberalization will decrease, all else held equal.*

Aggregate positions on the left-right and secondary ideological dimensions do not exist independently of each other, suggesting that there are four ideal types of Congressional ideological position – left progressive, left traditional, right progressive, and right traditional – each of which should have a distinctive set of preferences over immigration policy outcomes. Second-dimension positions are expected to condition the intensity of first-dimension preferences across these three types of immigration policies. Consider first the most intuitive case – programs governing permanent resident admissions. I have argued that the left will be more favorable towards permanent resident program liberalization than the right and that progressives will be more favorable towards permanent resident program liberalization than traditionals. Combining these expectations, a left-progressive Congress should present the most favorable political conditions for permanent resident program liberalization, while a right-traditional Congress should be the least favorable. Put another way, while leftists should generally support permanent resident program liberalization, left progressives will be more supportive than left traditionals. Similarly, while rightists should generally oppose permanent resident regime liberalization, opposition should be stronger amongst right traditionals than right progressives. Simply put, increasing cultural conservatism will amplify the effects increasingly rightist positions.

For temporary resident and guest worker programs, by contrast, increasing cultural conservatism should attenuate the effect of increasing conservative left-right positions. While the right is generally expected to be more favorable towards these programs than the left, right progressives will be even more likely to liberalize these programs than left traditionalists. Similarly, among the left, culturally traditional Congresses will be even less likely to support temporary resident and guest worker programs than their left-progressive counterparts.

Finally, Presidential partisanship is likely to affect the decision to liberalize immigration regimes, in a manner that is consistent with partisan interests. As a result, permanent resident liberalization will be more likely under a Democratic President, while temporary resident and guest worker program liberalization will be more likely when the President is a Republican.

H_{5.5}: A Democratic President will decrease the likelihood of guest worker and temporary resident regime liberalization, all else held equal.

H_{5.6}: A Democratic President will increase the likelihood of permanent resident regime liberalization, all else held equal.

5.3 IMMIGRATION REFORM IN THE UNITED STATES

Are the above expectations consistent with the practice of American immigration policy liberalization? If so, right-leaning Congresses serving alongside Republican Presidents should produce bills that liberalize guest worker and/or temporary resident programs, restrict permanent resident programs, or both. The 1921 and 1924 Acts were both produced by right-leaning Congresses and signed by Republican Presidents Warren Harding and Calvin Coolidge,

respectively. The 1921 Emergency Quota Act restricted permanent resident programs by initiating the first quantitative restrictions on permanent resident admission and left in tact the 1917 Proviso permitting executive authorization of guest worker programs. The 1924 Act made permanent the quantitative limitations introduced by the 1921 Act, introduced temporary resident programs, and again left the 1917 Ninth Proviso unscathed. The 1952 Walter-McCarran Act went a step further by continuing to restrict permanent resident admission while simultaneously liberalizing temporary resident and guest worker admissions. A right-leaning Congress passed this Act over Democratic President Harry Truman's veto.

Left-leaning Congresses serving alongside Democratic Presidents, by contrast, should produce bills that restrict guest worker and/or temporary resident programs, liberalize permanent resident programs, or both. The 1965 Act liberalized permanent resident programs while leaving temporary resident and guest worker programs untouched. This Act was passed by a left-leaning Congress and signed by Democratic President Lyndon Johnson. Finally, the 1986 and 1990 Acts both liberalized permanent resident, temporary resident, and guest worker programs and were the products of left-leaning Congresses and Republican Presidents Ronald Reagan and George H. W. Bush, respectively. Permanent resident programs were the primary focus in each of these acts, while the temporary resident and guest worker provisions were of secondary importance. In fact, the 1990 Act restricted guest worker and temporary resident programs by capping H-1B and H-2B programs for the first time, but simultaneously liberalized these programs by creating new temporary resident⁸⁵ and guest worker⁸⁶ programs. This brief examination of the major

⁸⁵ The 1990 Act created the O-1, P-1, P-2, P-3, and R-1 categories of temporary resident admission.

⁸⁶ The 1990 Act created the O-2, P-1S, P-2S, P-3S, and Q-1 categories of guest worker admission.

immigration bills from the 20th century certainly suggests that the observed pattern of immigration regime liberalization is consistent with the expectations outlined above.

5.3.1 Analysis of Immigration Regime Liberalization

In this section, I present quantitative analysis of the determinants of successful immigration regime liberalization in the United States. For each type of immigration program – permanent resident, temporary resident, and guest worker – I have coded a dependent variable that takes the value of one in each year in which the regime was liberalized and zero in each year in which the regime was either unchanged or restricted. For each series, coding begins in the first year in which all three types of immigration policy existed, 1924. Following Carter and Signorino (2010), I estimate discrete time hazard models with cubic polynomials in order to control for the time dependence between liberalizing events

In order to test the effect of Congressional ideological composition on regime liberalization, I use the first and second dimension DW-NOMINATE scores for the median member of Congress. Based on my theory, I expect effect of the first dimension of DW-NOMINATE to be negative and significant for permanent resident programs and positive and significant for temporary resident and guest worker programs. In addition, I expect the second dimension of DW-NOMINATE to be negative and significant for permanent resident programs and to have no significant effect on temporary resident and guest worker regime liberalization. In order to account for the unique preferences of each of the four ideological ideal type Congresses – left-progressive, left-traditional, right-progressive, and right-traditional – I include an

interaction of the first and second dimension scores. Finally, I include a dummy variable that takes the value of one if the President is a Democrat and zero if the President is a Republican.

Because immigration reform often comes as a package, with two or more policy types being amended at the same time, I include in each model a dummy variable for each of the other immigration regimes that takes the value of one if that regime was liberalized in that year and zero if it was not. For example, the models for permanent resident program liberalization include independent variables identifying whether temporary resident and/or guest worker programs were liberalized in that same year.

In addition to the base models, which include all of the variables listed above, I include a series of models with additional controls that account for factors thought to affect immigration policy outcomes, including the unemployment rate (Federal Reserve Bank of St. Louis 2015) and foreign born as a percent of population (U.S. Bureau of the Census various years-c), for which I have used linear interpolation to fill in missing data points. In addition, I control for major geopolitical events, including wars and the September 11th terrorist attacks on the United States. *Post-September 11* is a binary variable that takes the value of 1 in 2001 and in each year following. This variable accounts for the restrictive shift in immigration preferences that followed this event (Branton et al. 2011). Consistent with this account, there has been no permanent resident program liberalization in the post-September 11 period, which is theoretically and empirically important, but methodologically challenging, as this causes quasi-complete separation in the data. In order to overcome this problem, the results for resident regime liberalization presented below exclude both the post-September 11 variable and the affected observations (all years from 2001 onwards). While the exclusion of 13.5% of cases from an already small sample is not ideal, it is preferable to the alternatives of simply excluding the post-September 11 variable, which

would induce omitted variable bias, or forcing the model to run with all observation and all variables, which is likely to result in a type-2 error. It is important to note, however, that the results of these three model specifications are virtually identical, except for in the estimated effect of Presidential partisanship, more about which below.

The war variables are binary variables that take the value of 1 in years in which the United States was engaged in a military conflict for which the draft was used. For the sample under study, these conflicts include World War II, the Korean War, and the Vietnam War. These conflicts are particularly important for guest worker programs, as these programs are frequently justified on the basis of domestic labor shortages resulting from wartime conscription and, as a result, are expected to have a positive effect on guest worker regime liberalization. In addition, wars may affect permanent resident regime liberalization, though the direction of that effect is less clear. Where armed conflict decreases the demand for admission, Congress may choose to relax admissions controls. Alternatively, the influx of foreign nationals who do not meet the definition of refugees may result in decisions to restrict regimes. As with the *post-September 11* variable, the inclusion of the *WWII* and *Korean War* variables cause quasi-complete separation in the temporary resident and permanent resident models, respectively. I resolved this issue following the strategy specified, above. The results of these tests and corresponding average marginal effects are presented in Tables 10 and 11, below.

Table 10. Determinants of Immigration Regime Liberalization

Model	10.1	10.2	10.3	10.4	10.5	10.6
Regime	Permanent Resident	Temporary Resident	Guest Worker	Permanent Resident	Temporary Resident	Guest Worker
<i>DW-NOMINATE 1</i>	-0.140* (0.065)	0.025* (0.011)	0.028† (0.015)	-0.344*** (0.073)	0.058* (0.027)	0.120** (0.040)
<i>DW-NOMINATE 2</i>	-0.206† (0.108)	-0.034 (0.026)	-0.020 (0.025)	-0.465** (0.181)	-0.135** (0.051)	-0.121† (0.0621)
<i>DW-NOMINATE 1*</i>	-0.013† (0.007)	0.002 (0.001)	0.001 (0.001)	-0.036*** (0.010)	0.007† (0.004)	0.009* (0.004)
<i>DW-NOMINATE 2</i>	1.266** (0.401)	0.258 (0.402)	0.258 (0.404)	1.823* (0.875)	0.547 (0.697)	1.184* (0.465)
<i>Democratic President</i>		1.078* (0.482)	0.306 (0.496)		2.452*** (0.634)	1.375† (0.798)
<i>Permanent Resident Liberalization</i>			0.406 (0.423)	0.848 (0.940)		0.230 (0.393)
<i>Temporary Resident Liberalization</i>	1.810*** (0.533)					
<i>Guest Worker Liberalization</i>	0.665 (0.633)	0.657 (0.447)		1.570† (0.847)	2.119* (0.837)	
<i>Unemployment Rate</i>				-1.289*** (0.364)	-0.245* (0.120)	-0.137 (0.103)
<i>Percent Foreign Born</i>				0.292 (0.488)	0.220 (0.181)	-1.023*** (0.270)
<i>WWII</i>				-45.50** (16.48)		1.731 (1.086)
<i>Korean War</i>					1.545 (1.054)	0.695 (0.707)
<i>Vietnam War</i>				0.134 (1.525)	2.397† (1.284)	-0.996 (0.850)
<i>Post-September 11</i>					0.310 (0.871)	4.079** (1.329)
<i>t</i>	0.989 (2.245)	3.289 (3.131)	-5.112* (2.583)	34.05** (11.91)	-7.934 (5.813)	-1.817 (2.736)
<i>t²</i>	-0.849 (2.435)	-2.773 (4.141)	3.155 (2.440)	-41.94** (15.10)	16.36* (7.731)	0.826 (2.599)
<i>t³</i>	0.502 (0.654)	0.680 (1.420)	-0.468 (0.616)	13.64** (4.973)	-5.378* (2.423)	0.0549 (0.663)
Constant	-3.713** (1.393)	-2.389*** (0.688)	0.123 (0.462)	-8.193** (2.872)	-3.863* (1.786)	6.557*** (1.701)
n	89	89	89	73	83	89
Pseudo R ²	0.433	0.197	0.263	0.785	0.499	0.475
Modal Category	88.764%	84.27%	82.022%	86.301%	83.133%	82.022%
Correctly Predicted	93.258%	86.517%	84.27%	95.89%	92.771%	91.011%

Table 10 (continued).

Reduction in Error	39.996%	14.285%	12.504%	69.998%	57.141%	50%
Joint Significance (X^2)						
<i>DW-NOMINATE 1</i>	5.57†	6.06*	3.25	24.13***	4.74†	8.85*
<i>DW-NOMINATE 2</i>	3.71	2.90	0.73	15.01***	7.21*	6.50*
<i>DW-NOMINATE 1+</i> <i>DW-NOMINATE 2</i>	5.62	6.35†	3.36	24.31***	8.88*	9.39*
<i>Time Count</i>	10.46*	2.09	9.83*	8.64*	34.69***	2.87
<i>Geopolitical Events</i>				13.04**	4.83	11.11*

Table reports probit coefficients with robust standard errors in parentheses below.

† p<0.1, *p<0.05, **p<0.01, ***p<0.001 (two-tailed values)

Table 11. Average Marginal Effects of Congressional Ideology and Presidential Partisanship on Immigration Regime Liberalization

Model	11.1	11.2	11.3	11.4	11.5	11.6
Regime	Permanent Resident	Temporary Resident	Guest Worker	Permanent Resident	Temporary Resident	Guest Worker
<i>DW-NOMINATE 1</i>	-0.010** (0.004)	0.004† (0.002)	0.005† (0.003)	-0.007** (0.003)	0.006† (0.004)	0.012*** (0.004)
<i>DW-NOMINATE 2</i>	-0.017* (0.008)	-0.006 (0.005)	-0.004 (0.005)	-0.019** (0.007)	-0.013*** (0.004)	-0.019* (0.008)
<i>Democratic President</i>	0.128** (0.041)	0.050 (0.078)	0.051 (0.080)	0.087† (0.045)	0.068 (0.083)	0.172* (0.071)
<i>Permanent Resident Liberalization</i>		0.294† (0.158)	0.065 (0.110)		0.441*** (0.106)	0.236† (0.142)
<i>Temporary Resident Liberalization</i>	0.314*** (0.081)		0.089 (0.100)	0.050 (0.063)		0.034 (0.061)
<i>Guest Worker Liberalization</i>	0.089 (0.086)	0.151 (0.118)		0.099 (0.064)	0.351** (0.117)	
<i>Time Count</i>	-0.002 (0.107)	0.249 (0.158)	-0.460* (0.197)	0.830* (0.340)	0.301 (0.238)	-0.062 (0.156)

Table reports marginal effects with standard errors in parentheses below.

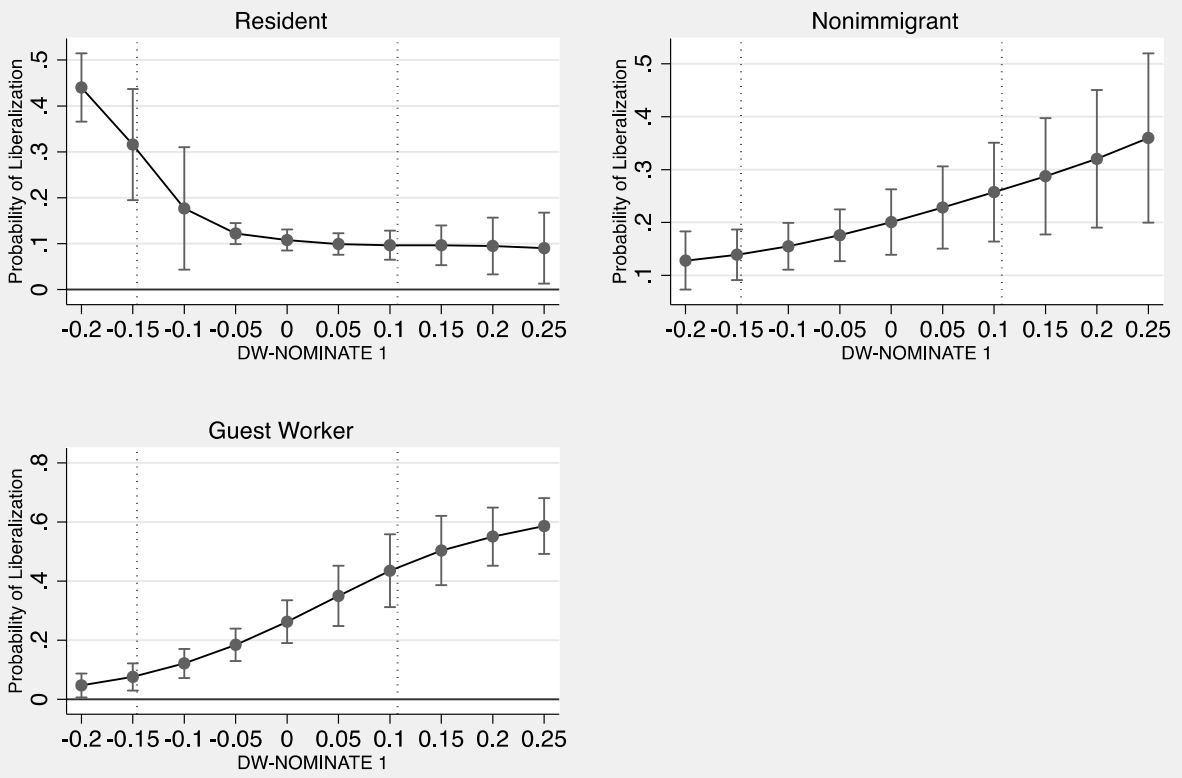
† p<0.1, *p<0.05, **p<0.01, ***p<0.001 (two-tailed values)

Consistent with the expectations outlined above, the results of these tests demonstrate that increasingly conservative Congresses along the primary left-right ideological dimension decrease the likelihood of permanent resident regime liberalization but increase the likelihood of temporary resident and guest worker regime liberalization, and that these results remain or become stronger with the inclusion of standard control variables. Throughout this discussion, I will focus on two important types of Congresses: leftist Congresses, defined as those in which the median member is in the 25th percentile of median members in the sample (DW-NOMINATE 1 score of -0.146), and rightist Congresses, defined as those in which the median member is in the 75th percentile of median members in the sample (DW-NOMINATE 1 score of 0.1075).

In each case, the effect of the ideological position of the median member of Congress is not only statistically significant, but also substantively important. The average probability of liberalizing permanent resident programs when Congress is leftist is significantly higher (an increase of 0.128) than the average probability of liberalization under a rightist Congress, but is lower for temporary resident (by 0.099) and guest worker programs (by 0.128), respectively. These results remain in the full controls models, for which the same change in the ideological position of the median member of Congress decreases the average probability of permanent resident regime liberalization by 0.208 and increases the average probability of temporary resident and guest worker regime liberalization by 0.122 and 0.368, respectively. Put another way, the results of these empirical tests provide strong evidence in support of the argument that rightist Congresses are less likely liberalize immigration regimes that grant foreign nationals social rights than are leftist Congresses. Rightist Congresses are, however, more likely to liberalize immigration regimes that limit foreign nationals' access to social rights than are leftist

Congresses. The average probability of observing liberalization in each of these regimes across the ideological position of the median member of Congress is presented graphically in Figure 3.

Additionally, we can examine how different types of Congresses rank these three different policy alternatives. Under a leftist Congress, there is a 0.304 average probability of observing permanent resident regime liberalization, a 0.14 average probability of observing temporary resident regime liberalization, and 0.079 average probability of observing guest worker regime liberalization. For rightist Congresses, by contrast, these average probabilities are 0.097, 0.262, and 0.447, respectively. These results are again consistent with the argument in the previous chapter, in which I posited that the right would prefer immigration policies that increased the labor pool while providing employers with greater freedoms and powers in personnel management, that are unlikely to expand public expenditure, and that limit migrant cultural impact, while the left would prefer immigration policies that provide sufficient rights to remove cost-saving benefits of hiring foreign labor over domestic labor and that increases societal diversity.

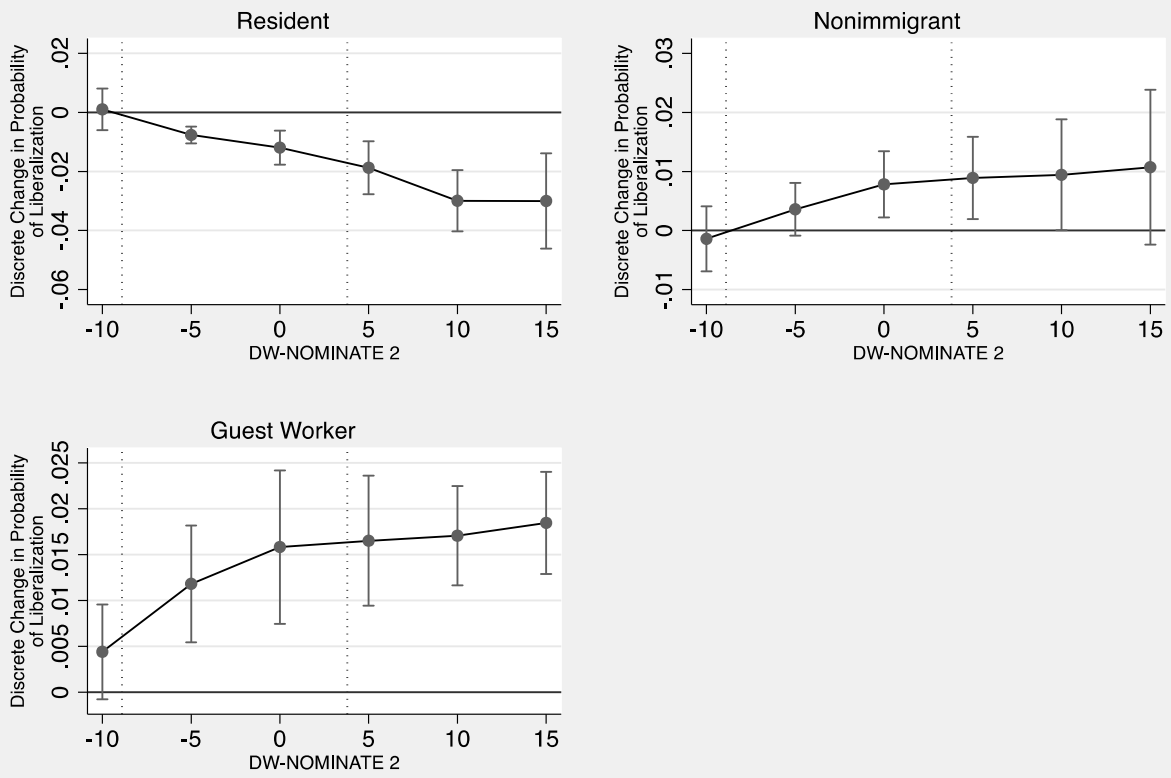


Note: 90% Confidence Intervals
Faint vertical lines indicate 25th and 75th percentile

Figure 3. Average Probability of Regime Liberalization across DW-NOMINATE 1

As expected, the results of these models also indicate that increasingly conservative Congresses along the secondary ideological dimension decrease the likelihood of permanent resident program liberalization and has no significant effect on the initial temporary resident and guest worker models. However, the second ideological dimension is found to have a negative and significant effect on the temporary resident and guest worker models with the addition of controls, suggesting that the secondary ideological dimension indeed affects the likelihood of regime liberalization across regime type.

I argued above that cultural interests should condition the effect of left-right ideological position. Plotting the average marginal effect of an increase in left-right ideological position at various levels of the second ideological dimension, as is done in Figure 4, indicates that there is indeed a conditional relationship between these variables. The negative effect of increasingly conservative socio-economic positions on permanent resident policy liberalization is magnified by increasingly conservative cultural positions, while increasingly traditional cultural interests dampen the positive effect of increasingly conservative left-right positions on temporary resident and guest worker program liberalization.



Note: 90% Confidence Intervals
Faint vertical lines indicate 25th and 75th percentile

Figure 4. Average Marginal Effects of DW-NOMINATE 1 across DW-NOMINATE 2

Perhaps more intuitive, consider how the probability of liberalization changes across the observed left-right position of the median member of Congress. We saw in Figure 3 that increasingly rightist Congresses are less likely than leftist Congresses to liberalize permanent resident programs but more likely to liberalize temporary resident and guest worker programs. An observable implication of a conditional relationship between the two dimensions of the ideological space would be distinctive probabilities of liberalization for Congresses at different points on the second ideological dimension but at the same point on the first dimension. This is exactly what we observe in Figure 5. While the probability of permanent resident regime liberalization decreases as Congress becomes more conservative for both progressive and traditional Congresses, the rate of that decline is significantly faster for traditional Congresses than for progressive Congresses. In fact, the probability of permanent resident program liberalization is 0.124 higher for right-progressive Congresses than for right-traditional Congresses. This difference increases to 0.205 in the full model.

While the average probability of temporary resident and guest worker regime liberalization increases as Congress becomes more conservative, the rate of that increase is faster for traditional Congresses than for progressive Congresses. This result is driven by the difference between left-progressive and left-traditional Congresses, as the average probability of temporary resident and guest worker liberalization is 0.300 higher in the former than in the latter.

Across all three regime types and with rare exception, there is no significant difference between the average probability of liberalization between left-progressive Congresses and right-

progressive Congresses.⁸⁷ By contrast, significant differences exist without exception between left-traditional Congresses and right-traditional Congresses such that the former are significantly more (less) likely than the latter to liberalize permanent resident (temporary resident and guest worker) programs.

⁸⁷ The exceptions being the base model for permanent resident programs, in which left-progressive Congresses have a 0.086 higher average probability of liberalization than right-progressive Congresses, and the full model for guest workers, in which left-progressive Congresses have a 0.151 lower average probability of liberalization than right-progressive Congresses.

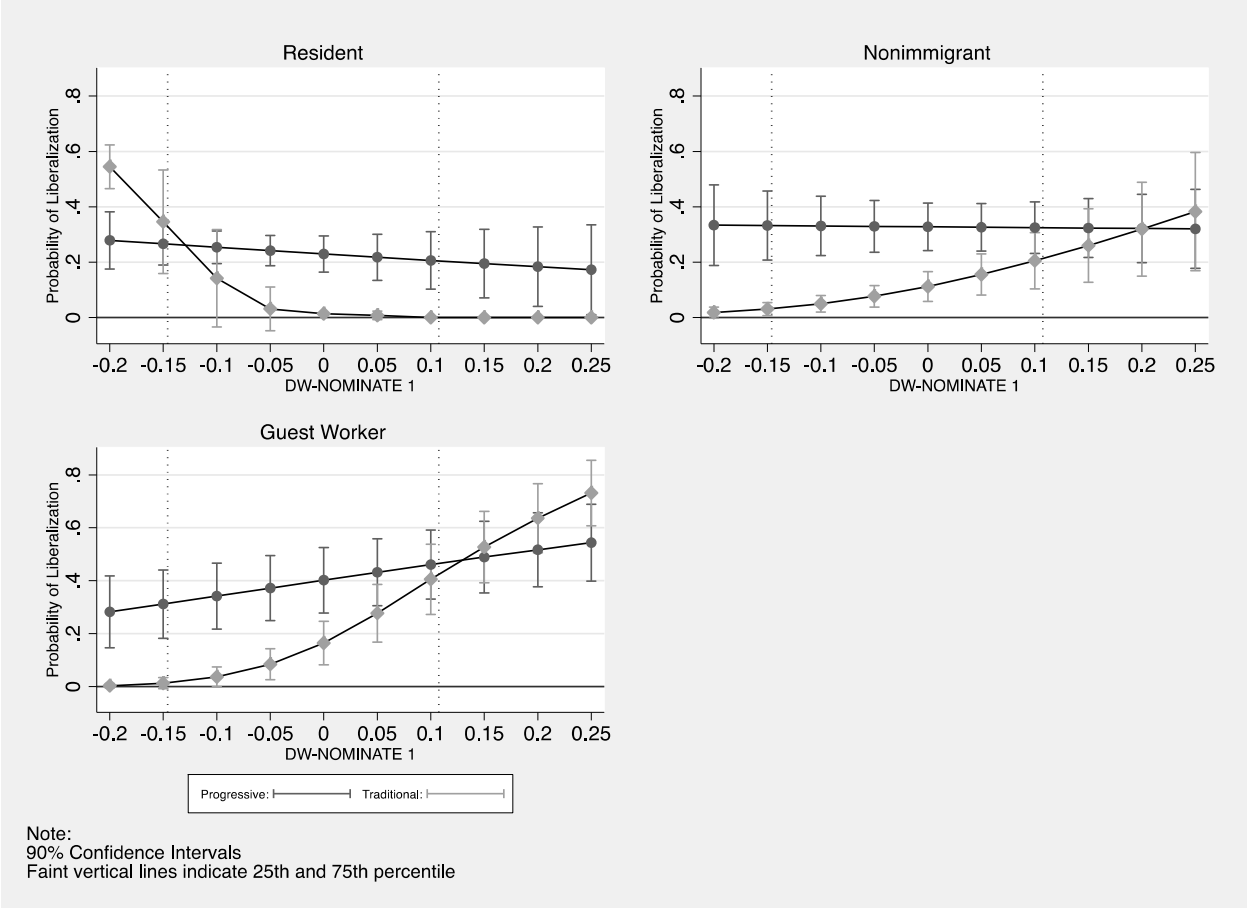


Figure 5. Average Probability of Liberalization for Progressives and Traditionals across DW-NOMINATE 1

The foregoing analysis suggest that the left is unified in its support for permanent resident programs, while the right is divided over these same programs and that the right is unified in its support of temporary resident and guest worker programs, while the left is divided over these same programs. These results are suggestive of the Congressional coalitions that are likely to produce various immigration reform packages. When considering permanent resident program liberalization, the left may be able find support from right progressives, but not from right traditionals, particularly if the left is willing to provide some concessions by permitting some temporary resident or guest worker program on to the reform package. Similarly, the right may be able to gain support for temporary resident and even guest worker programs from left progressive, but not from left traditionals. The left should be more likely to acquiesce on temporary resident programs than on guest worker programs because of the increase in economic rights that comes with temporary resident admissions.

Finally, the results demonstrate that Democratic Presidents are significantly and positively associated with permanent resident program liberalization across model specifications. On average, the probability of observing permanent resident regime liberalization is 0.128 higher⁸⁸ under a Democratic President than under a Republican President. They are *not*, however, negatively associated with temporary resident and guest worker program liberalization and, in the most conservative test, contrary to expectations, are *positively* associated with guest worker program liberalization. While this result is somewhat surprising, it has been robust across numerous model specifications, and suggests that the role of the president is more complex than originally anticipated. Certainly, the passage of guest worker programs over a presidential veto –

⁸⁸ 0.09 in the model with full controls.

as happened with the 1952 McCarran-Walter Act – plays a role in these results. However, that single observation does not explain this finding.⁸⁹ There are at least two plausible explanations for this result. First, like Congressional ideological position, Presidential ideological position is more complex than can be accounted for by simply considering partisanship. While preliminary tests of two-dimensional Presidential ideological position suggest that this does not account for the difference, I plan to explore this relationship more thoroughly as I refine this chapter.

An alternative, and I believe more plausible, explanation lies in the nature of guest worker programs. The costs and benefits of guest worker programs are rather concentrated, and are therefore often understood as generating interest-based politics (Freeman 2006). This may lead Democratic presidents to acquiesce on guest worker programs that favor narrow interest groups, irrespective of whether this is consistent with their general immigration preferences. This is something that I also plan to explore further.

Immigration reform frequently addresses multiple programs simultaneously, a phenomenon that is reinforced by the results presented above. The presence of temporary resident liberalization is positively and significantly associated with the probability of observing permanent resident liberalization and, unsurprisingly, vice-versa. The same, however, cannot be said for guest worker programs, which is, again, likely the result of the concentrated benefits and costs associated with these programs.

⁸⁹ Indeed, this result holds when 1952 is removed from the sample.

5.4 DISCUSSION

Throughout this chapter I have considered the ways in which migrant rights have shaped admission liberalization in the United States. While migrants admitted with an expansive bundle of rights – including work, economic, and social rights – have market, fiscal, and societal effects that are beneficial to the left and costly to the right, the opposite is true of migrants admitted with only with the right to work. The previous chapter demonstrated that, in the United States, partisan preferences over immigration policy liberalization vary as a function of migrant rights, with Democrats supporting the liberalization of programs that benefit workers and promote cultural pluralism, and Republicans supporting the liberalization of programs that benefit employers, limit fiscal expenditure, and promote the cultural status quo. In order to understand policy outcomes, however, we must understand how these interests aggregate in a given political context.

In this chapter, I focused on the role of Congressional and Presidential partisanship not only because of the representational functions of these institutions, but also because of the important role that these actors play in the policymaking process. Consistent with the findings of the previous chapter, I found that right-leaning Congresses are more likely to liberalize temporary resident and guest worker programs, which provide market, fiscal, and cultural benefits to their constituents, than permanent resident programs, which are costly to these same constituents. The opposite appears to be true of left-leaning Congresses. The results were less consistent for Presidential partisanship, as Democratic Presidents are associated with both permanent resident and guest worker program liberalization. While the role of the President requires more investigation, the results regarding the effects of Congressional partisanship

indicate that migrant rights indeed play a significant role in the immigration policymaking process. In fact, Congresses of similar ideological composition produce vastly different immigration regimes, conditional on the bundle of rights granted to migrants. In the following two chapters, I repeat this analysis across Western Europe in order to understand if rights have a similarly significant impact on immigration policies outside of the United States.

6.0 IMMIGRATION POLICY CLEAVAGES IN EUROPE

In contrast to the United States, European states are not historically migrant-receiving states. While the United States has been a net-recipient of migrants throughout its history, European states have only become net-recipients after having completed their political, economic, and national development (Freeman 1995). Indeed, most of these states did not become net-recipients of migrants until after World War II. For many of these states, the transition from net-sending to net-receiving state has been a significant challenge, forcing belated national dialogue about who belongs, the rights and obligations of newcomers, and state capacity for admission.

Yet the European states are hardly a uniform group with respect to immigration experience and approach to newcomers. Freeman (1995), for example, distinguishes between the northern and western European states that experienced a surge in migration immediately following World War II – including Belgium, France, Germany, the Netherlands, Sweden, Switzerland, and the United Kingdom – and the southern European “new countries of immigration” – including Italy, Greece, Portugal, and Spain – that only became net-recipients in the 1970s and 1980s.⁹⁰ Yet other states, particularly the central and eastern European states that have joined the European Union over the past decade, have either only very recently become net-recipients of migrants or continue to be net-sending states.

⁹⁰ Freeman also includes a discussion of traditional countries of immigration, comprised of the Anglo settler states (Australia, Canada, New Zealand, and the United States).

Other scholars highlight distinctions within these groups of states. Joppke (1999), for instance, distinguishes between Germany and the United Kingdom. In contrast to the United States, both of these countries have disavowed their position as countries of immigration, but, he argues, their disparate understandings of who belongs – based on an ethnic understanding of national membership in the former and shared civil commitments in the latter – have resulted in divergent approaches to migrant admission and integration.

In the United States we saw that elite preferences over immigration varied as a function of migrant rights. Do these same variations exist across Europe? What about between different European states? In this chapter, I examine the political cleavages that serve as fault lines for the immigration debate across Europe, focusing in particular on how group preferences vary as a function of migrant impact and rights. Comparison between the United States and the European Union member states is one of particular importance for present purposes. Since the interwar period, American policymakers have had the ability to liberalize or restrict the admission of migrants with various bundles of rights, each of which grants the beneficiary different levels membership in the American community. Throughout the process of European integration, however, the European Union member states have become increasingly constrained in their ability to affect both rights and admissions. Before considering the role of migrant rights in shaping the politics of immigration in the European Union member states, I begin with a brief discussion of how European integration has limited member state capacity to affect migrant rights and levels of admission.

6.1 RIGHTS, ADMISSION, AND EUROPEAN INTEGRATION

Throughout the European Union there are different regimes governing the rights of intra-EU migrants and of third-country nationals (TCNs), including importantly the right to enter and reside. Since the founding of the European Economic Communities (EEC), member states of the European Union and its predecessors⁹¹ have granted the rights associated with temporary residence to *workers* from other common market states, or intra-EU migrants. That is, since the 1957 Treaty of Rome (Article 48, specifically), citizens of then European Union member states have had entry/residence, work, and economic rights in all other European Union member states. Alongside the free movement of goods, capital, and services, intra-community labor mobility was provided as a part of the common market strategy.

Initially, the right to enter and reside in another member state was tied to active labor market participants and their dependent family members. A series of regulations, directives, and European Court of Justice (ECJ) decisions have incrementally and dramatically expanded these rights in the almost-sixty years since the Treaty of Rome. In most cases, expansion of rights – including higher-order economic rights as well as social rights – to intra-EU migrants have been deemed necessary in order to ensure the effective exercise of the free movement of labor. For instance, EEC Regulation 1612/68 specified that, with the exception of public sector employment, intra-EEC migrants were to be provided equal market access to nationals of the receiving state and that employers could not discriminate against intra-EEC applicants in favor of national applicants. The most significant change in intra-EU mobility in the 1993 Treaty of

⁹¹ Throughout its legal history, the European Union has changed names several times, and these changes in name have reflected changes in its level of integration. For the sake of consistency, I will generally refer to the EU and its previous incarnations by its contemporary name – the European Union.

Maastricht, which established a common EU citizenship. From this point, the rights to enter and reside in other European Union member states are no longer tied to active participation in the market. With rare and important exceptions,⁹² European Union member states lack the ability to vary either migrant rights or levels of admission for intra-EU migration.⁹³ The end result is that by virtue of common EU citizenship, the rights of intra-EU migrants are consistent with those of permanent residents, even where these migrants have yet to become a part of the receiving community.

Member state discretion over admissions levels and rights for third country nationals in the EU vary by class of TCN. Member state discretion over rights and admissions is somewhat limited for “intra-EU mobile TCNs”,⁹⁴ who are covered by Regulation 883/2004, which requires that these TCNs be granted equal access with EU citizens to many public services. The rights and admissions of other TCNs are governed by national legal code. It is difficult to get a sense of the overall mix of intra-EU migrants, intra-EU mobile TCNs, and other TCNs across the EU member states as the available data are abysmal by virtually any standard. Across the EU member states, reported data differs in availability, by the definition, coverage, and [dis]aggregation of each of these three groups, and by the source of the data (e.g., census counts, admissions numbers, work-related counts, and estimates). The last of these also varies by migrant group in some reporting states. While these numbers are by no means comparable, a

⁹² With respect to admissions: as applied to individuals, but not groups, these exceptions are cases in which an individual is a threat to national security and cases in which an individual has become an unreasonable burden on the state. As applied to groups, the exception occurs during the transitional arrangements following accession, which are the subject of the next chapter.

⁹³ Since Directive 2004/38/EC, this includes TCNs who are immediate or dependent family members of EU citizens. (European Migration Network 2013, 2014)

⁹⁴ Which includes long-term residents, highly qualified workers, researchers, and students holding Schengen visas, posted workers, and TCNs who are immediate or dependent family members of EU citizens. (European Migration Network 2013, 2014)

regularity across these data suggests that intra-EU mobile TCNs account for a relatively small proportion of migrants relative to intra-EU migrants, with the former being estimated at less than 5% of the latter. In most cases, national laws governing the rights of other TCNs grant social and economic rights to these migrants once they have obtained the right to reside indefinitely (Soysal 1994; Brubaker 1989).

6.2 IDEOLOGICAL SPACE IN WESTERN EUROPE

In the advanced industrial democracies, there exist two common sources of political conflict. The first source of political conflict – class conflict – forms the basis of the classic left-right ideological spectrum, with the extremes consisting of those who desire greater government intervention in the market (labor) on the left and those who desire a market entirely free of government intervention (employers and capital) on the right. Class conflict has been the central feature of political divisions throughout Western Europe since at least the 1920s (Lipset and Rokkan 1967; Mair 1993). The interests of groups on either side of this cleavage are familiar and are explicitly predicated on material interests. Labor benefits from protection against employers' cost cutting measures and from redistributive social programs, while employers and capital benefit from freedom over employment practices and lower levels of redistribution. While cultural issues also align across the left-right spectrum across Western Europe, the differences between the center left and the center right on social and cultural issues are generally not as distinct as they are in the United States. While stances on moral questions such as abortion and gay marriage have become integral components of partisan identification in the United States,

the same cannot generally be said for European party systems, where center-right parties, in both their conservative and Christian democratic incarnations, are frequently more socially liberal than the Republican party.

More recently, we have observed increasing political conflict over what appear to be non-material or cultural interests. This conflict has garnered significant scholarly attention, particularly in the study of Western Europe, where this conflict has manifested in the increasing prominence and even success of both ecological parties and the radical right. While some have identified this cleavage as one of competing postmodern interests (Inglehart 1971, 1977, 1990), others have suggested that this cultural cleavage is the articulation of the competing interests of those who have gained and lost from the processes of globalization (Kriesi et al. 2006, 2008). While these scholars and others disagree as to the exact fault lines of this conflict, the importance of this literature for present purposes is its identification of political conflict on a cultural dimension. Following Flanagan (1979, 1982a, 1982b), I shall refer to this as the authoritarian-libertarian spectrum on which authoritarians promote maintenance of traditional cultural values and respect for traditional authority, while libertarians pursue individual freedom and cultural pluralism. The clearest manifestation of this conflict is the rise of extreme right-wing parties in Europe, which focus on national independence from the European Union, law and order, decreasing immigration, extreme assimilation programs, and national security.

In a survey of advanced industrial democracies, Flanagan and Lee (2003) have found attitudes on the left-right spectrum to be largely orthogonal to those on the authoritarian-libertarian spectrum. The expansion of the individual-level political space beyond the traditional left-right dimension has generally been accepted by scholars studying the politics of Western Europe (Middendorp 1991; Kitschelt and McGann 1995; Van Der Brug and Van Spanje 2009),

yet there exists significant debate over how this change has manifested in partisan representation of these interests. While some suggest that parties have adjusted to individual-level preference cleavages by filling vacant niches in this two-dimensional policy preference space (Kriesi et al. 2008), others contend that party politics continues to coalesce along a single, predominant dimension (Oppenhuis 1995; Van der Eijk and Franklin 1996; Van der Eijk et al. 1999; Kitschelt 2004; Van Der Brug and Van Spanje 2009).

Because party systems across Western Europe exhibit a significantly greater degree of party discipline than their American counterparts,⁹⁵ the party is the appropriate level of analysis of elite preferences over immigration policies in this context. The reasons for this difference between the American system and those across Western Europe are manifold, including the use of confidence votes in parliamentary systems that tie individual success to that of the party (Huber 1996), among others.⁹⁶ For these reasons, examining the preferences of individual representative – as was done in Chapter Four – is likely to yield little more than the party line.

6.3 INTERESTS, RIGHTS, AND SUPPORT FOR IMMIGRATION

As noted above, the rights of migrants admitted to European Union member states vary as a function of receiving state, sending state, and class of admission. While intra-EU migrants are to receive equal treatment to nationals of the receiving member state and have the right to reside

⁹⁵ Recent scholarship has demonstrated that, on a 100-point scale, party unity in recorded votes is generally in excess of 95 across Western Europe (Depauw and Martin 2009) but less than 80 in the United States (Carey 2007; Crespin et al. 2013).

⁹⁶ There are, of course, variations in party discipline across party systems within Western Europe, and even variations across parties within a given party system (Depauw and Martin 2009).

after the conclusion of transitional arrangements,⁹⁷ the same is not necessarily true of third-country nationals (TCNs). Member state policies governing TCNs' access to the labor market and to social provisions differ not only across receiving states but also by migrant class of admission.

With notable exceptions, the literature on partisan preferences over immigration throughout Western Europe has focused on the extreme right wing nationalist parties (for instance, Ignazi 1992, 2003; Jackman and Volpert 1996; Kitschelt and McGann 1995; Mudde 2007, 2013). While these parties demonstrably play an indirect role in national immigration policymaking by affecting public discourse and incentivizing mainstream parties to address this change (Williams 2006; Minkenberg 2002; Schain 2006), their lack of broad and consistent appeal suggests that their study can provide limited, albeit useful, information about whether and how more fundamental market, fiscal, and cultural interests affect immigration preferences. Yet there have also been efforts to bring mainstream parties back in to the scholarly discourse over immigration politics (Givens and Luedtke 2005; and the subject of a JEPP special issue: Bale 2008a; Bale 2008b; Boswell and Hough 2008; Duncan and Van Hecke 2008; Geddes 2008; Green-Pedersen and Odalmalm 2008; Marthaler 2008; Schain 2008; Smith 2008; van Kersbergen and Krouwel 2008). Bale (2008b), for instance, argues that parties of the cultural status quo and interests in limiting public expenditure, center-right parties⁹⁸ *should* be interested in the politics of immigration, irrespective of the presence of pressure from the radical right. Indeed, he goes on

⁹⁷ Existing member states may withhold the free movement of *labor* from citizens of new member states for a period of up to seven years following access. These so-called “transitional arrangements” are discussed at length in the next chapter.

⁹⁸ Among which he includes conservative, Christian democratic, and liberal parties.

to highlight immigration-related rhetoric by leaders across Western Europe both prior to and in the absence of extreme right wing parties.

The most important work in this vein for present purposes has found that the predominant center-left and center-right parties across Western Europe are indistinguishable – both preferring restrictions – with respect to migrant admissions, but differ significantly with respect to immigrant policy, rights (Givens and Luedtke 2005). For these scholars, national partisan differences over immigrant integration are likely motivated instrumentally, by center-left parties’ desire to increase their potential voter base, and ideologically, to the promote ends of social justice and cultural pluralism. Duncan and Van Hecke (2008) extend Givens and Luedtke’s analysis to transnational parties in the European Parliament. In addition to finding evidence in support of Givens and Luedtke’s results, Duncan and Van Hecke find that immigration control policies *divide* the center-right, with liberal parties preferring fewer restrictions than their Christian democratic and conservative counterparts. Neither, however, examines the *relationship* between migrant rights and admissions policies.

While the chapter on societal preferences in the United States focused on how various bundles of migrant rights conditioned partisan group preferences over immigrant admissions, in this chapter I examine partisan preferences over rights more directly. In so doing, and based on the theoretical foundations outlined in Chapter 3, I consider the constituent interests and related ideological profiles of parties likely to anticipate market, fiscal, and cultural costs and benefits from migration. I have argued that where migrants are granted few rights, migration will benefit employers, engendering support from their center-right representatives, and will be costly to the labor, resulting in opposition from their center-left representatives. As should be clear from the above discussion, however, migrants throughout the European Union – both intra-EU migrants

and TCNs – are granted rather expansive rights, and increasingly so for TCNs following the early 2000’s series of migration directives. Under these conditions, left-right ideological position should have a positive effect on partisan preferences over labor migration. As these rights have increasingly been expanded to TCNs, by contrast, rightist parties should be less likely to support labor migration.

H_{6.1}: Prior to the extension of rights to certain TCNs, increasingly rightist parties will favor labor migration, all else held equal.

H_{6.2}: Following the extension of rights to certain TCNs, increasingly rightist parties will oppose labor migration, all else held equal.

Because of the extensive rights granted to intra-EU migrants and, to a lesser extent, TCNs, rightist and authoritarian parties are likely to express concern over the cultural effects of migration. Finally, these same rights are likely to elicit opposition from rightist parties seeking to limit public expenditure.

H_{6.3}: Increasingly rightist parties in Western Europe will oppose migration on the basis of cultural effects, all else held equal.

H_{6.4}: Increasingly authoritarian parties in Western Europe will oppose migration on the basis of cultural effects, all else held equal.

H_{6.5}: Increasingly rightist parties in Western Europe will oppose the fiscal consequence of migrant, all else held equal.

6.4 IMMIGRATION POLICYMAKING ACROSS WESTERN EUROPE

In order to test the above arguments, I examine European national party positions, as detailed in the party's official electoral program, on various immigration-related issues since as early as 1979. In particular, I examine the effect of party ideological position on party position over migrant economic impact, migrant noneconomic impact, and the extension of social rights to migrants. These varying issues allow me to examine how the three fundamental sets of societal interests identified in earlier chapters affect preferences over immigration, particularly in a case in which expansive rights are routinely granted to migrants.

Unfortunately, the commonly used Comparative Manifesto Project lacks data on party positions with respect to immigration, instead lumping statements on immigrants in with a metric on “underprivileged minority groups”⁹⁹ (Budge et al. 2001; Klingemann et al. 2006). This is clearly not suitable for present purposes. The Euromanifesto Project, however, collects a much finer-grained set of party positions over immigration (Schmitt and Wüst 2012; Braun et al. 2010). Of note, this dataset includes information about the number of positive and negative statements contained in official party programs for three pertinent aspects of immigration: economic impact, non-economic impact, and the extension of social rights.

Modeled on the Comparative Manifesto Project (CMP), the Euromanifesto Project (EMP) codes the text of party electoral programs in order to obtain comparable measures of party emphasis and position on a given topic. For instance, the aforementioned “underprivileged minority group” variable in the CMP dataset can be interpreted as the percent of space in a

⁹⁹ The specific variable is per705.

party's electoral program devoted to "favorable references to underprivileged minorities who are defined neither in economic nor demographic terms (e.g. the handicapped, homosexuals, immigrants)" (Volkens et al. 2014, 18). There are three important differences between the CMP data and the EMP data. First, while the CMP codes the content of party programs released in conjunction with national elections, the EMP codes the content of party programs released in conjunction with European Parliament (EP) elections. The first direct elections to the European Parliament were held in 1979 and have occurred every five years since that time; the EMP includes data on party programs for each EP election from 1979 to 2009. Because the timing of national elections varies across countries while EP elections occur, with rare exception,¹⁰⁰ on a fixed and consistent schedule, the EMP data are comparable not only across parties in a given member state, but also across countries for a given election, essentially controlling for the global geopolitical climate. Simply put, while programs written for the 2002 German and French elections, for instance, were drafted under roughly the same global geopolitical climate, the same cannot be said for the 2007 French election, which occurred prior to the global financial crisis, and the 2009 German election, which occurred at the height of the same crisis. Information from simultaneous elections provides for better cross-country comparisons.

A second difference between the CMP and EMP data is that the EMP provides information on the number of statements in a given category that are directed at the national

¹⁰⁰ Exceptions occur when new member states accede to the EU in the middle of a parliamentary term. These exceptions include:

- Greece acceded 1981 held EP elections that same year.
- Portugal and Spain acceded in 1986 and held EP elections in 1987.
- Austria, Finland, and Sweden joined the EU in 1995. While Sweden held EP elections that same year, Austria and Finland held EP elections in 1996.
- Bulgaria and Romania acceded and held EP elections in 2007.
- Croatia joined the EU in 2013 and held EP elections that same year.

level, the European level, the global level, and for which no governmental level is specified. As a result, with the EMP we can, for instance, identify the percentage of the party's total electoral program directed at the European level, identify the total percentage of the electoral program devoted to favorable mentions of human rights, irrespective of level of government, or compare the volume of favorable mentions of human rights directed at each level of government, among others.

For present purposes, the most important difference between the CMP and EMP data lies in the particular issues coded. As noted above, the EMP provides data on party positions on three facets of immigration. For each, the EMP includes positive and negative statements independently of each other. Statements about migrant economic effect are those that mention "labor migration and/or foreign workers in economic terms." (Braun et al. 2010, 42) Positive non-economic immigration statements, which are only available in the 2009 data, are those that note a "need to retain or increase immigration in non-economic or unspecified terms," while the negative corollary, which is available across all EP elections, notes a "need to reduce immigration in non-economic or unspecified terms." (Braun et al. 2010, 44) Finally, statements endorsing the extension of social rights to migrants are those advocating "support or assistance for immigrants and foreigners," the opposite of which is only available for 2009. (Braun et al. 2010, 45) The dependent variables in this chapter consist of the percent of party electoral program dedicated to positive statements on each of these issues minus the percent of party electoral program dedicated to negative statements on each of these issues.

Party ideological positions along the left-right and authoritarian-libertarian dimensions are the primary independent variables in this chapter. There are three commonly used methods of identifying party interests: analysis of media coverage (for example, Kriesi et al. 2006, 2008),

expert surveys (Bakker et al. 2015; Benoit and Laver 2006), and measures derived from textual analysis of party manifestos (Budge et al. 2001; Klingemann et al. 2006; Braun et al. 2010; Schmitt and Wüst 2012). These methods produce some overlapping results, but also retain some systematic differences, and have been the subject of an extensive literature (see for example: Benoit and Laver 2007; Klemmensen et al. 2007; Ray 2007; Volkens 2007). Among the various concepts measured by each of these methods, party placement along the left-right dimension is the most controversial. In the models presented below, I operationalize these ideological dimensions using the coder rating for each party from the Euromanifesto Project dataset. In the economic model – the only model for which data exists throughout the history European Parliamentary elections – I interact *left-right* ideological position with a dummy variable, *2004-2009*, which takes the value of 1 for the 2004 and 2009 rounds of EP elections and 0 for all other rounds. This interaction will demonstrate whether, as expected, the effect of left-right partisan ideology changes over time. In addition, I control for the unemployment rate (European Commission 2011), the percent of the population that is foreign born (European Commission 2011), and include country fixed effects. Table 12 presents the results of models estimating the effect of ideological positions on each of these three migration-related preferences.

Table 12. Role of Partisan Ideology in Preferences over Migration

Model	16.1	16.3	16.4
	Economic (1979-2009)	Non-Economic (2009)	Rights (2009)
<i>Left-Right</i>	0.029	-0.229***	-0.245***
	(0.018)	(0.069)	(0.047)
<i>2004-2009</i>	0.632***		
	(0.185)		
<i>Left-Right*2004-2009</i>	-0.095*		
	(0.038)		
<i>Libertarian-Authoritarian</i>	-0.094***	-0.142*	-0.065
	(0.027)	(0.074)	(0.050)
<i>Unemployment Rate</i>	-0.012	-0.122	0.904*
	(0.017)	(0.463)	(0.424)
<i>Percent Foreign Born</i>	-0.018	-0.002	0.046†
	(0.022)	(0.026)	(0.025)
Constant	1.251	2.826	-4.524
	(0.790)	(3.526)	(3.283)
n	434	104	104
R ²	0.136	0.309	0.420
Joint Significance (F)			
<i>Left-Right</i>	3.51*		
<i>2004-2009</i>	5.97**		
<i>Country Dummies</i>	1.40	1.98*	2.65**

Table reports OLS coefficients with robust standard errors in parentheses below.

† p<0.1, *p<0.05, **p<0.01, ***p<0.001 (two-tailed values)

The results of these models provide evidence consistent with the theorized relationship between partisan ideology and the market, fiscal, and cultural impact of migrants granted expansive rights. Consider first partisan positions with respect to migrant economic impact. The coefficient on *left-right* is insignificant by itself, which is to be expected when we anticipate a change in sign between different periods. Notice not only that the coefficient on the interaction time is significant, but also that the F test indicates left-right ideological position and the interaction term are jointly significant, indicating that party ideology on the predominant left-right dimension has a significant effect, but one that is conditional on the period under consideration. Examining the linear predictions across the left-right dimension (Figure 6) tells a more nuanced story about the relationship between preferences over labor migration and ideological position as a function of time, which is a control for shifting bundles of rights.

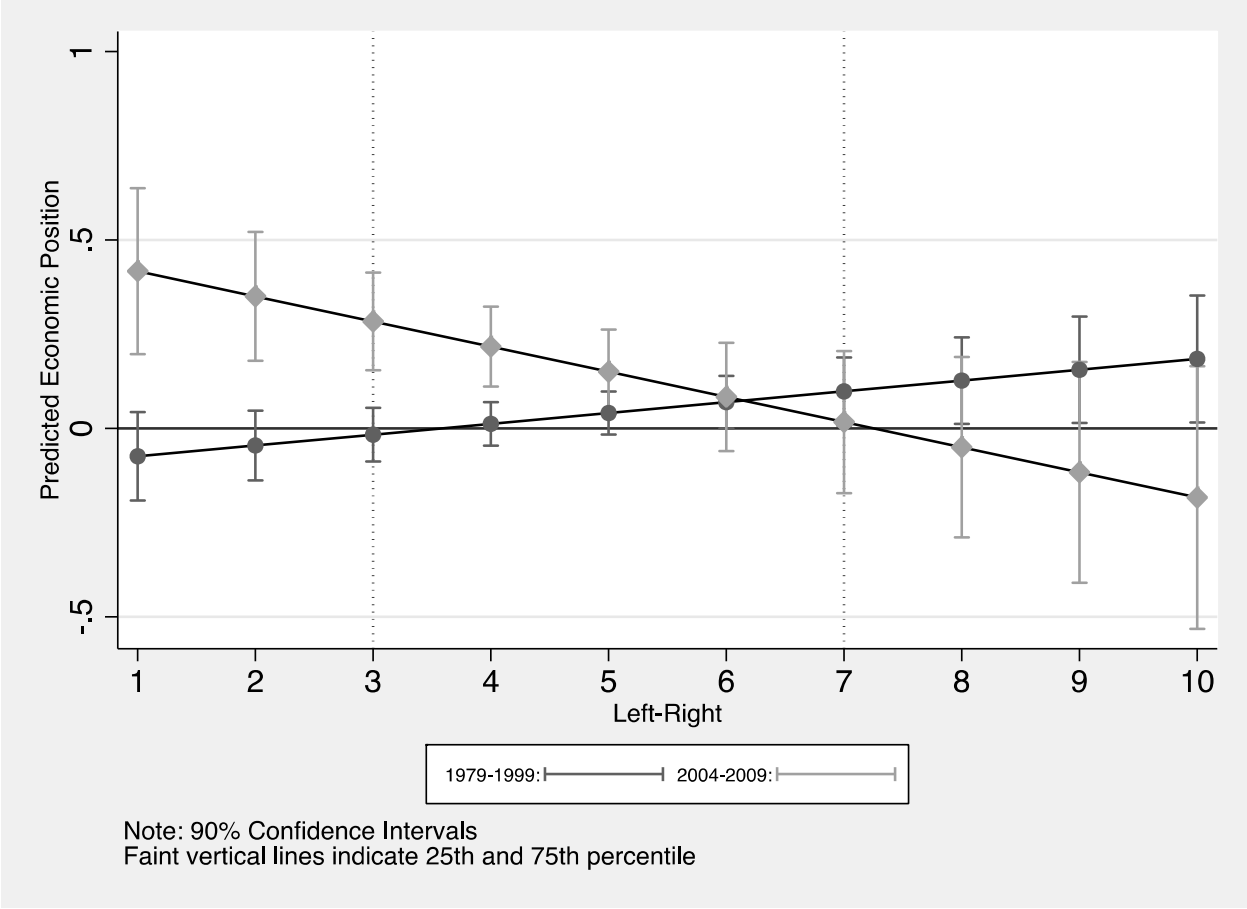


Figure 6. Linear Predictions of Immigration Positions by Left-Right Ideological Position

As indicated in the above figure, preferences over labor migration become more supportive as parties shift further to the right in the earlier period, but decreasingly so in the latter period, where migrant rights are particularly expansive. This is not simply an artifact of the chosen temporal cut point. If we re-estimate the model including an interaction term between a continuous variable for years, the results remain. Plotting the marginal effects of increasingly rightist ideological position over time from that model, as is done in Figure 7, demonstrates nicely how the effect of left-right ideological position changes from positive in earlier EP elections to negative in later elections. The rights of migrants in the EU have increased over time, and we can pinpoint some pivotal moments in time in this figure. Notice that left-right ideological position becomes insignificant for the first time in 1994, the year following the establishment of EU citizenship, which constituted a significant expansion in the rights of intra-EU migrants. Then in 2004, ideological position becomes significant and negative. The expansion of rights throughout European integration has had an important conditioning effect on whether partisans on both the left and the right anticipate market benefits from increased immigration.

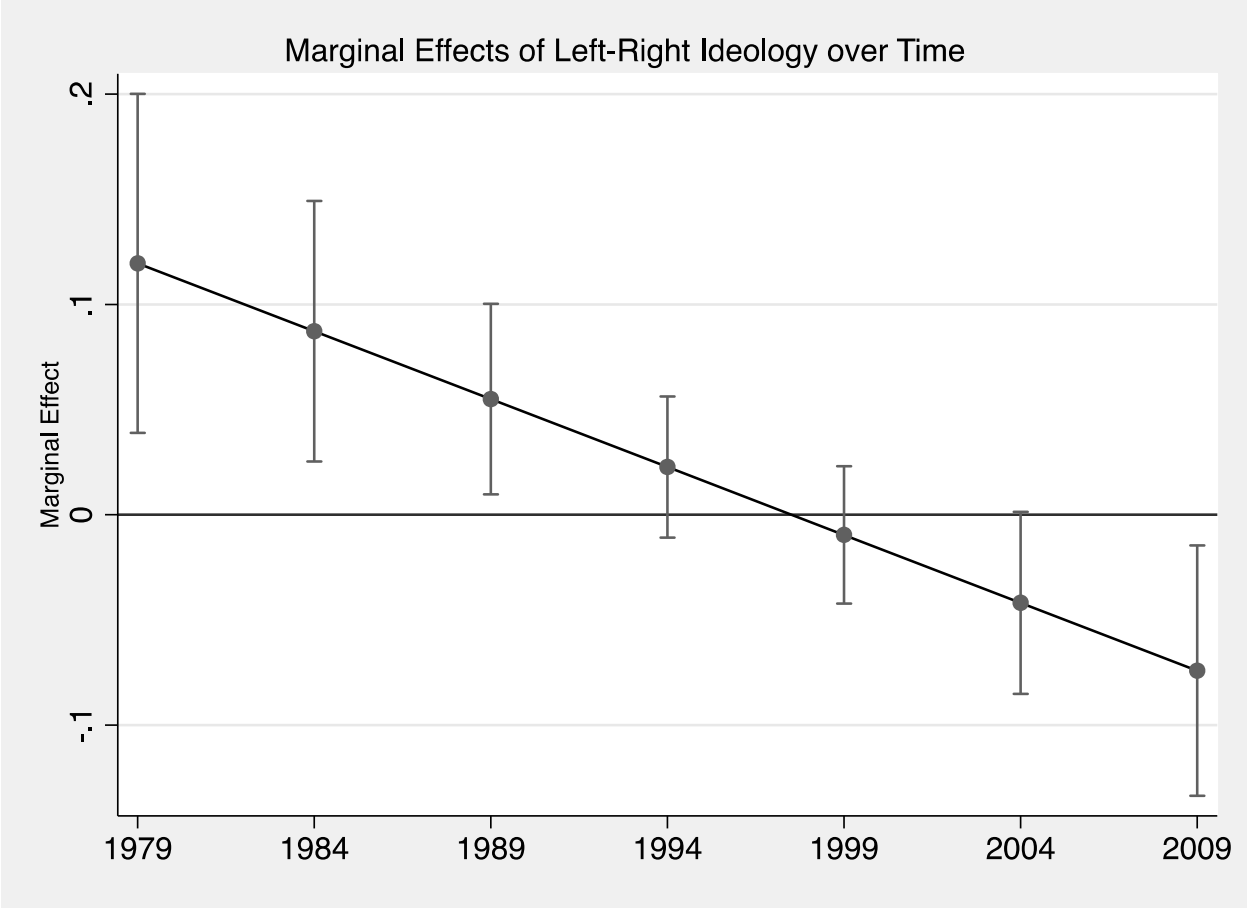


Figure 7. Marginal Effects of Party Left-Right Ideology on Preferences over Labor Migration over Time

Another interesting feature of the economic model is the significant coefficient on libertarian-authoritarian ideological position. While Duncan and Hecke (2008) exclude cultural dimension from their analysis, this is consistent with their observation that the right is divided over migrant admissions. Consider that conservative and Christian Democratic parties are typically centrist, or even leaning slightly authoritarian, on the libertarian-authoritarian dimension, while liberal parties tend toward the libertarian pole. It seems possible that cultural dimension interests may augment these left-right preferences.

Partisan ideological positions along the left-right and libertarian-authoritarian dimensions have a significant and negative effect on party statements with respect to migrants' non-economic impact. These results are consistent with my expectations about progressive and conservative societal groups' preferences over the admission of migrants granted an expansive bundle of rights. Similarly, partisan ideological position along the left-right ideological dimension has a significant effect on preferences over the extension of migrant rights. This is consistent with the interests of fiscal conservatives and progressives, who are expected to prefer policies that limit public expenditure and programs that provide a robust system of social protections, respectively

There are reasons to expect that the factors that encourage parties to make negative statements rather than positive statements with respect to immigration, and vice-versa, are conceptually distinct. The assertion that parties may make only positive or only negative statements in regards to a particular component of immigration is certainly consistent with the data. Of the parties that address migrant labor market impact, fewer than eleven percent make both positive and negative statements, this figure is less than sixteen percent and less than six percent for migrant non-economic impact and the extension of rights to migrants, respectively.

Cursory tobit models – employed because these data are left censored at zero – suggest that this might indeed be a part of the explanation. In my upcoming revisions, I intend to further flesh out these factors.

6.5 DISCUSSION

In this chapter, I have examined the role of partisan positions in shaping preferences over migration where migrants are granted extensive economic and social rights. The results were consistent with the expectations that, where migrants are granted expansive rights, the rightist (leftist) partisan representation of employers (labor), fiscal conservatives (progressives), and cultural conservatives (progressives) will lead parties on the right (left) to oppose (support) migration on market, fiscal, and cultural grounds. These results are consistent with the observed variations in support for permanent resident program liberalization in the United States Senate and, taken together, these cases provide strong evidence in support of the proposition that variations in migrant rights play a central role in the anticipated effects of liberalized immigration and, as a result, shape preferences over migrant admissions.

In the next chapter, I extend this examination of immigration preferences across the European Union to immigration policy outcomes therein. I do so by considering the choices that European Union member states make to voluntarily liberalize the admission of intra-EU migrants. As in this chapter, governing elites are constrained with respect to varying rights for these migrants and, as a result, the outcomes should provide important information about how the

partisan composition of government affects the likelihood of liberalization for programs admitting migrants under the permanent resident category of societal membership.

7.0 IMMIGRATION POLICY OUTCOMES IN EUROPE

In 2004, 2007, and 2013, following several years – and in some cases a decade – of planning and negotiations, the European Union (EU) welcomed thirteen new member states. Having met the Copenhagen Criteria – achieving democratic governance and a functioning market economy, respect for human rights, the rule of law, and minority protection, and having adopted the total body of EU law (the *acquis communautaire*) – these Central and Eastern European states became a part of the world’s most integrated regional organization. With membership, these states were to receive open access to the common market and the four freedoms enshrined in the Single European Act (SEA) of 1986 intended to facilitate this market: the free movement of goods, services, capital, and people. Membership for these countries, however, came with a caveat: the free movement of labor from the new member states to the existing member states would be restricted for a period of up to seven years following accession.

The case of voluntary transitional regime liberalization in the European Union provides a unique opportunity to examine how a fixed and comprehensive bundle of rights can shape the politics of migrant admissions. Indeed, there are few – if any – other cases in which policy makers must choose between the stark alternatives of opening admissions and granting virtually complete economic and social rights or maintaining admissions restrictions. As should be clear, in contrast to the United States, debates over intra-EU migration cannot separate the rights of

migrants, on the one hand, and the number to be admitted, on the other. By virtue of common European citizenship, introduced by the Treaty of Maastricht in 1993, intra-EU migrants are provided with an expansive bundle of rights. The result is that existing member states must choose to either withhold admission or extend these rights.

Consistent with the overarching argument in this dissertation, the results from the previous chapter indicated that the leftist parties throughout the European Union that represent labor interests, favor a robust welfare state, and promote cultural pluralism are likely to support the admission of migrants granted an expansive bundle of rights. In this chapter, I will examine whether these preferences affect immigration policy outcomes.

7.1 MEMBERSHIP AND MIGRATION IN THE EUROPEAN POLITY

Before delving in to the determinants of transitional regime liberalization, it is important to understand the form and content of these transitional arrangements as well as whether and how these regimes affect both migrant rights and admission.

7.1.1 Intra-European Union Admission

In order to accede to the EU, prospective member states must be functioning democracies, have market economies, and protect human and minority rights, not to mention the ability to transpose in excess of 100 thousand pages of supranational law – the *acquis communautaire* – into national law. In light of these significant barriers to accession, it ought to be surprising that many in the

existing member states were apprehensive about extending the free movement of people regime to the post-2004 enlargement states. Specifically, the extension of the free movement of people regime to these new member states should only be as contentious as this provision is for free movement among the existing member states. Moreover, historical experience suggests that concerns over a large influx of migrants following enlargement are unfounded (Goedings 1999). Prior to the second (Greece) and third (Portugal and Spain) enlargements, many of the same concerns were raised: that poor individuals from new democracies would flood the existing member states' labor markets. In response to these fears, existing member states were permitted to withhold the free movement of labor for six and seven years following the second and third enlargements, respectively (Currie 2013, 13-14). However, this flood of labor migrants never materialized and there was little reason to expect the realization of similar concerns following the post-2004 enlargements (Goedings 1999). In spite of this evidence, concerns over immigration from the new member states persisted.

In order to mitigate the concerns of the existing member states and following the model from the second and third enlargements, the accession treaties for the post-2004 enlargement states included a provision whereby the existing member states could continue to impose migration restrictions for a period of up to seven years following accession for citizens of the enlargement states. With each round of enlargement, the existing member states could restrict labor market access to citizens of the new member states. Pursuant to the so-called "standstill provision," these transitional arrangements were not permitted to be any more restrictive than the immigration regimes already in place. Thus, if an existing member state had a previously imposed quota for foreign nationals from one of the new member states at the time of accession, that existing member state could not further limit admissions following accession. Citizens of the

Cyprus and Malta were entirely exempt from transitional arrangement restrictions, and have been privy to the free movement of people regime throughout their membership. After liberalizing the transitional regimes, however, any existing member state could invoke the so-called “safeguard clause” at any time within the seven-year period. The safeguard clause allows an existing member state to reinstate transitional restrictions in the event of or threat of significant labor market distortion.

While the enlargement states may not apply transitional restrictions to the existing member states, these states are permitted to impose reciprocal measures against restricting states. Under this provision, any enlargement state may restrict labor market access to citizens of existing member states that have applied transitional restrictions to citizens of their state. Hungary, Poland, and Slovenia, for instance, all chose to impose reciprocal restrictions on labor market access to citizen of EU15¹⁰¹ states that imposed labor market restrictions to citizens from their own countries. Finally, while Cyprus and Malta were exempt from transitional agreement restrictions and therefore could not impose reciprocal measures, Malta received the right to invoke the safeguard clause in the event of or threat of significant labor market distortion.

Following the 2007 round of enlargement, the existing member states (EU25)¹⁰² could restrict labor market access to citizens of the accession states (Bulgaria and Romania) for a period of up to seven years and continued to be able to invoke the safeguard clause. In 2009, for example, Spain removed its transitional agreement restrictions for the 2007 enlargement states, but citing labor market distortions, invoked the safeguard clause and re-imposed restrictions

¹⁰¹ The EU15 consists of all pre-2004 member states: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom.

¹⁰² The EU25 consists of all pre-2007 member states: Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

against Romanian citizens only. Bulgaria and Romania were granted the ability to impose reciprocal measures, though neither chose to do so. Acceding in 2013, Croatia elected to impose reciprocal measures against those states that have enacted transitional measures. Table 13 provides an overview of the permissible transitional labor market restrictions.

Table 13. Permitted Transitional Restrictions following Accession

Accession Year	Accession States	Permitted Restrictions
1973	<i>Denmark, Ireland, United Kingdom</i>	None
1981	<i>Greece</i>	Six years
1986	<i>Portugal, Spain</i>	Seven years
1995	<i>Austria, Finland, Sweden</i>	None
2004	<i>A2: Cyprus, Malta</i>	None
	<i>A8: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia</i>	Seven years
2007	<i>Bulgaria, Romania</i>	Seven years
2013	<i>Croatia</i>	Seven years

In practice, there has been significant variation in how these provisions have been implemented. First, there has been extreme variation in the restrictions imposed by EU15 member states on the within groups of acceding states. Ireland, Sweden, and the United Kingdom, for example, enacted some of the most liberal policies by immediately waiving restrictions for migrants from the A8 states. By contrast, France and Germany enacted some of the most restrictive policies for these migrants by choosing to maintain transitional agreements for seven years, the longest period permitted.

Second, there has been variation in the restrictions imposed by individual EU15 member states on new member states between rounds of enlargement. Finland, for example, enacted strong restrictions against the 2004 enlargement states, but liberalized its policies for the 2007

enlargement states, whereas the United Kingdom and Ireland waived restrictions for the 2004 enlargement, but imposed heavy restrictions for citizens of 2007 enlargement states (Drew and Sriskandarajah 2007).

Third, there has been variation in the imposition of reciprocal measures among the accession states. While Hungary, Poland, and Slovenia all chose to implement reciprocal restrictions, none of the other 2004 accession states chose to enact reciprocal measures. Finally, there has been variation in individual existing member state's treatment of new member states within the same enlargement groups, as evidenced by Spain invoking the safeguard clause against Romania but not against Bulgaria. Clearly, EU member states exhibit a considerably degree of variation in their decisions to restrict labor market access to citizens of accession countries. If there is indeed a tradeoff between rights and admission, as Ruhs (2013) argues, and all EU citizens have equal rights across member states, how can we account for this variation? By examining the particular bundle of rights in question, we can begin to unpack the politics of transitional regime liberalization.

7.1.2 Membership Rights of Intra-European Union Migrants

The rights of intra-EU migrants vary by both economic activity (whether active or inactive) and duration of prior stay. Under Article 48 of the EEC Treaty, economically active persons include both workers and the self-employed and are defined as those who undertake “effective and genuine pursuit of [economic] activity.” This definition of economically active intra-EU migrants is rather permissive. In *D.M. Levin v. Staatssecretaris van Justitie* (1982), the European Court of Justice found that neither the level of income nor the motive for seeking employment in

another member state were germane to the question of whether an intra-EU migrant is in fact economically active. Indeed, under this decision, an intra-EU migrant who earns below the minimum wage or who sought employment for the purpose of establishing residency is still defined as economically active.

In the absence of transitional measures, all EU citizens have the right to receive equal labor market access to nationals throughout the European Union. That is, they are permitted to seek employment, to change employers, and to participate in collective wage bargaining arrangements, among others, and as a result have broad *economic rights*. Perhaps more importantly for present purposes, any intra-EU migrant defined as economically active, again whether a worker or self-employed, has the right to access social assistance, the provision of which is means tested and is not based on prior contributions, in addition to contributory social security benefits and special non-contributory benefits. (Poptcheva 2014, 5-6) More concretely, by virtue of being economically active and irrespective of duration of stay, intra-EU migrants availing themselves of the freedom of movement have access to significant *social rights*.

Economically inactive intra-EU migrants also have significant rights in the member state of residence. Pursuant to Directive 2004/38/EC 16, economically inactive EU citizens may reside in another member state if they have sufficient resources to support themselves without becoming “a burden on the social assistance system of the host Member State during their period of residence, and have comprehensive sickness insurance cover in the host Member State.” (Poptcheva 2014, 6) By virtue of EU citizenship, an economically inactive person has the right to pursue employment in the host member state, thereby becoming economically active. Moreover, the right to reside increases with duration of stay such that economically inactive migrants who have resided in the member state for more than three months have the right to access social

assistance, though only to the point of becoming an unreasonable burden.¹⁰³ Any intra-EU migrant, irrespective of his or her economic activity, has the unqualified right to access social assistance after five years of residence.

Finally, if an intra-EU migrant is habitually resident in another member state, he or she has the right to participate in municipal and EU elections in the member state of residence, but are not by rule granted the right to participate in national elections. As should be clear, in the absence of transitional arrangements, both economically active and economically inactive intra-EU migrants have an expansive bundle of economic and social rights. These vast rights are consistent with the resident category of societal membership explored throughout this dissertation.

Under transitional measures, existing member states are permitted to withhold the free movement of *workers* for a limited period following accession, meaning that both economically inactive and self-employed citizens of new member states are permitted to migrate to the existing member states irrespective of the imposition of transitional arrangements. For each category of migrant, the rights remain the same with the important exception of national treatment for labor market access. Put another way, under transitional arrangements, intra-EU migrants are – subject to very limited conditions, including duration of stay of at least three months – granted social rights and even limited political rights, but not economic rights.

¹⁰³ The unreasonable burden condition remains ill defined. Specifically, the right to reside cannot be removed simply on the grounds of an economically inactive intra-EU migrant requesting social assistance (*Grzelczyk* case cited in Barnard (2005)), and the determination of “unreasonable burden” must be taken on a case-by-case basis.

7.2 THE POLITICS OF TRANSITIONAL REGIME LIBERALIZATION

What effect should this constellation of rights have on national political decisions to lift transitional restrictions? How are variations in the political context likely to affect the policy making process? The institutional configurations in these states differ in significant ways to that of the United States. The fusion of executive and legislative functions as well as the intertwining of executive and legislative survival yields greater party cohesion and discipline in these states. As a result, executive interests should dominate the policy-making process. The presence of collegial, multi-party executives complicates this further. While in a single party government, we could simply consider the governing party's position, a coalition government necessarily requires that we account for not only the interests, but also the relative strength, of each coalition partner. Following a well-established literature, I will treat cabinet interests as the weighted average of the governing parties' interests. (Budge et al. 2001; Klingemann et al. 1994; Klingemann et al. 2006; Seki and Williams 2014) While recent research demonstrates that reality is more complex (Alexiadou forthcoming), it seems that estimating cabinet position along two ideological dimensions is an area in which this simplifying assumption most closely approximates reality.

Certainly the fixed nature of rights granted to intra-EU migrants poses a challenge to the center-right parties governments. Because the center-right is divided over admissions under programs granting an expansive bundle of rights, the left-right ideological position of the governing coalition should have little independent effect on the probability of transitional regime liberalization. This runs counter to the expectation in the US regime liberalization chapter, as the American right did not have to choose between competing goals, but could instead focus on increasing admissions with limited rights.

H_{7.1}: Variations in executive left-right ideology will have no independent effect on the likelihood of voluntary transitional regime liberalization, all else held equal.

Government position on the libertarian-authoritarian dimension, by contract, should have a significant effect on the decision to liberalize transitional regimes. Because of the extensive bundles of rights granted to these migrants, cultural dimension issues will be particularly salient, with authoritarians wishing to exclude those who would not only enter the state, but also have access to many membership privileges virtually upon arrival and without having integrated into the receiving society. This effect is likely to be exacerbated by increasingly rightist positions along the left-right dimension. Much like the results for permanent resident program liberalization in the United States chapter, transitional regime liberalization should split the right, with right libertarians being willing to accept the perceived cost of admission in order to obtain the benefits and right authoritarians balking at the costs in both economic and cultural terms.

H_{7.2a}: Under a left-leaning executive, variations in cultural ideology will have no independent effect on the likelihood of transitional regime liberalization, all else held equal.

H_{7.2b}: Under a right-leaning executive, increasingly authoritarian ideological positions will decrease the likelihood of transitional liberalization, all else held equal.

7.2.1 A Quantitative Examination of Transitional Regime Liberalization

In order to test the above arguments, I run a discrete time duration model, which tests the likelihood of observing voluntary transitional regime liberalization (“failure”) in a given period of time. I use annual receiving state-sending group data for the years in which the receiving state

had the right to restrict labor migration from the group of sending states, which captures the majority of total possible variation in labor market restrictions in the enlarged European Union.¹⁰⁴ In this version, I include the provisions following the 2004, 2007, and 2013 rounds of enlargement, and in future iterations, I plan to extend the analysis back to the Hellenic (1981) and Iberian (1986) enlargements. In order to operationalize the outcome of interest – voluntary transitional regime liberalization – I have coded a binary variable (*voluntary liberalization*) that takes the value of 1 in years in which 1) labor market protections are still permissible pursuant to the accession treaties *but* 2) the receiving state has removed all labor market protections against citizens of the sending state group. This variable takes the value of 0 where the receiving state could choose restriction or liberalization *and* maintained labor market protections – in the form of transitional arrangements, safeguard clauses, or reciprocal measures – against citizens of the sending state group.

Restricting the dependent variable to *voluntary* liberalization as opposed to simply liberalization is important for related theoretical and methodological reasons. Theoretically, I am interested in the *choices* that states make with respect to admitting new members into their society. Methodologically, because each receiving state *must* liberalize by a specified point, a simple liberalization variable would result in deterministic estimates and overvalue the temporal effect.

Following Carter and Signorino (2010) I include cubic polynomials in my model in order to generate the base hazard. This allows me to incorporate temporal dependence into the model in order to demonstrate how variations in the independent variables impact the hazard rate (e.g.

¹⁰⁴ Alternatively, I could have examined directed-dyad year data, but because there is only one case in which a particular receiving state – Spain – treated states from the same enlargement in different ways, directed dyads are likely to over-inflate my sample while adding little additional information.

the likelihood of observing transitional regime liberalization across time). The inclusion of time as a variable is at minimum necessary to avoid omitted variable bias, as we know that all of these regimes *must* liberalize after a particular period of time meaning that by definition, increasing time durations result in increasing regime liberalization. Relatedly, I include a self-coded measure of the percent of potential receiving states that have liberalized their transitional regimes in prior periods, as the higher the number of substitutable destination states, the lower the expected costs of regime liberalization.

As in the prior chapters, the primary independent variables account for ideological positions along economic and cultural dimensions as well as the interaction between these two ideological positions. Following Seki and Williams (2014), I operationalize cabinet ideological position as the average of coalition partners' positions, weighted by the proportion government legislative seats controlled by that party. As in the prior chapter, however, I obtain these weighted averages using the Euro Manifesto Project (EMP) data (Braun et al. 2010; Schmitt and Wüst 2012).

I also include additional control variables in alternative models as robustness checks. Among these variables I include controls for economic interests, including a measure of labor market concertation – specifically the level of wage-setting coordination (Visser 2011) – which accounts for institutionalized labor protection, the lagged unemployment rate (European Commission 2011), and lagged log GDP per capita (European Commission 2011). Using European Commission data (2011), I also control for the effect of prior migration by including a measure of lagged migrant flow as a percent of population and public support for authoritarian-leaning parties by including a the percent of votes for extreme right wing parties. Finally, I include a set of receiving state fixed effects in order to control for any unobserved within-unit

factors. The results of these empirical tests are presented in Table 14, while the average marginal effects for relevant variables are presented in Table 15.

Table 14. Determinants of Transitional Regime Liberalization

	14.1	14.2	14.3
<i>Left-Right</i>	0.147 (0.144)	-0.108 (0.294)	0.606† (0.352)
<i>Libertarian-Authoritarian</i>	0.200 (0.255)	0.041 (0.400)	0.607 (0.584)
<i>Left-Right* Libertarian-Authoritarian</i>	-0.074 (0.045)	-0.021 (0.070)	-0.213† (0.114)
<i>Percent Liberalized</i>	1.089 (1.710)	8.172*** (2.381)	3.564 (2.831)
<i>Wage-Setting Coordination</i>			-0.354 (0.217)
<i>Migrant Flow</i> <i>(lag, Percent of Population)</i>			0.055 (0.358)
<i>Unemployment (lag)</i>			-0.060 (0.078)
<i>GPC per Capita (ln, lag)</i>			-1.276† (0.702)
<i>Percent Votes for Extreme Right Wing</i>			-0.058† (0.030)
t	-0.604 (0.851)	-3.736** (1.449)	-3.031† (1.674)
t ²	0.196 (0.300)	1.254* (0.497)	1.144† (0.622)
t ³	-0.024 (0.029)	-0.119* (0.049)	-0.119† (0.066)
Constant	-0.120 (1.449)	-1.879 (2.781)	12.89** (6.140)
Receiving-State Fixed Effects	N	Y	N
n	254	155	172
Pseudo-R ²	0.117	0.323	0.415
Modal Category	60.236%	77.419%	66.279%
Correctly Predicted	63.78%	89.677%	86.628%
Reduction in Error	8.913%	54.285%	60.345%
Joint Significance (X ²)			
<i>Left-Right</i>	3.11	3.44	3.53
<i>Libertarian-Authoritarian</i>	5.51†	0.41	9.35**
<i>Left-Right+Libertarian-Authoritarian</i>	5.94	4.54	9.53*
<i>Time Count</i>	18.98***	7.21†	3.90
<i>Receiving State</i>		21.57†	

Table reports probit coefficients with robust standard errors in parentheses below.

† p<0.1, *p<0.05, **p<0.01, ***p<0.001 (two-tailed values)

Table 15. Determinants of Transitional Regime Liberalization, Marginal Effects

Model	15.1	15.2	15.3
<i>Left-Right</i>	-0.040 (0.027)	-0.039† (0.022)	-0.030 (0.023)
<i>Libertarian-Authoritarian</i>	-0.055 (0.034)	-0.013 (0.029)	-0.081* (0.033)
<i>Percent Liberalized</i>	0.367 (0.574)	1.715*** (0.387)	0.760 (0.608)
<i>Wage-Setting</i>			-0.076† (0.042)
<i>Coordination</i>			0.012 (0.076)
<i>Migrant Flow</i> <i>(lag, Percent of Population)</i>			-0.013 (0.017)
<i>Unemployment (lag)</i>			-0.272† (0.146)
<i>GPC per Capita</i> <i>(lag, ln)</i>			-0.012† (0.007)
<i>Percent Votes for</i> <i>Extreme Right Wing</i>			-0.043 (0.054)
<i>Time Count</i>	-0.072† (0.041)	-0.090† (0.051)	

Table reports marginal effects with standard errors in parentheses below.

† p<0.1, *p<0.05, **p<0.01, ***p<0.001 (two-tailed values)

The results of these initial tests provide some preliminary evidence in support of the hypotheses outlined above. Because the primary hypothesis is conditional, however, we must examine how the effect of libertarian-authoritarian ideological position changes at various levels of left-right ideological position. As demonstrated in Figure 8, government position along the authoritarian-libertarian dimension has no significant effect on the likelihood of transitional regime liberalization when there is a leftist governing party or coalition. Under a rightist government, by contrast, government ideological position along the authoritarian-libertarian dimension has a significant and negative effect on the likelihood of transitional regime liberalization. Moreover, Figure 9 demonstrates that left-right ideological position only plays a significant role at centrist ranges

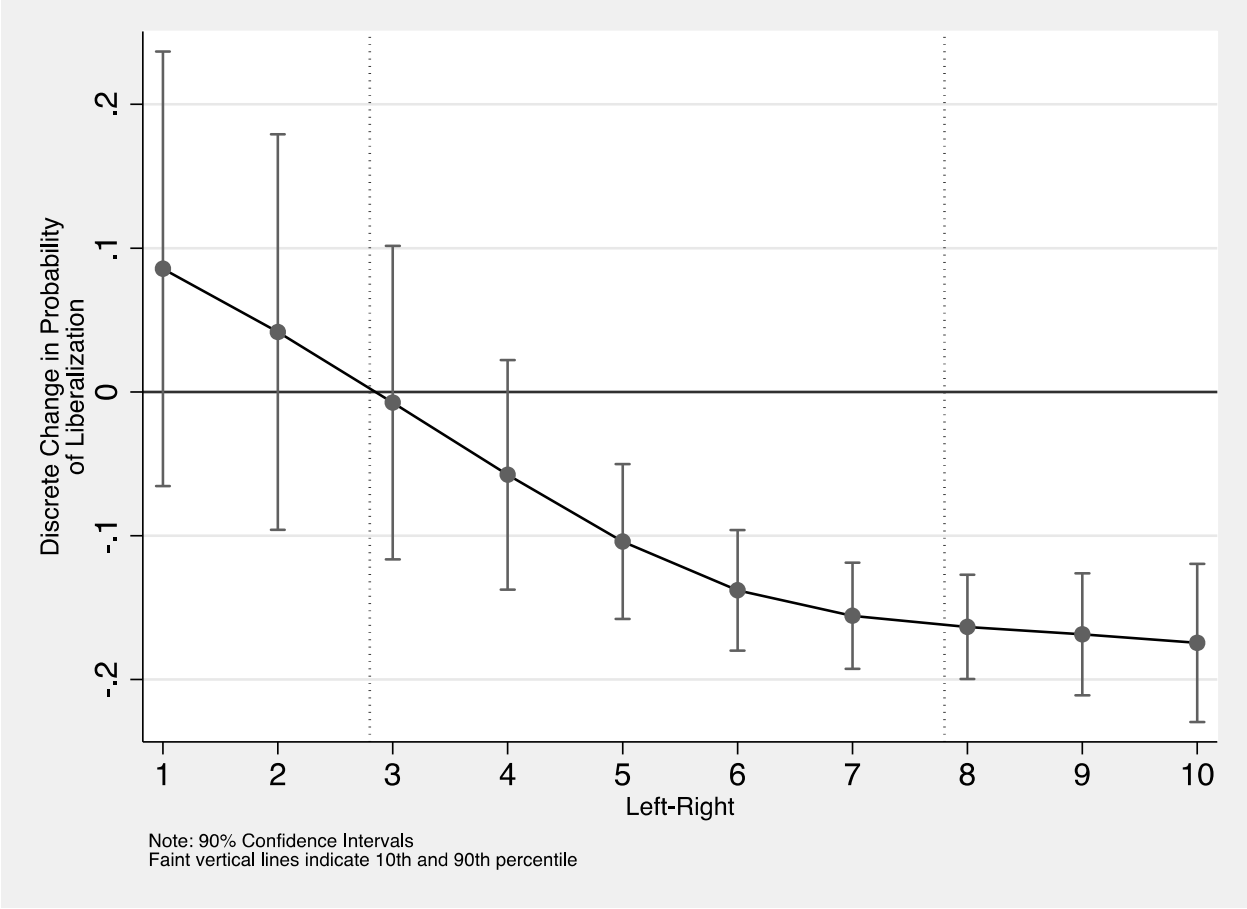


Figure 8. Average Marginal Effects of Libertarian-Authoritarian Ideological Position across Left-Right Ideological Position

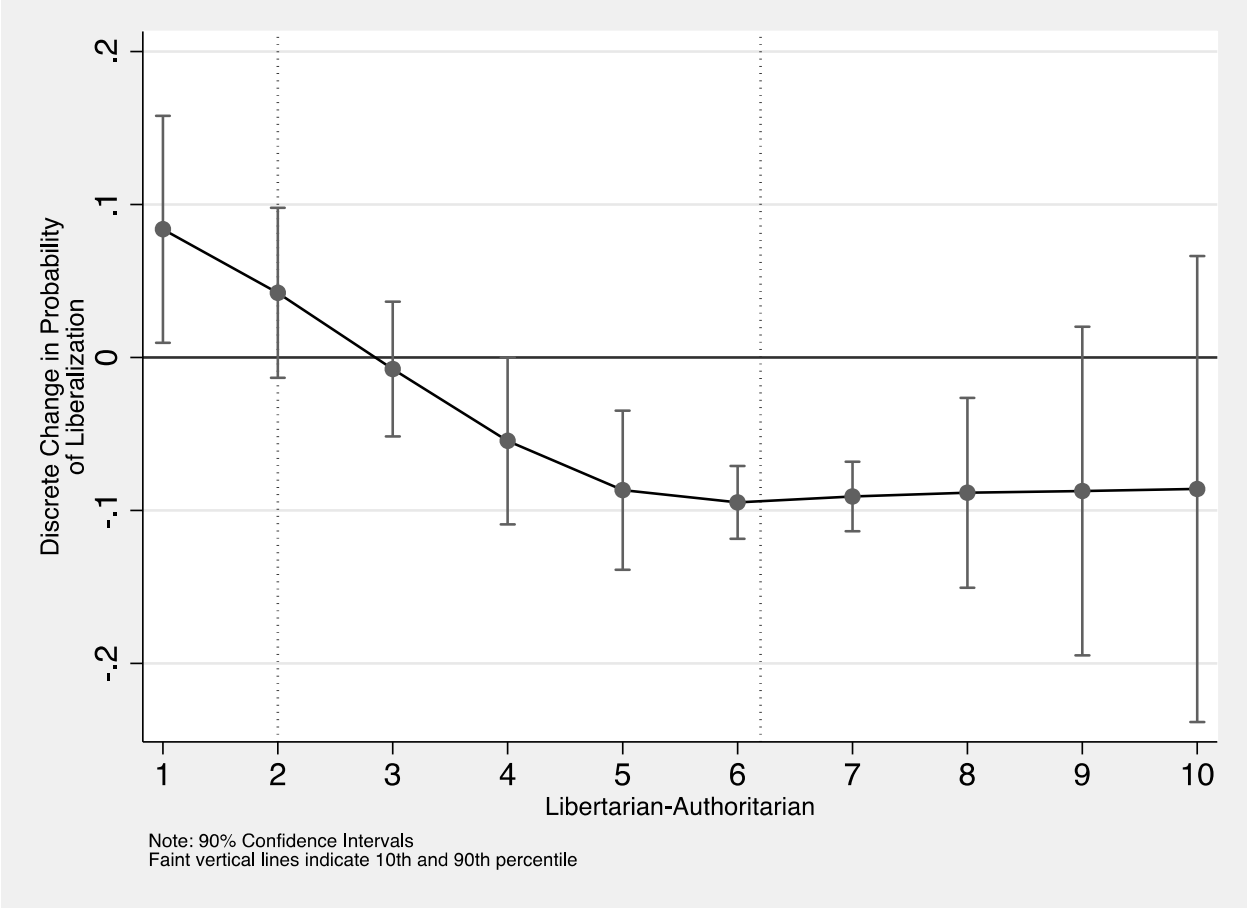


Figure 9. Average Marginal Effects of Left-Right Ideological Position across Left-Right Ideological Position

Substantively, a government at the 25th percentile along the libertarian-authoritarian dimension is approximately 19.1% more likely to liberalize transitional regimes than those at the 75th percentile, all else held equal. However, a government at the minimum position on the left-right ideological dimension is not significantly more or less likely to liberalize transitional regimes than those at the maximum position.¹⁰⁵ Figure 10 nicely illustrates the conditional relationship between these two ideological dimensions. The average predicted probability of transitional regime liberalization *increases* as the government becomes increasingly economically conservative where the government is libertarian, but *decreases* under these same conditions where the government is authoritarian.¹⁰⁶ While there is no significant difference in the probability of liberalization between left-libertarian, left-authoritarian, and right-progressive governments, right-progressives are approximately 70.3% more likely to liberalize transitional regimes than their right-traditional counterparts while left-progressives and left-traditionals are each approximately 50% more likely to do so.

¹⁰⁵ In fact, this holds true for piecewise comparisons at each value along the left-right dimension.

¹⁰⁶ Here libertarian is defined as the 10th percentile along the cultural dimension while authoritarian is defined as the 90th percentile. This result holds for narrower differences, including positions at the 25th and 75th percentiles.

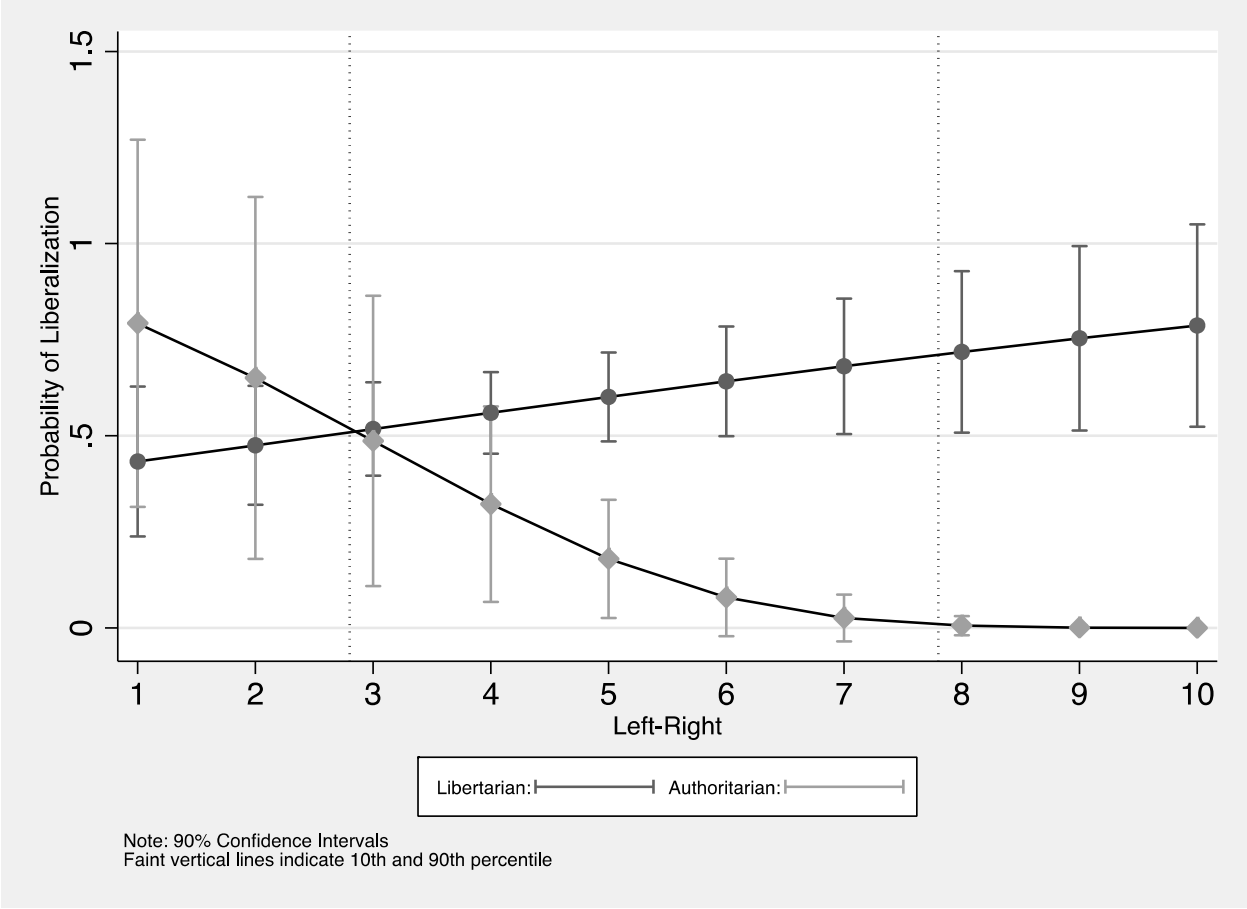


Figure 10. Average Probability of Liberalization for Libertarians and Authoritarians across the Left-Right Ideological Dimension

7.3 DISCUSSION

This chapter examined the decisions to liberalize migrant admissions under the conditions that policymakers lacked discretion over the bundle of rights granted to migrants. While the American parties have the opportunity to liberalize admissions under varying bundles of right in order to satisfy the competing interests of various constituents, European parties are not afforded this same latitude with respect to intra-EU migrants. As a result, liberalizing coalitions in the European Union are consistent with those likely to liberalize permanent resident program admissions in the United States and, relatedly, those least likely to voluntarily liberalize transitional arrangements in the European Union are ideologically consistent with those most likely to liberalize guest worker admissions and least likely to liberalize permanent resident admissions in the United States.

8.0 CONCLUSION AND IMPLICATIONS

The fundamental argument of this dissertation has been that migrant rights are central to understanding the immigration policy-making process. By defining what a foreign national may and may not do in the receiving state, rights condition the effect that migrants have on the receiving society and therefore which societal groups will favor immigration liberalization. I have argued that much of the politics underlying immigration policy can be understood using a standard left-right ideological dimension along which the political left represents the interests of workers in the market, supports the welfare state as a means to redistribute income and risk, and promotes cultural diversity and change while the right represents the interests of employers, seeks to reduce the size and scope of the welfare state, and strives to preserve traditional culture. Increasing migrant rights increases the market, fiscal, and cultural costs of immigration to the right, but decreases the market costs and generates political and cultural benefits to the left. As a result, migrant rights condition preferences over immigration – such that the right (left) should favor (oppose) the admission of migrants with few rights and oppose (favor) the admission of migrants with expansive rights – and immigration policy outcomes – such that immigration reform will focus on increasing the admission of migrants with a limited (broad) set of rights when the right (left) is in government.

In the empirical chapters, I presented evidence consistent with this argument. Partisan preferences over levels of immigration in the United States and across the European Union member states change as a function of migrant rights. In the United States, we saw that Democrats, as representatives of labor, fiscal progressives, and cultural pluralists, support the liberalization of permanent resident programs, which grant migrants significant economic and social rights, and oppose guest worker programs and, to a lesser extent, temporary resident programs, which extend very limited rights to migrants. The opposite is true of Republicans.

In examining partisan preferences across the European Union member states, I presented a more direct test of how interests are shaped by these same factors. Consistent with the American case, I found that parties on the right are more likely to favor labor migration prior to the extension of significant migrant rights – e.g., when member states exercised greater discretion over immigrant policy – but oppose labor migration following the extension of significant migrant rights at the supranational level. Similarly, parties on the right oppose the cultural and fiscal effects of migrants where supranational regulations required the extension of significant rights to migrants. These cases indeed suggest that migrant rights condition the perceived effect of increased immigration on more fundamental interests, and that the partisan representatives of these interested groups respond to these changes in kind.

These interests were also found to have an effect on immigration policy outcomes. Immigration programs admitting migrants with an expansive bundle of economic and social rights are more likely to be liberalized when leftist parties govern in the United States and across the European Union member states. Programs admitting migrants with a limited bundle of rights, by contrast, are more likely to be liberalized when Republicans govern in the United States.

8.1 SECTORAL INTERESTS AND THE POLITICS OF IMMIGRATION

The theoretical claims and empirical evidence presented in this dissertation offer a clear and rather parsimonious model that reconciles the dominant and heretofore-competing explanations of immigration-related interests and policy outcomes. Migrant rights condition market, fiscal, and cultural interests over migrant admissions. It should be clear, however, that the account of whether and how migrant rights condition sectoral interests over immigration remains underdeveloped. More plainly, we know that particular sectors have played disproportionately significant roles in various immigration debates. In the United States, for instance, Disney led the hospitality industry in a successful 1990 bid for a new “cultural exchange” visa, agricultural employers were instrumental in the creation and maintenance of wartime guest worker programs, and Google and other Silicon Valley giants have been at the forefront of temporary worker debates over the past two decades.

Can a rights-based approach account for sectoral interests? More specifically, are sectoral interests with respect to immigration conditioned on rights in some generalizable fashion? There are certainly good theoretical reasons to expect that migrant rights condition sector-based interests. Throughout this dissertation, I have treated factorial cleavages as the dominant mode of market-based conflict over immigration because migration affects the supply of labor in the receiving state; assuming fixed demand, an increase in the labor supply under conditions of limited migrant rights will benefit employers and hurt labor. A central argument in this dissertation has been that increasing migrant rights – employment and social rights, in particular – decreases the benefits and offsets the costs of migration to employers and labor, respectively. Variations in migrant rights are likely to change the nature of market-based cleavages from

factoral divisions to sectoral divisions through at least two mechanisms: limiting migrant impact to particular sectors and affecting employers' ability to attract foreign talent.

8.1.1 Limiting Rights, Limiting Effect, and the Role of Sector Tradability

States can limit the labor market impact of migrants by limiting their employment in two important ways: duration of employment and ability to change employers. Together I shall refer to these as “employment rights,” and, as noted in the second chapter, programs that admit migrants without these rights fall under the category of guest worker programs. States can limit a foreign national's duration of legal employment in order to offset the wage distorting effects of immigration liberalization while providing employers with a mechanism to survive temporary labor shortages. In addition, states can restrict migrants' right to change employers in an additional effort to protect the labor market. Typically used in tandem and in conjunction with restrictions on employer discretion, including sectoral limitations and labor market tests, constraining migrant labor to seasonal work for a particular employer in a particular sector can protect some sectors from failing during peak seasons or during extraordinary periods while precluding spillover to the remainder of the labor market.

Take, for example, the agricultural industry in a labor-scarce economy and assume that there exists no technological substitute for labor for the purposes of harvesting crops and that subsidies are either non-existent or insufficient. Throughout the year, the industry manages to compete with cheaper imports from labor-abundant states and employs a steady contingent of low-skilled domestic labor. As predicted above, employers continue to favor guest worker and, to a lesser extent, temporary resident program liberalization while low-skilled labor continues to

oppose such liberalization. During the harvest season, however, there is an insufficient supply of low-skilled labor to meet the employers' needs; crops spoil, employers are unable to recoup their investment, and are faced with the possibility of bankruptcy and layoffs. This outcome is sub-optimal for all involved. An alternative is to import low-skilled labor, but this solution will attract resistance from all low-skilled labor, not just that employed in the agricultural industry, for the reasons outlined above. By withholding employment rights from low-skilled migrant labor, it is possible to limit the market impact of an increase in low-skilled labor migration not only to the struggling industry, but also to the period of critical need. In the above example, low-skilled labor migrants would be admitted under the conditions that they work for a particular farm and leave at the end of the three-month harvest season.

In effect, these limitations to migrant rights serve the interests of employers in import-competing sectors during particularly labor-intensive periods. Given that, *ceteris paribus*, employers are expected to favor such liberalization, it should be unsurprising that employers in the import-competing sector will continue to favor liberalization under restrictions to the ability to change employers and duration of stay.¹⁰⁷ To what extent do these limitations to migrant rights impact the preferences of low-skilled labor? Because such programs are limited in both duration and ability to change employers, low-skilled labor as a factor group should not lose as a result of such liberalization. Note that this would *not* be true if migrants were granted *either* of these rights. If low-skilled migrants were not limited to a short-term duration of stay, it would be possible for them to stay on beyond the period of significant need, increasing the supply of low-skilled labor to that particular employer (assuming the right to change employer remained

¹⁰⁷ Though it is important to note that employers are likely to contest labor market tests and would prefer, all else held equal, to have greater latitude over contracting decisions.

limited), potentially causing a ripple effect – if enough employers were permitted to hire foreign low-skilled labor – throughout the market for low-skilled labor. Similarly, if low-skilled migrants are granted the right to change employer, the ability to move from one employer to another could force domestic low-skilled labor to seek employment in an alternative sector. Otherwise stated, restrictions on migrant labor’s ability to change employers *and* duration of stay are jointly necessary conditions to offset labor’s concerns over increasing guest worker admissions.

I have made the case that withholding employment rights from low-skilled migrants will result in continued support for liberalization of guest worker programs from employers in labor-intensive sectors and will offset low-skilled labor’s concerns over wage distortion, resulting in a situation where low-skilled labor, as a factor group, is unlikely to expend resources actively opposing the liberalization of such programs. What about low-skilled labor employed in the import-competing sector? Counterintuitively, by restricting migrants’ employment rights, low-skilled labor in the import-competing sector is expected to *favor* immigration liberalization. Logically, the temporary and limited liberalization of low-skilled labor migration provides domestic low-skilled labor in that sector with increased job security, by decreasing the likelihood that their employer will “go under” during the labor-intensive period for lack of sufficient resources. Under the right conditions, then, liberalization of low-skilled labor migration can protect both employers and low-skilled laborers engaged in import-competing sectors in a labor-scarce state during periods of particular economic strain.

Do these expectations generalize to labor-intensive, non-tradable sectors? While employers in such sectors will continue to support the liberalization of migration programs that withhold employment rights, the above expectations are unlikely to generalize to labor in non-tradable sectors. Because these sectors produce for the domestic economy and lack competitive

pressure from imports, labor in these sectors lacks the incentive to compromise in order to avoid sector failure in the domestic market. Consider, for example, the construction industry in a labor-scarce economy and again assume that there exists no technological substitute for labor. Competition in the sector comes from domestic sources, as importable substitutes do not exist. That is, given current technology and infrastructure, it is infeasible for homes or office blocks to be created in a labor-abundant state – say China or India – and imported by labor-scarce states – such as the United States or France. Even under limited duration of stay and inability to change employers, migrant labor employed in building construction would only serve to decrease wages. As a result, low-skilled labor employed in labor-intensive, non-tradable sectors should oppose liberalizing sector-specific migration, even under extreme restrictions on employment rights.

The preceding discussion thus suggests that rights will condition whether sectoral or factoral divisions arise over immigration. While factoral interests will predominate, limiting migrants' duration of stay *and* right to change employers while liberalizing sector-specific immigration will continue to engender the support of employers in that sector and will ameliorate concerns of labor outside of that sector. If the sector under consideration competes on the market with foreign imports, domestic labor in that sector is less likely to oppose, and may even support, such immigration programs. If, however, the sector under consideration does not compete with foreign imports, the sector will be internally divided, with employers favoring liberalization and labor opposing liberalization.

8.1.2 Expanding Rights, Attracting Talent, and the Role of Factor Inputs

To this point, I have considered the role of rights in yielding sectoral politics over immigration in labor-intensive sectors and highlighted the conditions under which labor will not oppose the liberalization of programs that grant migrants few rights. In this section, I consider the conditions under which employers will support the liberalization of programs that grant migrants greater rights. Employers will pursue two sets of related interests with respect to labor migration policies: increasing the labor supply in order to decrease costs and increasing their discretion over labor relations. There exists a certain trade-off between these two goals. Because of the relative demand for high-skilled labor and their higher standard of living vis-à-vis low-skilled labor in their country of origin, employers of high-skilled labor will be less able to attract high-skilled foreign labor if these migrants are granted very few rights (Ruhs 2013). In order to increase the supply of high-skilled labor, employers must be willing to temper the degree to which they have discretion over that labor. This suggests that employers of high-skilled labor should support temporary resident and, to a lesser extent, permanent resident program liberalization.

8.1.3 The Sectoral Politics of Immigration

While there are good theoretical reasons to expect that rights condition whether and how sectoral interests emerge over immigration policy liberalization, the emergence of these sectoral interests will affect the *politics* of immigration. As Freeman (2006) has argued, immigration policies that create concentrated costs and benefits will produce interest group politics. As the size of the

affected groups decreases, it will become increasingly difficult to observe these sectoral effects at the macro-level. Yet even at this macro-level, I find evidence consistent with sectoral effects. In the fourth chapter, for instance, I find that increasing the percent of gross state product attributable to agriculture increases the likelihood that a Senator will vote in favor of guest worker program liberalization, but has no effect on disposition towards temporary and permanent resident programs.

Examining the positions of parties that compete nationally or Senators representing entire states is more likely to provide evidence of how these groups represent broad-based societal interests as opposed to geographically concentrated sectors. To adequately examine the effect of rights on sectoral interests thus requires analysis at a lower level of aggregation. In the United States, for instance, this could likely be achieved by examining the voting behavior of members of the House of Representatives. Across Europe, sectoral effects may be observable at the NUTS-3 level of aggregation. A complementary strategy would be to examine individual level data for evidence of variation by sector of employment. There is clearly much work to be done in order to fully understand the role of migrant rights in the politics of immigration.

8.2 INTERESTS, MEMBERSHIP, AND THE GLOBAL ECONOMY

While this exposition of the effect of migrant rights on societal immigration preferences and policy outcomes is interesting and important in its own right, the findings have significant implications for broader literatures in political economy and the study of immigration. The first of these is the role of economic and cultural interests in the study of political economy. The

scholarship on the politics of immigration is far from the only contemporary body of literature where scholars prizing economic and cultural explanations talk past each other. In fact, among the literatures examining the major cross border flows, immigration studies are the most likely to connect the two. In trade, for instance, the literatures on cultural interests, such as the protection of geographic indicators, are either entirely ignored by those examining economic interests, or attributed as protectionist interests masquerading as cultural interests. This myopathy is not simply one-sided. Understanding the politics governing the global economy requires that these competing literatures engage with one another, and that scholars take seriously the role of both economic and cultural interests.

The second larger point focuses on the role of the state in the global economy. There has been much debate over whether the state continues to exert control over the domestic market, or if global economic interdependence has rendered the state impotent. While immigration controls have at times been viewed as one of the final bastions of complete state sovereignty, particularly among economic policies, the results in this project suggest that such a view must be tempered. This is certainly truer of states such as the United States, where decision makers have greater flexibility over immigration-related policies, but advanced integration of the European economies has limited, although not entirely rendered impotent, state capacity to act. The implications for the study of political economy seem clear: scholars hoping to understand economic preferences and policies in the contemporary era can rarely afford to consider only domestic or international factors. That is, in order to successfully understand the politics of economics, the lines between comparative and international political economy must be blurred.

Finally, the results of this project point to a rather troubling paradox. Where policymakers in democratic states are given discretion over admitting migrants with varying

bundles of rights, as in the United States, they may choose to admit a significant number of migrants lacking considerable rights. The longer such migrants remain in the receiving state, the less just this becomes, as with the passage of time they are likely to become a permanent societal underclass. Alternatively, however, restricting policymakers' discretion over migration, as is the case across the European Union, limits elites' abilities to adequately represent the interests of those they represent. The result is one of potentially devastating consequences. Consider the current dilemma faced in the United Kingdom: the politics of immigration, and European immigration in particular, have reached a critical point, with a not insignificant proportion of the population demanding greater restrictions on migrants – both in terms of rights and admissions. The result has been campaigns for a restrictive overhaul in the immigration system, as well as increasing support for independence from the European Union. The dilemma is thus one where state obligations to its existing members threaten its ability to provide justice to newcomers.

The importance of migrant rights cannot be understated. Societal preferences over immigration and the resultant immigration control policies are conditional on these rights, as migrant rights affect migrant impact on the market, public expenditure, and the receiving culture. Yet they also affect society itself, as democratic states face the dual challenge of adequately representing societal interests while providing justice for newcomers.

APPENDIX A

IMMIGRATION-RELATED VOTES IN THE UNITED STATES SENATE

Table 16. Recorded Votes Coded by Congress

Congress	Years	Recorded Vote Number	Type	Year
79 th	1945-1946			
80 th	1947-1948			
81 st	1949-1950	287	Resident	Liberalize
		288	Resident	Restrict
82 nd	1951-1952	39	Guest Worker	Liberalize
		44	Guest Worker	Indeterminate
		230	Resident	Liberalize
		298	Resident	Restrict
83 rd	1953-1954	81	Resident	Liberalize
		110	Guest Worker	Liberalize
84 th	1955-1956			
85 th	1957-1958			
86 th	1959-1960			
87 th	1961-1962	94	Resident	Restrict
		95	Resident	Liberalize
		182	Guest Worker	Indeterminate
		184	Guest Worker	Liberalize
		199	Guest Worker	Restrict
		200	Guest Worker	Restrict
		201	Guest Worker	Liberalize
		202	Guest Worker	Liberalize
88 th	1963-1964	93	Guest Worker	Indeterminate
		105	Guest Worker	Restrict
		106	Guest Worker	Restrict
		107	Guest Worker	Indeterminate

Table 16 (continued).

		108	Guest Worker	Indeterminate
		109	Guest Worker	Indeterminate
		207	Guest Worker	Liberalize
89 th	1965-1966	219	Guest Worker	Liberalize
		220	Guest Worker	Indeterminate
		232	Resident	Liberalize
90 th	1967-1968			
91 st	1969-1970			
92 nd	1971-1972			
93 rd	1973-1974			
94 th	1975-1976			
95 th	1977-1978	887	Nonimmigrant	Liberalize
96 th	1979-1980	86	Nonimmigrant	Liberalize
		729	Resident	Restrict
97 th	1981-1982	809	Resident	Liberalize
		810	Resident	Liberalize
		811	Resident	Liberalize
		816	Guest Worker	Restrict
		820	Guest Worker	Liberalize
		825	Resident	Restrict
98 th	1983-1984	89	Resident	Restrict
		92	Resident	Liberalize
		94	Guest Worker	Liberalize
99 th	1985-1986	176	Guest Worker	Restrict
		186	Guest Worker	Liberalize
		188	Guest Worker	Restrict
100 th	1987-1988	468	Resident	Liberalize
		470	Resident	Liberalize
101 st	1989-1990	104	Nonimmigrant	Liberalize
		106	Resident	Indeterminate
		108	Resident	Restrict
		109	Resident	Liberalize
		110	Resident	Restrict
		112	Resident	Liberalize
		113	Resident	Liberalize
		116	Resident	Liberalize
		313	Nonimmigrant	Liberalize
		635	Resident	Indeterminate
102 nd	1991-1992			
103 rd	1993-1994	12	Resident	Liberalize
		13	Resident	Restrict
104 th	1995-1996	696	Resident	Restrict

Table 16 (continued).

		697	Resident	Liberalize
105 th	1997-1998	436	Nonimmigrant	Liberalize
		437	Nonimmigrant	Liberalize
		438	Resident	Liberalize
		439	Nonimmigrant	Liberalize
		531	Guest Worker	Indeterminate
106 th	1999-2000	626	Nonimmigrant	Liberalize
		630	Nonimmigrant	Liberalize
		632	Nonimmigrant	Liberalize
		634	Nonimmigrant	Indeterminate
		636	Nonimmigrant	Indeterminate
107 th	2001-2002			
108 th	2003-2004			
109 th	2005-2006	97	Guest Worker	Liberalize
		98	Resident	Liberalize
		101	Guest Worker	Liberalize
		102	Guest Worker	Liberalize
		294	Nonimmigrant	Restrict
		489	Guest Worker	Liberalize
		490	Guest Worker	Liberalize
		494	Resident	Restrict
		501	Resident	Liberalize
		508	Resident	Restrict
		513	Resident	Restrict
		514	Guest Worker	Liberalize
		516	Guest Worker	Restrict
		518	Resident	Restrict
110 th	2007-2008	174	Guest Worker	Restrict
		175	Guest Worker	Restrict
		176	Resident	Liberalize
		178	Guest Worker	Restrict
		183	Guest Worker	Restrict
		194	Resident	Restrict
		195	Resident	Liberalize
		196	Resident	Restrict
		200	Resident	Liberalize
		201	Guest Worker	Restrict
		232	Resident	Restrict
		233	Resident	Restrict
		266	Nonimmigrant	Liberalize
		280	Guest Worker	Liberalize
111 th	2009-2010			

Table 16 (continued).

112 th	2011-2012			
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