

**Voting Rights for Resident Aliens:  
A Comparison of 25 Democracies**

David C. Earnest  
Department of Political Science  
The George Washington University  
Washington, DC  
[earnest@gwu.edu](mailto:earnest@gwu.edu)

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In this era of large-scale migration, the number of resident aliens in democracies has grown explosively. This presents both moral and practical dilemmas for democratic governments and their societies. For those states from which large numbers of citizens emigrate, or "sending" states, their diasporae may have considerable economic influence through their remittances and may wield political power through contributions to political parties, informal personal networks and, in some states, the absentee ballot. For democracies that host large numbers of resident aliens, governments ask resident aliens to shoulder many of the burdens of citizens--including, most conspicuously, the paying of taxes but also (at least in the United States) military service. Yet both in sending states and in host states, resident aliens have had few political rights until recently. While host democracies have offered resident aliens considerable economic and civil rights, they have provided to aliens only limited opportunities to participate in the politics of their places of residence. Likewise, for the most part sending states have, until recently, reserved voting rights for citizens who reside within the borders of the state. Until the last few decades, then, resident aliens have lacked the political rights that democracies grant their citizens. Resident aliens were perhaps the one remaining societal group against which democratic states willingly, and some might say legitimately, discriminated in the allocation of the right to vote.

In the last four decades, this has changed. During this time democracies have seen a large influx of migrants who have come to reside more or less permanently within their host states, and have

pursued innovative approaches to incorporate these resident aliens into their polities. Sending states have expanded the use of the absentee ballot, have created overseas legislative districts, and even encouraged their émigrés to hold multiple citizenships simultaneously-- a significant reversal of past practice that runs counter to established international law. Host states by contrast have adopted one of the more surprising and innovative practices to incorporate resident aliens into the political life of their societies. Since 1960, twenty-three democracies have created voting rights for resident aliens, while several others have considered but rejected such rights (Rath 1990, Earnest 2003). Taken together, these innovative practices have led some political scientists to argue that states are separating the institution of citizenship both from its territorial basis and from the body of rights it traditionally has embodied. For this reason, researchers have focused on the politics of citizenship as an approach to broader questions of the historical evolution of state sovereignty, citizenship, democratic norms, and the global human rights regime.

This paper seeks to contribute to the debate between what some scholars have called the "nationalist" and "postnationalist" theses of citizenship politics (see inter alia Koopmans and Statham 1999; Aleinikoff 2000 and 2001; Galloway 2001; Gerstle and Mollenkopf 2001; Kondo 2001; and Aleinikoff and Klusmeyer 2002). In brief, both theses seek to explain the state's practices for the constitution of its political community, but each locates the causes of the state's policies at different levels of analysis. As the labels "nationalist" and "postnationalist" suggest, furthermore, the two theses diverge on the implications of contemporary citizenship politics in democracies for our understanding of how global flows of migrants and norms may affect the institution of sovereignty. Using voting rights for resident

aliens as a dependent variable, I seek to test four nationalist hypotheses and four postnationalist hypotheses. While numerous social scientists have conducted valuable and detailed case studies that seek to explain the emergence of voting rights for resident aliens (Neuman 1992; Raskin 1993; Barrington 2000; Harper-Ho 2000; and Kondo 2001, among others), their small sample sizes necessarily limit the generalizability of their findings. None have sought a broader empirical test of the competing nationalist and postnationalist explanations for the ways in which democracies seek to incorporate their migrant populations. This paper fills this empirical void with a time-series cross-section analysis of the voting rights for resident aliens in 25 democracies.

### **I. The Theoretical Puzzle**

When faced with large and growing populations of resident aliens, democracies have gradually extended to some of these non-citizens the rights traditionally associated with citizenship. Several researchers have noted that states have extended these rights to resident aliens in a reverse of the historical order in which citizens first acquired these rights (Klausen 1995; Joppke 1999). T. H. Marshall's seminal thesis (1964) on the evolution of citizens' rights argues that rights emerge in a specific historical sequence that parallels the institutional development of the modern nation-state. Citizens first gained civil-legal protections when states developed independent judiciaries. Only when citizens could assert claims in independent courts, Marshall argues, did they gain their first rights for political participation. Economic and social protections for citizens then followed once citizens had broad franchise rights. Curiously, however, the rights of resident aliens have followed a reverse sequence. In most

democratic states, governments have extended considerable social and economic protections first, followed by (sometimes-limited) civil rights. Only recently have resident aliens acquired political rights; even today these rights are neither universal nor necessarily consolidated rights. Unlike Marshall's thesis, furthermore, the rights of resident aliens do not proceed from any obvious institutional evolution of the nation-state. Historically, resident aliens have acquired the full panoply of civil, economic and political rights only through naturalization in their country of residents.<sup>1</sup>

Why have states extended rights to resident aliens in a sequence that reverses Marshall's thesis? The apotheosis of this process--the enfranchisement of resident aliens--offers an important opportunity to test competing explanations for several reasons. For one, as I note later, there is considerable variability among the voting rights that resident aliens have. Democracies have not (yet) converged around a common model or a shared understanding of the political rights of resident aliens, a fact that offers a difficult empirical test for any explanation. Voting rights for resident aliens are an important test of the competing nationalist and postnationalist explanations for another reason. Hammar (1990) argues that while states today maintain (and even nurture) symbolic distinctions between citizens and aliens, in fact there are few substantive differences between the body of rights the state grants to citizens and those it grants to aliens. If Hammar is

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<sup>1</sup> It is important to note this fact may be unique to the 20<sup>th</sup> century, for reasons that are not apparent. Throughout the 1800s, for example, resident aliens voted in presidential elections in the United States (Aylsworth 1931). Likewise Prak (1999) notes that in the late 18<sup>th</sup> century the institution of a unified national citizenship in the Netherlands evolved from voting rolls in the seven provinces. Since resident aliens could purchase the right to vote, many resident aliens became citizens *because* of their right to vote. In this sense, the institution of the franchise predated and was the foundation for the

correct, emerging practices like voting rights for resident aliens are harbingers of changes to the institutions of citizenship and the modern nation-state. In this sense, postnationalists echo Marshall's argument that the extension of rights flows from the institutional evolution of the state. Clearly, to understand why the rights of aliens have reversed Marshall's sequence, one must begin by looking both at the institutions of the state and at hypothesized reasons for their evolution.

Reflecting the heritage of political rights theorists like Marshall and Stein Rokkan (1999), the nationalist thesis generally explains the political incorporation of resident aliens as a product of factors within the state, including political culture, domestic institutions, and contestation between societal groups. As the name suggests, nationalists argue that shared conceptions of the "nation" continue to drive the state's treatment of resident aliens. The historical relationship between the nation and the state, as manifested in the culture, institutions and practices, principally drive the state's constitution of the political community. This thesis encompasses traditional political development theories like those of Marshall (1964), Rokkan (1999), and Rokkan and Lipset (1967); institutional theorists like Klausen (1995) and Joppke (1999 and 2001); and the cultural arguments of Brubaker (1992) and Smith (1997). Together, nationalist scholars explain variations in the state's treatment of resident aliens as a consequence of immigrant groups articulating their claims for rights through the traditional institutions that tie the nation to the state.

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institution of citizenship in the Netherlands. Clearly citizenship is neither necessary nor sufficient for the right to vote.

The postnationalist thesis explains the state's treatment of resident aliens, by contrast, as a product of transnational or global processes that erode the historical linkage of the nation to the state. This thesis includes a broad range of theoretical perspectives, though all share the argument that international and transnational processes transform not only the politics of citizenship within states, but also the authority and capacities of states to construct a political community. Castles and Davidson (2000) summarize the postnationalist thesis well:

Globalization erodes the autonomy of the nation-state, undermines the ideology of distinct and relatively autonomous cultures, and causes the increasing mobility of people across borders. . . . These new factors destabilize traditional ways of balancing the contradictions that have always beset the nation-state model: the contradiction between the inclusion and exclusion of various groups, between the rights and obligations of citizenship, and--most important--between political belonging as a citizen and political belonging as a national. (p. ix)

To explain this erosion of the state's authority over the regulation of the political community, postnationalist scholars focus on systemic factors. They note three important changes in the nature of contemporary citizenship politics. One is that states have developed institutional alternatives to citizenship to accommodate the large influx of migrant labor that their transnational economies require. Hammar (1990) calls these innovative institutions "denizen rights," while Castles and Davidson argue these institutions are a form of "quasi-citizenship." A second change is that resident aliens increasingly make their claims for social, political and economic rights not through the institutions of the state, but instead through appeals both to their states of origin and to international laws and norms (Soysal 1994, Sassen 1996). This transnational pattern of claims-making by resident aliens anticipates a third change typical of

postnational citizenship politics: the nation-state now faces multiple domestic, transnational and international actors that participate in its formulation of citizenship and immigration policies. The postnational thesis thus emphasizes the influence of international norms, nongovernmental organizations, and the transnational organization of the interests of resident aliens. These scholars argue that because political communities increasingly are constructed through transnational rather than state-centered processes, the historical linkage between the nation and the state is eroding.

The phenomenon of the enfranchisement of resident aliens offers a useful test of both the nationalist and postnationalist theses. It is a valuable test of the nationalist thesis because it presents an apparently radical redefinition of citizenship and of the state's sovereign authority to constitute the political community. It is a test of the postnationalist thesis, by contrast, because the state nevertheless remains the principal institution for the allocation of individual rights and opportunities, including those of immigrants. The variability in practices among democracies raises doubt, furthermore, about the postnationalist explanation: how can states that face a common set of systemic factors adopt such divergent institutions? Likewise, the fact that many of the states that extended voting rights to resident aliens did so during the 1960s and 1970s raises the question of whether voting rights preceded both the emergence of global human rights norms and the rapid growth of international and nongovernmental organizations.

## **II. Hypotheses and Data**

To test the competing hypotheses of the nationalist and postnationalist theses, I use a time-series cross-section design that

examines the voting rights offered by 25 democracies to their resident aliens. After deriving specific hypotheses and measures, I briefly discuss the study's population and measurement of the dependent variable.

### *Nationalist Hypotheses*

Several nationalist scholars locate the state's policies toward resident aliens in a cultural variable: the state's historical understanding of how the nation is constituted. Hammar (1990), Brubaker (1992) and Barrington (2000) all note that a society's shared understanding about the relationship of the nation to the state-- whether or not the nation is multi-ethnic and whether citizenship is understood to be membership in the nation, or membership in the state-- affects how the state will incorporate migrants. Brubaker explains the greater levels of naturalization in France than in Germany as the product of the different "cultural definitions of citizenry" embedded in competing legal traditions of *jus soli* in France (citizenship by birth) and *jus sanguinis* in Germany (citizenship by blood). While most states today have citizenship policies that combine elements of the *jus soli* and *jus sanguinis* doctrines (for example, a *jus soli* state that allows a child born overseas to citizen parents to become a citizen) the important question is the degree of emphasis on the two traditions. Scholars argue that *jus sanguinis* states tend to view immigration as temporary, to have higher barriers to naturalization, and to provide fewer economic, civil and political rights to resident aliens than *jus soli* states do. The distinction between the legal traditions of *jus sanguinis* and *jus soli* thus captures important differences in the cultural understandings of the relationship between the nation and the state. Hypothesis 1(a) is that states with a *jus sanguinis* tradition

are less likely to enfranchise resident aliens. To test this hypothesis, I construct a binary variable using birthright citizenship data from Adams (1993), Kondo (2001) and Weil (2001), which cover 22 of the 25 democracies in the study. I rely upon Nagy (2001) to code Hungary as a *jus sanguinis* state, and code Costa Rica and Uruguay on the basis of my reading of their national constitutions.<sup>2</sup> Since I code those democracies with birthright citizenship a one (and all others a zero), the expectation is that this variable will be positively correlated with the voting rights of resident aliens.

The nationalist thesis also explains variations in the rights of resident aliens as the product of the state's institutions. Aleinikoff (2001) argues that national courts tend to be more receptive to immigrants' claims for rights, while legislatures tend to be more illiberal in their making of immigration policies. Similarly Joppke (1999) argues that the activist policy-making role of national courts explains in part why the historical evolution of the rights of resident aliens has reversed Marshall's sequence. Together, these arguments locate variations in democracies' incorporation of resident aliens in the relationship between national legislatures and judiciaries. Hypothesis 1(b) is that democracies in which the courts actively exhibit independent policy-making activism are more likely to enfranchise resident aliens than in those democracies where courts are deferential to the legislature. To measure the relative activism of national courts, I use Lijphart's (1999) index of judicial review, which measures the strength of national courts based upon (a) the presence or absence of judicial review, and (b) three degrees of court

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<sup>2</sup> See Title II, Article 13(3) of Costa Rica's constitution of 8 November 1949, and Section III, Chapter 1, Article 74 of Uruguay's constitution of 8 December 1996. My source for the documents and interpretation is Flanz (2000).

activism in asserting authority over legislative matters. Lijphart's data covers 23 of the 25 democracies in the study; I replicate his methodology using information from Howard (2001) and Utter and Lundsgaard (1993) to code Hungary, and from Skaar (2002, particularly chapter 6) to code Uruguay.

A third provocative nationalist argument relates the rights of resident aliens to the political economy of welfare. Klausen (1995) explains the expansion of the rights of migrants in the Nordic states as a product of the decline of the welfare state. She argues that during the era of large welfare spending, the state needed to police claimants for rights since economic and social rights tend to be fundamentally private goods and hence a scarce resources. But as states have scaled back welfare spending, Klausen asserts, they have had less need to monitor who receives benefits. Since civil and political rights tend to be truly public goods, furthermore, the state can expand such rights without infringing on the rights of others. This is an interesting and counterintuitive argument: rather than economic or social rights leading naturally to political rights, resident aliens may gain political rights only when they receive fewer social benefits from the state. Hypothesis 1(c) is that democracies with extensive social welfare programs are less likely to enfranchise resident aliens than are those states with fewer social benefits. To test this hypothesis, I measure the annual amount the state's per annum welfare spending over the time series of the study. I follow Huber, Ragin, and Stephens' (1997) suggestion to measure social security transfers as a percentage of gross domestic product, since it allows easier comparison both across states in the study and over time without having to correct for inflationary effects. I use their dataset, supplementing it with data from the International Labour Office's *World Labor Report* (ILO

1984, 1992, 1993) as per their recommendation.<sup>3</sup> To account for the likelihood that changes in welfare spending will take some time to affect the rights of resident aliens, I lag the observations one year.

Finally, several nationalist scholars argue that partisan factors explain much of the observed variation in policies for the incorporation of resident aliens. Hammar (1990) in particular notes that when governments have enfranchised resident aliens, parties of the left typically have been in power. He argues this is because resident aliens tend to vote for social democratic parties rather than right-leaning parties. This suggests Hypothesis 1(d): democracies in which leftist parties control the government are more likely to enfranchise resident aliens, while rightist parties are less likely to do so. To test this argument, I use Blais, Blake and Dion's (1993) measurement of the partisan composition of government as the difference between the percentage of cabinet seats held by parties of the left and right (pp. 49-50). I use left-right coding of parties and governments collected by Armingeon, Beyeler and Menegale (2002), who compile Blais, Blake and Dion's measure for 21 of the 25 states in the study. For the remaining four states, I construct the measure using party composition data from Beck, Clarke, Groff, Keefer and Walsh (2001) for Costa Rica, Hungary and Uruguay, and from Woldendorp, Keman and Budge (1998) for Israel (which I normalize to the Blais, Blake and Dion scale). Because a higher score on the Blais, Blake and Dion index indicates a partisan composition dominated by left-leaning parties, the expectation is that the higher values of the partisan variable will be positively correlated with changes in the voting rights of resident aliens.

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<sup>3</sup> For missing yearly observations, I use a linear interpolation routine (the "ipolate" command in Stata version 7.0) to impute values for each

*Postnational Hypotheses*

It is a hallmark of postnationalist citizenship politics, scholars argue, that international organizations play an important role in constraining states' citizenship practices. International organizations help expand economic, social and political opportunities for resident aliens. Both intergovernmental and international nongovernmental organizations (IGOs and INGOs respectively) take an interest in states' incorporation practices precisely because these policies may have international consequences: they may lead to civil strife, refugee flows, tensions between states and even to territorial divisions. IGOs and INGOs therefore may play an important role in moderating the illiberal tendencies of some states' policies toward resident aliens. Barrington (2000) for one argues that the Council of Europe, the Conference for Security and Cooperation in Europe, and Helsinki Watch all advocated broader rights for the Russian-speaking minority in the newly independent Baltic republics. Kashiwazaki (2000) likewise argues that Japanese accession to various UN conventions on human and minority rights caused the government to reform its citizenship laws. Soysal (1994) and Sassen (1996) both argue that human rights norms have become codified in international institutions that increasingly regulate states' policies toward minorities and resident aliens. These arguments suggest an important hypothesis, 2(a): states that are committed to international human rights institutions or that are permeated by NGOs are more likely to enfranchise resident aliens than are states less receptive to IGOs and INGOs.

I use two measures to test this hypothesis, one for the influence of IGOs and the other to measure the permeation of NGOs in each democracy in the study. The first uses Simmons' (2002) measure of a

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subject state.

state's commitment to three relevant institutions: the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Economic and Social Rights of Migrants (ICESR), and the respective regional human rights agreements such as the Inter-American Convention on Human Rights. Simmons measures a state's commitment by scoring each state according to whether it has signed (+1), signed and ratified (+2), or taken no action on the given instrument(+0). I use this method to assign each state a score ranging from 0 (no action on any of the three instruments) to 6 (signed and ratified all three instruments) for each yearly observation of each country in the study. Like Simmons, I use this variable to measure each state's commitment to the international human rights regime.

A reliable measure of the influence of NGOs is more difficult to derive, given the undoubtedly varied organization and scope of principled issue-networks both over time and among the states in the study. Rather than tracing the formation of such networks directly, I use Anheier's (2001) proposed measure of the density of INGO membership in each state in the study. He defines membership density as the number of INGOs with at least one member in the state, per one million population.<sup>4</sup> Anheier and Stares (2002) construct this measure using data from the Union of International Association's *Yearbook of International Organizations*.<sup>5</sup> I use the UIA's reported figures for each year from 1984 to 2000, and in 1960, 1966, 1977, and 1981. Because the values are monotonically increasing, I impute values for missing annual observations using a linear interpolation routine.

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<sup>4</sup> Because this measure is highly skewed toward states with small populations, Anheier and Stares (2002) recommend using the log of this measure, a recommendation I follow.

<sup>5</sup> For ease of comparison across time, I look only at organizations coded by the UIA as types A, B, C, and D. The UIA did not classify organizations as types E, F, and G prior to 1984.

Several case studies have noted that the influence of IGOs may vary depending upon the foreign policy goals of a given state. Postnationalist researchers have argued that IGOs have greatest influence when a state seeks to participate in or join multilateral bodies or fora. The European Union is the most obvious example: to conform with the Treaties of Maastricht and Amsterdam, EU member states are required to provide voting rights to those resident aliens who are EU nationals. Barrington (2000) similarly notes that the Council of Europe held little sway over Latvia's treatment of ethnic Russians until it made Latvia's admission to the Council contingent on reforms to its citizenship practices. Voting rights for Commonwealth citizens in the United Kingdom, Barbados, and the rights of British citizens in Australia and Canada may reflect the development of a Commonwealth citizenship policy in the 1940s (Shanahan 1999). These examples suggest an important instrumental relationship between the state's international interests and its citizenship practices. Hypothesis 2(b) is that states are more likely to enfranchise resident aliens when they seek admittance to or participation in international organizations that advocate civil and economic protections for resident aliens. I construct a simple measure to test this hypothesis. Using the same three international bodies from the IGO measure, I create a binary variable and code it a "1" for the year in which a state accedes to the given instrument. Since this does not capture a state's interests, however, I choose to lag the variable for each of the five years preceding the year in which the state acceded. In this way I model the state's interests prior to their realization.

A final postnationalist hypothesis is one I derive by implication. Postnationalist scholars argue the transnational organization of the interests of resident aliens may influence a

state's citizenship policies. Likewise, a simple fact of migration is that resident aliens more likely come from nearby states than from ones far away. Together these facts suggest that geography may well influence whether or not states choose to enfranchise resident aliens. Hypothesis 2(c) is that states are more likely to enfranchise resident aliens if they border on other states that extend such voting rights. To test this hypothesis, I follow Beck's (2001) suggestion to endogenize the spatial relationship among states in the study by measuring the average score on the dependent variable for each state that borders on the observed state. Thus for Germany, for example, its score on this variable is the mean score in a given year of the voting rights of the nine states that border it. To account for the possibility that the influence of neighboring states may occur over time, I lag this variable one year.

This "border" variable has the added benefit of testing for the spatial correlation of observations in the study. Political scientists recently have renewed their interest in the effects on estimation of the spatial organization of a study's subjects (see *inter alia* O'Loughlin et. al. 1998, Smith 1999, Gleditsch and Ward 2000, and Ward and Gleditsch 2003). There are two reasons to suspect that spatial correlation may occur in this study. First, some states like Spain and Portugal grant voting rights to resident aliens from those states that reciprocate the rights to Spanish or Portuguese resident aliens. To the degree states have reciprocal migratory flows, they will be explicitly interdependent and correlated observations. Since bordering states tend to have such reciprocal flows, it is important to account for them when estimating the model. Second, fourteen of the 25 states in the study are European states, suggesting a regional bias may result from European norms, culture or practices. If so, the proposed measures of

cultural and institutional variables may be correlated. In addition to testing an important postnational hypothesis, then, the border variable offers a correction for possible sources of spatial correlation.

#### *Control Variables*

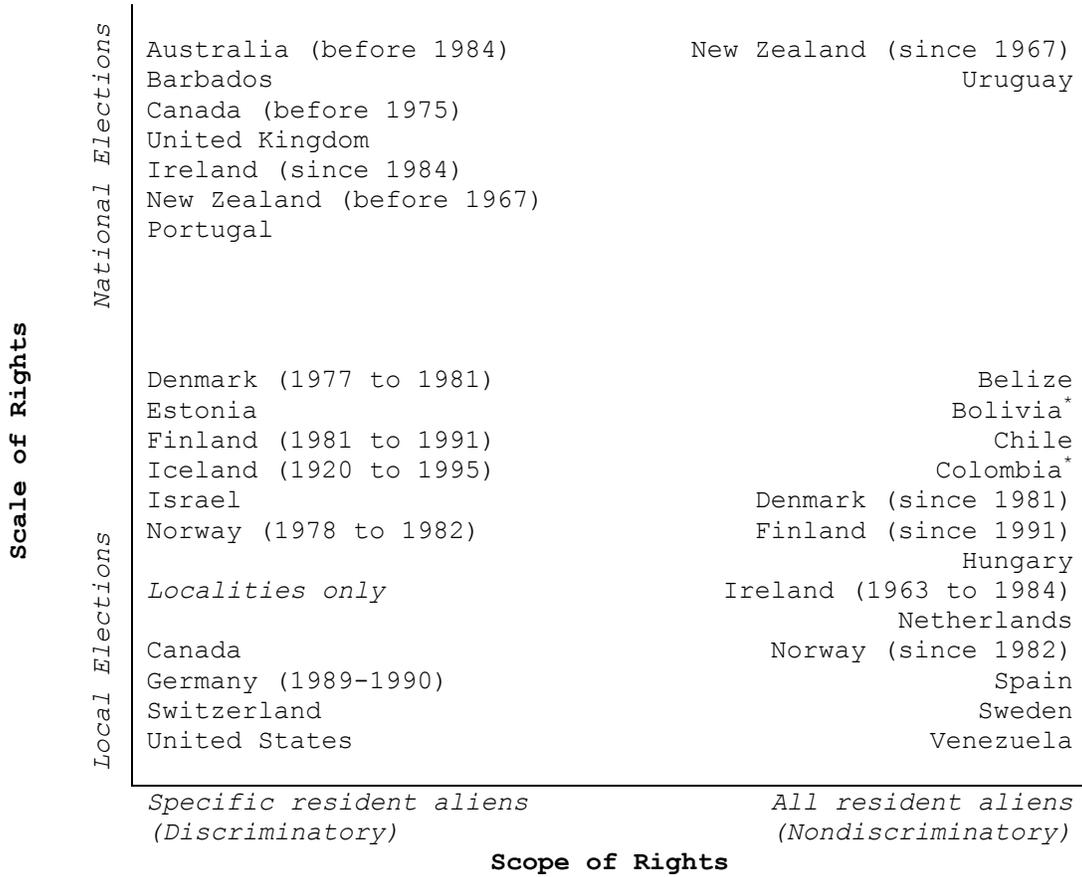
I include five control variables in the model. The first is a dummy variable to control for the state's membership in the European Union. Since the Treaties of Maastricht and Amsterdam require EU member states to offer local voting rights to resident aliens who are citizens of other EU states, it is important to control for this possible bias. Without controlling for EU membership, one might argue that European factors rather than postnational ones explain the emergence of voting rights for resident aliens. The second control is a dummy variable for states with proportional representation systems. Given the emphasis in PR electoral systems on the inclusion of minority groups, one might expect democracies with PR systems to be more likely to enfranchise resident aliens than those with first-past-the-post systems. I use data from Lijphart (1995) and Beck et. al. (2001) to code each state's electoral system. The third and fourth control variables are dummies to account for each state's political development history. Rokkan (1999) for one argues that the state's enfranchisement of citizens depends in part upon the state's inherited traditions of representative rule, and its pattern of formation. He finds that states with stronger traditions of representative rule extend the franchise more slowly but have fewer reversals (p. 249). Likewise he argues that states that have seceded from others are more likely to undertake universalization of the franchise, but suffer more reversals of rights, than center-formed states. This is because secession states, because of their origins, often have large populations of individuals whose citizenship the state

may revoked. I consequently code two dummies: one binary variable uses Rokkan's analysis to record whether (1) or not (0) the subject state has a strong history of representative institutions. The other binary variable codes center-formed states as a one and secession states as a zero. Finally, I include a simple time variable to test for the possibility of significant trends during the four decades of the time series. Together these control variables account for historical, institutional and temporal effects.

### **III. Dependent Variable and Study Sample**

Elsewhere I have documented 23 states that have enfranchised resident aliens, and eight others that either have considered explicitly but rejected such rights or have rescinded voting rights they once offered to resident aliens (Earnest 2003). I measure a state's voting rights for resident aliens according to two criteria. The first has to do with the "scale" of the voting rights. Some states (like Sweden) allow resident aliens to vote only in local and municipal elections, while others (like New Zealand) allow resident aliens to vote in parliamentary elections as well. In several federal systems, furthermore, resident aliens receive the right to vote from local or regional authorities, but not from the national government (Switzerland and the United States typify such rights). Using the scale of voting rights, one can order the democracies in the study from those with no rights, to those who allow aliens to vote only in local elections, to those that enfranchise aliens for parliamentary elections. The second criterion is the "scope" of the rights, which refers to which resident aliens receive the franchise. Some states universally enfranchise aliens who satisfy a requirement for period of residency (Sweden and New Zealand among others have such universal systems) while other

**Figure 1:** The voting rights of resident aliens in 26 states, ordered by their scope and scale.



states extend the right only to resident aliens of specific nationality (such as the United Kingdom's provisions for resident aliens from Commonwealth countries). In other words, the scope of the rights refers to whether or not the rights discriminate on the basis of the resident alien's nationality.

Using these two criteria, I have constructed an ordinal dependent variable with six orders. Because I seek to test the importance of national versus postnational factors, I order the dependent variable from the most "national" to the most "postnational" voting regimes. Consequently I treat no rights as lower than some rights;

discriminatory rights as lower than nondiscriminatory rights; and local rights as lower than national rights. These criteria allow me to rank the dependent variable into six categories: states that offer no voting rights (0); rights granted by localities but not by the national government (1); local rights that discriminate on the basis of nationality (2); national rights that discriminate on the basis of nationality (3); local rights that are nondiscriminatory (4); and finally national rights that are nondiscriminatory (5).<sup>6</sup> Figure 1 shows the scope and scale of the voting rights in 26 democracies. The nondiscriminatory, national franchise in New Zealand is the paragon of the right, while the piecemeal rights offered only by municipalities in the United States and three cantons in Switzerland represents the minimal possible rights.

To avoid sampling on the dependent variable, I use as the study's sample those democracies that satisfy two conditions. I assume that the enfranchisement of resident aliens is a feature more likely to be found in established, mature democracies. Transitional democracies may yet restrict political rights and liberties or suffer from reversals of such rights. Since citizens themselves have only begun to enjoy voting rights in these transitional democracies, furthermore, it arguably is not valid to compare transitional democracies to those democracies with a long tradition of representative, participatory politics. I thus assume that the inclusion of transitional democracies in the sample

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<sup>6</sup> One might argue that one should rank discriminatory national rights above nondiscriminatory local rights--in other words, to reverse orders three and four. To test nationalist and postnationalist hypotheses, however, I argue one must order the voting rights systems according to their use of nationality as a criterion for the franchise. In this sense, the orders of the dependent variable range from those that most emphasize nationality as a criterion (no rights) to those that do not use nationality as a criterion for the broadest range of rights. For this reason, I rank nondiscriminatory local rights as a higher order

will conflate states with substantially different institutions for their populations of resident aliens. For these reasons, I define the study's population as those democracies (a) that are established; and (b) have significant populations of resident aliens. To measure whether or not a democracy is established, I use two measures: a state's score on the Gastil combined index of political freedom and civil liberties (commonly referred to as the "Freedom House" index), and its score on the POLITY variable from the Polity IV dataset (Gastil 1990; Freedom in the World 2001-2002; Marshall and Jaggers 2000). I define an established democracy as one that has scored either (a) four or less on the combined Gastil index for every year from 1990 to 1999 (lower scores indicate greater liberties); or (b) 8 or more on the POLITY variable for every year from 1991 to 2000 inclusive. This requirement of a continuity of political freedoms follows Lijphart's (1999, chapter 4) selection of democracies on the basis of continuous democratic practice. There are 43 democracies that satisfy either the Gastil or POLITY criterion.

Among these 43 states are several with insignificant populations of resident aliens. For simplicity, I assume that a "significant" population of resident aliens is either (a) two million or more resident aliens, or (b) a immigrant population greater than or equal to one percent of the state's total population, based on the United Nations' 2002 data (UN Population Division, 2002).<sup>7</sup> Using these criteria, 25 of the 43 established democracies have significant populations of resident aliens. Table 1 lists these states. For each of these democracies, I measure the dependent variable, the four

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than discriminatory national rights, since the latter retains an emphasis on nationality.

<sup>7</sup> Norris (1997) and Diamond (2000) use similar criterion to identify democracies with significant populations of migrants.

**Table 1:** The 25 democracies that are the population of the study.

<i>Australia</i>	<i>Italy</i>
<i>Austria</i>	<i>Japan</i>
Belgium	Netherlands
Canada	New Zealand
<i>Costa Rica</i>	Norway
Denmark	Portugal
Finland	Spain
<i>France</i>	Sweden
Germany	Switzerland
<i>Greece</i>	United Kingdom
Hungary	United States
Ireland	Uruguay
Israel	

*Note:* States that have had no voting rights for resident aliens during the period of this study are listed in italics.

nationalist variables, the four postnationalist variables, and the four control variables for each year from 1960 to 2000.

#### **IV. Methods and Findings**

To test the nationalist and postnationalist hypotheses, I use a time-series cross-section research design, commonly referred to as a "TSCS" study. This type of research design is increasingly common in international relations scholarship, particularly among democratic peace researchers (see inter alia Bowman 1996; Goldstein and Pevehouse 1997; Partell 1997; Yoon 1997; Drury 1998; Lowery and Gray 1998; and Soss, Schram, Vartarian, and O'Brien 2001). Beck and Katz (1995) and Beck (2001) have noted that such designs typically are plagued with data problems for which researchers must correct, either in their specification of the model or in their estimation technique. Specifically, contemporaneous correlation among panels, serial correlation and panel heteroscedasticity in TSCS studies typically

result in an under-estimation of standard errors. This leads to overconfidence in significance tests and a greater chance of finding effects when in fact none exist. Unfortunately, the most common estimation technique for TSCS designs--known as panel-corrected standard errors, or PCSE--is not appropriate for this study because it requires a continuous dependent variable. Likewise, Beck's (2001) proposed corrections through model specification--such as the inclusion of a lagged observation of the dependent variable on the right-hand side of the model--may in fact overcorrect when the dependent variable changes infrequently over the course of the time series. With only 17 observed changes in the dependent variable out of 921 possible observations, Beck's proposals for specification corrections almost certainly will overestimate the true standard errors of the estimates. The model then would suffer from the likelihood of no significant findings when some effects in fact exist.

As Beck (2001, p. 287) has noted, little is known about panel corrections for designs with an ordinal dependent variable. Simmons (2002) has proposed one method that I use for this study. In her analysis of a state's commitment to international human rights obligations, Simmons uses an ordered probit analysis with robust standard errors that are adjusted for "clustering" on each country in her study. This use of robust standard errors to correct for clustering substantially increases the estimated standard errors and "reduces the likelihood of inferring effects where in fact there are none" (p. 17).<sup>8</sup> While it is an imperfect solution to estimating TSCS models with an ordered dependent variable, it is a conservative one that biases

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<sup>8</sup> Robust standard errors typically are the Huber/White/sandwich estimator of variance, which will produce valid standard errors even if the modeler does not properly specify the within-group correlation

hypotheses tests in the direction of a finding of no significance. To test the nationalist and postnationalist hypotheses, I thus use an ordered probit specification with robust standard errors adjusted for clustering on each democracy in the population.

For purposes of comparison and for validation of the findings, I also conduct a PCSE regression analysis on the model. While such analysis is inappropriate for ordered dependent variables, Beck (2001, p. 273) notes that researchers using ordered variables with seven points commonly treat them as continuous and can estimate such variables with PCSE techniques. The dependent variable for this study has only six points, making tenuous any inferences from PCSE estimation. I therefore include the PCSE regression results cautiously, and only for purposes of validation. When using PCSE estimation I assume that there is panel-specific autoregression in order to avoid overconfidence in the estimated standard errors of the model.

Table 2 presents the findings of this analysis, listing the hypothesized explanatory variables on the left. For each factor, I have reported the estimated coefficient and, in parentheses, the estimated standard error after adjustment for clustering on each country. An asterisk denotes those variables that are significant at the 0.05 level; a double asterisk indicates the variable is significant at the 0.01 level. The left-hand column lists the nationalist, postnationalist and control variables, while the middle column lists the estimated coefficients and standard errors for the ordered probit analysis. The right-hand column provides the coefficients and standard errors for the PCSE regression analysis.

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structure. The Huber/White/sandwich estimator does require, however, that the model correctly specify the mean.

**Table 2:** Results of the Analysis

		<i>Ordered Probit Analysis</i>	<i>PSCE Analysis</i>
		No. obs = 808	No. obs = 808
		P > chi <sup>2</sup> = 0.000	No. groups = 25
		Log likelihood = -819.07	Avg. obs/group = 32.32
		Pseudo R <sup>2</sup> = 0.3117	P > chi <sup>2</sup> = 0.000
			R <sup>2</sup> = 0.3593
<u>Explanatory Variables</u>		<u>Estimated Coefficient (std. err.)</u>	
<b>Nationalist Hypotheses</b>	1(a): Birthright citizenship	2.103 (0.386)**	1.545 (0.0265)**
	1(b): Strength of judicial review	-0.730 (0.198)**	-0.277 (0.801)**
	1(c): Social security expenditure, lagged 1	0.151 (0.032)**	0.006 (0.010)
	1(d): Party of government	-0.284 (0.142)*	-0.052 (0.031)
<b>Postnationalist Hypotheses</b>	2(a): Accession to international human rights instruments	0.045 (0.097)	0.013 (0.024)
	2(a): Density of NGOs	0.234 (0.159)	0.255 (0.140)
	2(b): Foreign policy goals	-0.001 (0.157)	-0.026 (0.044)
	2(c): Mean score of bordering states, lagged 1	0.476 (0.115)**	0.203 (0.0.049)**
<b>Controls</b>	EU dummy	-1.227 (0.348)**	-0.148 (0.1657)
	PR dummy	-0.548 (0.420)	-0.113 (0.083)
	History of representative institutions dummy	0.635 (0.398)	1.100 (0.237)**
	Center-formed state dummy	0.011 (0.384)	0.909 (0.279)**
	Time	-0.012 (0.019)	0.033 (0.010)**
		* = significant at 0.05	
		** = significant at 0.01	

A quick glance at Table 2 shows strong support for the nationalist variables. In the ordered probit estimation, all four nationalist variables are significant. The birthright citizenship variable is significant in the predicted direction. This shows that, as

hypothesized, those states that have nationality law based on the doctrine of *jus soli* are more likely to enfranchise resident aliens than *jus sanguinis* states are. Curiously, however, the three other significant nationalist variables operate in the direction opposite of the hypothesized effect. States with more activist and independent judiciaries are significantly less likely to enfranchise their resident aliens, not more so as Hypothesis 1(b) stated. Similarly, a state's spending on social security operates in the direction opposite to that predicted in Hypothesis 1(c); rather than leading to increased policing of claimants and hence a foreclosure of opportunities, states that spend more on social programs are in fact more likely to extend voting rights to resident aliens. Finally, parties of the left in fact are significantly less likely to enfranchise resident aliens than parties of the right are. This is a surprising reversal of the expectation of Hypothesis 1(d).

The analysis finds only weak support for the postnationalist hypotheses. The only postnational factor that is a significant predictor of a state's enfranchisement of resident aliens is its proximity to other states that do so. The mean score on the dependent variable of bordering states is significant in the direction predicted: states are more likely to enfranchise resident aliens if their neighbors do so, suggesting the importance of reciprocity and immigration flows. The three other postnationalist variables are not significant. A democracy's commitment to the international human rights regime does not make a difference, nor apparently does its permeation by nongovernmental organizations or its foreign policy goals.

Only one of the control variables is significant, though it is a provocative one. The dummy variable for the European Union is significant, but it is in the direction opposite of the expectation.

Rather than EU states being more likely to enfranchise resident aliens, they are significantly less likely to do so. It is worth noting that proportional representation systems are not significantly more likely to enfranchise resident aliens, despite their emphasis on the inclusion of social minorities. Likewise, the dummy variables for the state's political development are not significant, indicating that neither its legacy of representative institutions nor its history of formation is relevant to its enfranchisement of resident aliens.

Interestingly, the PCSE analysis provides a validity check that, at least on questions of the nationalist and postnationalist hypotheses, largely affirms the findings of the ordered probit analysis. The PCSE regression finds two nationalist variables significant--birthright citizenship and strength of judicial review (though not the social security or partisan variables). Likewise, it finds these two significant in the same directions as the ordered probit estimates, suggesting some validity to the surprising finding about the influence of judicial review. Both the PCSE and ordered probit analysis find support for the "border" variable. The two techniques diverge, however, in their estimates of the hypothesized control variables. The PCSE analysis finds that the temporal and political development dummies all are significant, while the EU dummy is not significant. This is the converse of the ordered probit analysis, which found support only for the EU dummy. This divergence of the two techniques suggests that one must be cautious in inferring any validity of the model from the PCSE analysis.

## **V. Discussion**

These findings suggest only mixed support for the nationalist thesis. It is clear that, despite globalization and the

institutionalization of international human rights, democratic states still retain considerable sovereignty over the constitution of their political communities. Shared conceptions of the polity, whether as a multinational state or as an ethnic "nation," remain a significant factor in how democracies treat their resident aliens. An example of this may be Germany, in which three länder during 1989 created rights for some resident aliens to vote in their state and municipal elections. But a year later the Federal Constitutional Court, citing a conception of voting rights that reflects the state's *jus sanguinis* tradition, argued the right to vote belonged to the Germany nation, not individuals, and struck down the local voting rights (Neuman 1992). The support for the nationalist hypotheses is tempered by the fact that this analysis finds two key arguments are significant in the direction opposite of the prediction. Rather than strengthening the political rights of resident aliens, strong judiciaries in democracies in fact seem to delimit the political rights of resident aliens. This may arise in part from the codification of principals of nationality in existing state laws, and in part from the differences between civil and economic rights on the one hand and political rights on the other. As the example of Germany shows, courts may exercise their activism over legislatures in ways that are inherently conservative rather than inclusive. That is, contrary to Aleinikoff's assertion (2001), courts may be more active in reinforcing the legal bonds between the state and the nation rather than in breaking them. Issue areas may also explain this surprising finding. Whereas courts are willing to extend social and civil protections to migrants, it is possible they are traditionally deferential to legislatures in matters of political rights. If so, then legislatures must take the initiative to extend voting rights to resident aliens.

Another unexpected finding is that a democracy's social welfare policy seems positively correlated with its treatment of resident aliens. Contrary to Klausen's (1995) argument that social protections for citizens curtail opportunities for the inclusion of resident aliens, it appears that social and civil rights are positively correlated with the political rights of migrants. Rather than leading to exclusion, then, welfare practices are part of a broad strategy for the incorporation of resident aliens into democratic societies.

The contrary significance of the nationalist hypotheses suggests the possibility that postnationalist factors affect a democracy's incorporation of resident aliens. Three facts seem relevant to the consideration of the postnationalist thesis. First, partisan and institutional variables do not perform as the nationalist thesis predicts. The fact that parties of the right are more likely to enfranchise resident aliens is surprising, given the perception that parties of the left are more likely to gain votes from resident aliens. Likewise, in this study democracies with proportional representation and majoritarian electoral systems do not behave in any significantly different ways. These findings show that governments that enfranchise resident aliens respond to factors other than pure calculations of electoral gain. Second, the surprising finding about the role of judicial review suggests that, contrary to expectations, legislatures are not as illiberal as some have hypothesized. Together with the findings about partisan and electoral factors, this suggests governments enfranchise aliens for reasons other than traditional instrumental politics. Transnational factors may be at work. A third point of possible support for the postnationalist thesis is the finding that states that provide more social protections for their resident also provide more political opportunities for their resident aliens.

Rather than treating resident aliens as different than citizens, democracies largely treat citizens and resident aliens largely alike, irrespective of nationality. All these factors suggest at a minimum that state institutions and parties respond to factors other than those traditionally hypothesized by nationalist scholars. While national conceptions and institutions remain strong, it appears they alone are insufficient.

The significant finding of the importance of geography only reinforces this suspicion. Democracies that enfranchise resident aliens tend to cluster together, for reasons other than their commitment to international human rights regimes, the influence of INGOs, or even their foreign policy goals. It is perhaps unsurprising that the ordered probit analysis does not find significant support for either the hypothesized commitment to international human rights instruments or for the influence of INGOs. By construction, the study's sample includes only those democracies which score high on civil and political rights, so it is to be expected that all states in the study score high on the measure of their commitment to international human rights. Likewise, all democracies are permeated by INGOs. So why does the geography of this phenomenon matter? Reciprocal arrangements between states and return flows of migrants are two possible causes. In this sense, it is likely that democracies respond instrumentally to migratory pressures: they enfranchise their resident aliens not for normative reasons per se, but to assure that their citizens who reside abroad also receive voting rights. Another possible explanation for the significance of geography is, however, that resident aliens may be organizing and articulating their interests across national borders in a way this study fails to capture. It is well known, for example, that in some countries candidates for office will campaign overseas for

votes--Vicente Fox's presidential election in Mexico in 2000 is a good example, as is influence of Dominicans in New York over the political parties of their home country (Guarnizo 2001). If candidates seek support from expatriates, sending states may organize their expatriates and lobby on their behalf to their home governments, much like Mexico has done with its emigrants in the United States.

These observations point up an insufficiency of this study that is true of most of the existing scholarship on postnationalist citizenship politics. It is difficult to derive valid and reliable measures of transnational influences on state policies. This study approached these questions by measuring not transnational or systemic factors, but instead by measuring proxies for each state. It tries to assess the influence of international organizations, for example, by measuring a state's commitment and its evolving foreign policy goals. While such a technique is common in IR scholarship, it may not reliably capture important international or transnational dynamics of migration. A more promising approach may be a dyadic analysis of sending states and receiving states, much as democratic theorists have done. While this approach might identify important transnational dynamics, however, it is unclear that it will provide more reliable data for large-*n* studies. This is due in part to problems with the available data on transnational dynamics: most existing measures go back no more than two decades, and some (such as the data on remittances) are unreliable. In fact, this is why much of the most promising scholarship on postnational politics uses case studies or small-*n* designs.

## **VI. Conclusion**

Democracies today retain considerable autonomy over their policies for the political incorporation of their growing populations

of resident aliens. While the institutionalization of a global human rights regime may create systemic pressures on democracies, it is apparent that these pressures are refracted both through state-level institutions and through the prism of each democracy's unique historical conceptions of its political community. Rather than democracies converging around a common practice of enfranchising resident aliens, it is apparent that considerable differences among democracies will persist for some time. France for example has twice considered such rights but failed to adopt them, while Belgium has failed to enact proposals on numerous occasions since 1972 (Rath 1990). While emerging postnational norms emphasize the inclusion of migrants irrespective of nationality, they are not determinative. States have the sovereign authority to determine how they include their resident aliens in their polities. In this sense, like many other pressures of globalization, democracies all respond to postnationalist norms in ways that are distinctly "national."

Yet this study finds hints of the influence of postnationalism in the ways democracies enfranchise their resident aliens. Parties and institutions in democracies do not behave in the ways that nationalist research has predicted. Rather than responding to electoral incentives, parties clearly respond to some other, as yet unknown pressures. Likewise, rather than enhancing the rights of resident aliens as hypothesized, activist courts are more likely to curtail such rights. Clearly legislatures, not courts, are driving the expansion of political rights for reasons other than electoral gain. The important question is what those reasons may be: the role of legislatures must figure prominently in future research. A possible answer to this puzzle lies, however, in the one significant finding about postnationalism. The fact is that democracies that enfranchise resident aliens somehow

influence their neighboring democracies in ways that this study has failed to capture. A next step for postnationalist scholarship is not only to identify possible transnational mechanisms for the organization of migrant interests, but to develop valid and reliable measures as well.

Why have democracies extended rights to migrants in an order that reverses Marshall's hypothesized sequence? This study's findings suggest an important answer: unlike citizens' rights, the rights of resident aliens do not appear to be linked to the evolution of state institutions. While states have adopted innovative institutions for the incorporation of migrants, as Hammar and others have observed, these institutions themselves appear to result from the confluence of transnational factors and domestic institutions. Unfortunately, international relations scholars have yet to measure reliably many facets of globalization and transnationalism. Before one can definitively resolve the debate between the nationalist and postnationalist theses, the discipline needs to understand better how the parallel flows of migrants and ideas affect the ways democratic governments and societies constitute their political communities.

### **Appendix A: The Dependent Variable**

I measure the dependent variable according to three criteria: (a) whether a subnational government that grants the franchise to resident aliens, or the national government does; (b) whether the voting rights are for local elections only or for national elections; and (c) whether or not a resident alien must satisfy a nationality requirement to qualify for the franchise. With these criteria, I code the dependent variable for the population of the study as follows:

0: No rights (Australia after 1984, Austria, Belgium, Costa Rica, Denmark before 1977, Finland before 1981, France, Germany except for 1989-90, Greece, Ireland before 1962, Italy, Japan, the Netherlands before 1979, Norway before 1978, Spain before 1985, Sweden before 1976, the United Kingdom before 1949, and the United States before 1968).

1: Rights granted only by subnational governments (Canada from 1975 to the present; West Germany in 1989, the Netherlands from 1979 to 1981, Switzerland from 1960 to the present, and the United States from 1968 to the present).

2: Local rights, discriminatory (Denmark from 1977 to 1980; Finland from 1981 to 1990; Israel from 1960 to the present; and Norway from 1978 to 1981).

3: National rights, discriminatory (Australia from 1960 to 1984, Canada from 1960 to 1974, Ireland from 1985 to the present, New Zealand from 1960 to 1974, Portugal, the United Kingdom).

4: Local rights, nondiscriminatory (Denmark after 1980, Finland after 1990, Hungary, Ireland 1963 to 1984, the Netherlands after 1981, Norway after 1981, Spain after 1985, Sweden after 1976).

5: National rights, nondiscriminatory (New Zealand after 1975, Uruguay)

For sources for the coding of each democracy, see Earnest (2003).

## **Appendix B: Data Measures and Sources**

*Dependent Variable:* See Appendix A.

*Independent and Control Variables:*

**Year:** Calendar year (range: 1960 to 2000).

**Ccode2:** The standard country code from the Correlates of War dataset, corrected so that West Germany (CCODE = 255) and Germany (CCODE = 260) are estimated as a single panel (standardized to 260).

**Country:** Name of the democracy.

**Birthright Citizenship:** Binary: whether or not the subject state offers birthright citizenship to children born within its borders to parents who are not citizens. Sources for the data are Adams (1993), Flanz (2000), Kondo (2001), Nagy (2001) and Weil (2001).

**Judicial Review:** Lijphart's index of judicial review, coded from 1 (no judicial review) to 4 (strongest, most active judicial review). Sources are Utter and Lundsgaard (1993), Lijphart (1999), Howard (2001) and Skaar (2002).

**Social Security Transfers:** Annual amount of the state's per annum welfare spending, as a percentage of GDP, lagged one year. Sources are Huber, Ragin and Stephens (1997) and the International Labour Office (1984, 1992, 1993).

**Partisan composition of government:** Difference between the percentage of cabinet seats held by parties of the left and the percentage of seats held by parties of the right. Data sources are Blais, Blake and Dion (1993); Woldendorp, Keman and Budge (1998); Beck, Clarke, Groff, Keefer and Walsh (2001); and Armingeon, Beyeler and Menegale (2002).

**Commitment to International Human Rights:** Measured as a state's accession (+1), accession and ratification (+2), or inaction (+0) on three international human rights instruments: the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Economic and Social Rights of Migrants (ICSR), and a regional human rights accord. The relevant regional accords are the Inter-American Convention on Human Rights and the European Convention on Human Rights. No such regional accords exist for Asia or for the South Pacific during the time period of this study. Source for the method of constructing this variable is Simmons (2002).

**Density of INGOs:** The log of the number of INGOs with at least one member in the democracy, per one million population. Data is from the Union of International Associations (1967 to the present).

**State's foreign policy goals:** Binary: 1 if five or fewer years before the state's accession to the human rights instruments listed above, zero otherwise.

**Border:** The average score on the dependent variable of the states that border the observed democracy.

**EU:** binary dummy: 1 if the state is a member of the European Union, zero otherwise.

**PR:** binary dummy: 1 if the state has a proportional representation electoral system, zero otherwise. Data on electoral systems is from Lijphart (1995) and Beck, Clarke, Groff, Keefer and Walsh (2001).

**History of representative rule:** binary: 1 if a strong history of representative rule, 0 otherwise. The source for data on European states is Rokkan (1999). For other states, I coded the observations according to my understanding of Rokkan's measure.

**State formation history:** binary: 1 if the state seceded from another to become independent, 0 if it was a "center-formed" state. Again, I use Rokkan's classification of the European democracies (1999), supplemented by my own coding for those democracies not included in Rokkan's analysis.

**Time:** a counter variable centered on the year 1980. For observations before 1980, I coded the years as negative years; for example, an observation from 1960 is coded as -20, one from 1970 is a -10, and so forth. Years after 1980 are positive years (1990 = +10, 2000 = + 20).

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