Paths to Citizenship: A Comparative Study of Japan, Germany and Sweden

Lecea

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This paper examines citizenship policy in Japan, Germany and Sweden in an attempt to explain why some rich, democratic nations have high rates of naturalization and non-restrictive paths to citizenship, while others have negligible rates of naturalization and very restrictive policies. Japan has a very restrictive policy while Sweden has a very open policy. Germany is a mid-level case that has moved from more restrictive to less restrictive over the last several years. In this paper I look at the explanatory potential of internal, institutional, and external variables. I use data from the World Values Survey to compare domestic attitudes. I look at constitutional provisions and the structure of judicial systems to compare institutional factors. I then compare regional integration and security concerns as external pressures. I conclude that cultural attitudes seem to follow, rather than precipitate, policy change, while the institutional and external factors are more promising as explanatory factors for variance in citizenship regimes.
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INTRODUCTION

A Seal, a Song and a Site

In February 2003, Japan gained a rather unusual new citizen. An Alaskan seal had made its way into the Tama River near Tokyo. The seal became something of a celebrity, earning the affectionate nickname “Tama-chan” and gaining the attention of the national media. Fans flocked to the river to take pictures and buy Tama-chan memorabilia. In the exuberance surrounding the seal, the city of Yokohama’s Nishi Ward joined in by giving the alien seal a juminhyo, an official certificate of residence that is by law reserved only for national, ethnic Japanese (Brophy 2003). In response, local “foreigners” – some whose families had been in Japan for generations – staged a protest by wearing seal masks and gathering along the Tama River. They wanted to bring attention to the fact that something that was so cavalierly granted to a cute sea animal was incredibly difficult for these residents to gain (Matsubara 2003). Without a juminhyo, an individual can have difficulty buying a home or starting a business. Families that have lived in Japan for four generations are still not considered citizens, and when those communities try to have a voice in the nation, it is discarded as a ‘foreign’ voice (Ducke 2007). Citizenship is, without doubt, difficult to obtain in Japan.
Not all nations are so strict with granting citizenship. Compare that to the situation in Sweden, where the attainment of citizenship is considered part of the integration of an immigrant. A quick trip to the website of the Swedish Migration Board\(^1\) spells out, in at least eleven different languages, how long an applicant needs to be in the country before he can apply for citizenship and how to fill out the applications. Further, the necessary forms are available online, so there is no need to search out the brick and mortar office. Swedish citizenship can be granted without proof of being integrated into Swedish culture nor any test of Swedish language proficiency (Milani 2008).

In Germany, where it had been quite difficult for non-ethnic immigrants to gain citizenship, today the application for citizenship is affordable and available to most immigrants. The past decade has seen the reduction of application fees, less subjectivity in application reviews, and legal changes that allow the children of immigrants who are born on German soil to gain German citizenship at birth. Even government officials have been encouraging the integration of other ethnicities into the definition of what is “German.” In 2007, as part of a campaign to recognize non-ethnic Germans’ contribution to Germany, the Federal Foreign Minister Frank-Walter Steinmeier joined with several German-Turkish musicians to record a song called, “Deutschland.” This song was recorded during part of an official ministerial meeting, and speaks to the changing definition of what is German (DDP 2007).

\(^1\) http://www.migrationsverket.se/english.html
Why is it so difficult to gain Japanese citizenship and somewhat difficult to gain in Germany, while Swedish citizenship is available to those who meet minimum requirements? This is especially puzzling in light of theories that posit that nations like Japan, Germany and Sweden will become more alike. Convergence theory suggests that as rich democratic nations become richer, they become similar to each other in politics, economics, and culture (Wilensky 2002). According to this theory one would expect to see policy in Japan, Germany and Sweden converge in the decades since the Second World War as they have become similar in wealth. In that half a century those nations have become richer, but have not developed similar citizenship regimes.

Similarly, one would also expect those nations to become alike under globalization theory, although for a different reason. This theory suggests that the world is “getting smaller”, that the nation-state is becoming less important, and that transnational and supranational organizations are becoming dominant. Although other periods of history have seen large migrations of peoples, there is an argument for the current situation being distinct from any previous period. As Castles and Davidson (2004, 4) say, “What is new today is the all embracing character of global relationships, the speed of reaction through electronically networked markets and media, and the decline of central control as the role of national government diminishes.” The movement of information, products, and peoples is accelerating. In turn, this seems to be eroding the power of the nation state, as technology, transnational organizations and global markets rather than national polities appear to be the
driving force behind who moves where and when. With the decline of control by national government, one might expect to see similarities in migration flows into nations, despite differing policies to regulate flow and naturalization of those migrants. This is not the case, however, as migration flows continue to differ greatly between nations, and it follows that domestic policy has a strong effect on those flows.

Further, despite the influences that globalization might have on migration, it continues to be the national government that determines who will be a citizen of that state. External agreements or international norms can influence the treatment of individuals, or perhaps the rights they might have, but the actual granting of citizenship is still within the jurisdiction of the national governments. In order to understand the divergence of paths to citizenship in rich democracies, it is useful to understand why there are such differences. By understanding the why, a policy maker or advocate could then know what to address in order to make changes in a citizenship regime, if such changes need to be made.

This paper examines citizenship policy in Japan, Germany and Sweden in an attempt to explain why some rich, democratic nations have high rates of naturalization and non-restrictive paths to citizenship, while others have negligible rates of naturalization and very restrictive policies. Japan has a very restrictive policy while Sweden has a very open policy. Germany is a mid-level case that has moved from more restrictive to less restrictive over the last several years. In this paper I look at the explanatory potential of internal, institutional, and external variables. I use data
from the World Values Survey to compare domestic attitudes. I look at constitutional provisions and the structure of judicial systems to compare institutional factors. I then compare regional integration and security concerns as external pressures. I conclude that cultural attitudes seem to follow, rather than precipitate, policy change, while the institutional and external factors are more promising as explanatory factors for variance in citizenship regimes.

What Is Citizenship?

There are many ways of defining citizenship, but most definitions fall into one of two categories. The first one focuses on citizenship as the duties and responsibilities of an individual member of a polity. A second definition emphasizes becoming a citizen rather than being a citizen. This is what Stephen Castles terms access to citizenship (see Castles 1994, and Castles and Davidson 2004). Within this definition is the idea of political citizenship – a formal, legitimate membership of a polity. Political citizenship describes the duties of a citizen – such as military service and paying taxes – as well the benefits of citizenship – such as voting, participation in government, and, generally, the entitlement to legal protections both by and from the national government (Safran 1997).

For this study, citizenship means formal citizenship as recognized by the national government – that is, political citizenship. An individual who is a citizen of a state generally has the greatest protection by the state, as well as the most legitimate
claim to state benefits. In nations that have welfare institutions, the citizen is not only important as a claimant on the state, but also as a source of legitimate power and a contributor to the funds necessary to pay for welfare programs.

Citizenship is generally based on one of two general principles – *jus sanguinis* or *jus soli*. *Jus sanguinis* means “right of the blood,” and it bases citizenship on ancestry or family. In simple terms, the citizenship of a child is determined by the citizenship of his or her parents. *Jus soli* means “right of the soil” and it bases citizenship on location of birth. If a child is born within the boundaries of a state, then it is a citizen of that state. Most nations of the world use some combination of the two principles to determine citizenship.

Citizenship regimes are the culmination of policies and procedures that a state has in place for the allowance of new citizens, especially those citizens who are not natural born citizens. Such regimes can be envisioned along a scale, from very restrictive to not restrictive. A regime that is very restrictive would make it impossible or nearly impossible for immigrants to gain citizenship, while a regime that is not restrictive would have an easy path to citizenship, with few requirements and automatic or near-automatic attainment of citizenship. Further, one would expect that a restrictive regime would result in few new citizenships attained annually.
Case Selection

Looking at a selection of OECD countries, one can see that the percentage of new citizens compared to the nations’ population goes from the very low (Japan, Italy) to relatively high (Sweden, Australia, Canada).

Table 1. Acquisition of citizenship in 2005 for selected OECD countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Total number of new citizenships</th>
<th>New citizenships per 100,000 of population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Japan</td>
<td>15,251</td>
<td>11</td>
</tr>
<tr>
<td>Italy</td>
<td>11,934</td>
<td>20</td>
</tr>
<tr>
<td>Finland</td>
<td>5,683</td>
<td>108</td>
</tr>
<tr>
<td>Germany</td>
<td>117,241</td>
<td>142</td>
</tr>
<tr>
<td>Netherlands</td>
<td>28,488</td>
<td>173</td>
</tr>
<tr>
<td>Denmark</td>
<td>10,197</td>
<td>187</td>
</tr>
<tr>
<td>United States</td>
<td>604,280</td>
<td>209</td>
</tr>
<tr>
<td>France</td>
<td>154,827</td>
<td>255</td>
</tr>
<tr>
<td>UK</td>
<td>161,780</td>
<td>267</td>
</tr>
<tr>
<td>Norway</td>
<td>12,655</td>
<td>275</td>
</tr>
<tr>
<td>Belgium</td>
<td>31,512</td>
<td>304</td>
</tr>
<tr>
<td>Austria</td>
<td>34,876</td>
<td>426</td>
</tr>
<tr>
<td>Sweden</td>
<td>39,573</td>
<td>439</td>
</tr>
<tr>
<td>Australia</td>
<td>93,095</td>
<td>463</td>
</tr>
<tr>
<td>Canada</td>
<td>196,291</td>
<td>598</td>
</tr>
</tbody>
</table>

Source: CIA World Factbook; OECD Factbook

Table 2. Acquisitions of citizenship over time

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Japan</td>
<td>14,104</td>
<td>15,812</td>
<td>15,251</td>
</tr>
<tr>
<td>Germany</td>
<td>71,981</td>
<td>186,688</td>
<td>117,241</td>
</tr>
<tr>
<td>Sweden</td>
<td>31,993</td>
<td>43,474</td>
<td>39,573</td>
</tr>
</tbody>
</table>

Source: CIA World Factbook
Using Table 1, the results would suggest that Japan and Italy have more restrictive citizenship regimes, while Sweden, Canada and Australia have much less restrictive regimes. Table 2 shows that over the decade from 1995 to 2005 Japan is consistently restrictive, with only an eight percent increase over the period, while Sweden is consistently less restrictive, showing a twenty-three percent increase over the same period. Interestingly, Germany has gone through some important changes during this time period, with acquisitions increasing one hundred and fifty-nine percent from 1995 to 2000, and a sixty-two percent increase from 1995 to 2005.

Migration Flows

In addition to looking at citizenship acquisitions in the three cases, it also helps to look at the flows of migration to get a better picture of what has been happening in the three cases. Looking at the net flow of migration in Germany, Japan and Sweden over the past fifty years, migration rates in Sweden have been remarkably stable, while Germany and Japan have fluctuated significantly.
After the end of WWII, Germany experienced migration of peoples displaced during the war, while Japan, due to the dismantling of its empire and to economic hardships, lost population. However, as economies improved and more labor was needed during the 1960s and 1970s, Japan and Germany both brought in significant numbers of migrants. In the 1990s, Germany experienced a large influx of ethnic migrants into following the collapse of the Soviet Union, a situation that has no parallel in Japan. However, nearly two decades have passed since the end of the Cold
War, yet still Germany has had a relatively large net migration, while Japan has had a negative or very small positive net migration.

As each nation has different levels of population, simply looking at the raw numbers could be misleading. If two nations accept the same number of migrants, but one nation is significantly larger than another, it might be difficult to argue that those two nations have a similar migration pattern. While looking at migration rates with population rates can be affected by national demographic changes as well, using both series helps tell a fuller story what migration in each nation has been like.

Examining the net migration rate in relation to population, one can see that Sweden's migration rate has fluctuated a bit as well. From the 1950s to the 1980s, Sweden tended to have higher rates of migration than either Japan or Germany. Between the 1980s to the end of the century, however, Germany has experienced the highest rate of migration in relation to population, while Japan has consistently had the lowest rate of migration.
The patterns of migration reflect citizenship regimes. Sweden, which has an open, relatively unchanged citizenship regime, has also had a relatively stable migration experience. Japan and Germany, which had similar experiences in numbers of migrants prior to the 1980s, have had dissimilar experiences over the past few decades.
Explaining the Difference

To answer why democracies have varying citizenship regimes, it is useful to draw on immigration literature as well as citizenship literature, because each deals with the politics of human migration and the status and legitimacy of an individual in the polity of residence. Taken together, the explanations for policy difference fall into three broad categories: national, institutional and transnational explanations. The national explanation posits that citizenship policy results from a nation’s unique history and culture while the institutional explanation is that citizenship policy is a result of ideology expressed in formative documents and constitutions. The transnational explanation looks outside the state, to international norms and pressures. The national explanation looks inside each nation for the causes of policy difference. Similar challenges are responded to in diverse ways based on a nation’s particular culture, traditions and history (Brubaker 1992, Hansen and Weil 2001, Ortloff and Frey 2007). In this vein, Freeman (1995) argues that differences in immigration policy are explained by when mass immigration occurs. If such immigration occurs at the founding of the nation, that nation will have more open policies than one that did not experience mass migration until well after the state was established. This is why nations such as Canada and the United States tend to have less restrictive immigration policies than European nations that did not experience mass migration until after World War II. Others argue that cultural differences between nations account for why
otherwise similar nations have different immigration and citizenship policy (Thomas 2006, Surak 2008).

A second explanation is that institutions are the primary factor that shape citizenship and migration policies. In examining why nations accept unwanted immigration, Joppke argues that “accepting unwanted immigration is inherent in the liberalness of liberal states” (1998, 292). That is, the liberal ideals of respect for individual rights and the rule of law translate into less restrictive immigration policy. Nations that define themselves in political terms will in turn have less restrictive citizenship regimes than those define themselves ethnically or culturally. If cultural assimilation is required for naturalization, then citizenship is placed out of reach for many immigrants, due to the unfeasibility of complete assimilation and the capriciousness of bureaucrats who judge an immigrant’s cultural integration (Safran 1997, Surak 2008). Although history can be seen as playing a role in the formation of the institutions, this type of argument differs from the national argument in that policies are not a result of histories of migration or variations in cultures, but rather as a byproduct of institutions and laws (Freeman and Birrell 2001).

Finally, there are the studies that claim that forces external to the state cause variation in citizenship policy. On the one hand, the ideal of global human rights and the increasing importance of transnational organization pressure the state to relax immigration and citizenship policy (Sassan 1996). On the other hand, external threats lead a nation to restrict entrance and membership. Despite ideology and history, a state will have a more restrictive citizenship regime the more concerned with security
and protection it is. Fear and insecurity can lead a state to restrict naturalization and immigration. Under this explanation, the nation labels and excludes the outsider in the name of preservation and security and in some cases such protection will often take precedence over liberal ideology (Doty 2003, Béland 2005). When nations place protection and security above liberal ideals, nations with similar histories or ideologies can then have such divergent citizenship regimes.

This paper explores the paths to citizenship in Sweden, Germany and Japan. How does one gain citizenship in each country? I then discuss how those paths have changed over the last fifty years. Finally, I look at the how the national explanation, the institutional explanation, and the transnational explanation might help illuminate why the citizenship regimes vary.

THE PATHS TO CITIZENSHIP

The Swedish Path

Swedish citizenship is based on *jus sanguinis*, with citizenship being determined by citizenship of the parents. A child whose mother is a Swedish citizen automatically obtains Swedish citizen regardless of where the birth takes place. If only the father is a citizen, the child automatically gains Swedish citizenship if either the child is born in Sweden or if the father is married to a non-Swedish citizen.
Allowances are also made for automatic citizenship for young adopted children, children born abroad to Swedish fathers whose parents eventually marry, and children born to the non-Swedish domestic partners of Swedish lesbians\(^2\).

Sweden also has a simplified process, called notification, for children who have resided in Sweden at least five years, previous Swedish citizens and citizens of another Nordic country that have resided in Sweden for at least two years. Filing notification is inexpensive, costing between $22 and $60 depending on the type of applicant. As long as the legal requirements are met, those who fit under this category are automatically granted citizenship once the paperwork is processed.

Those who do not fit the previous categories, but who are adults who have resided in Sweden for at least five years, can apply to become Swedish citizens\(^3\). Application costs about $190, and an applicant must have a permanent residence permit, be able to submit proof of identity and have a generally clean criminal record\(^4\). An application is looked at more closely than a notification. When an application is received, the Swedish Migration Board runs a credit check and a criminal background check.

All the forms necessary to notify of or apply for citizenship are available online, and can be then mailed in to the Migration Board along with the required supporting documentation. Once citizenship is granted, the Board will send proof of

\(^2\) All requirements for citizenship, as well as forms for application, are available from the Swedish Migration Board, http://www.migrationsverket.se/

\(^3\) http://www.migrationsverket.se/english.html
citizenship to the applicant and to the civil registry. In the case that an application or notification is rejected, the applicant will receive a letter explaining why citizenship was denied. This denial can then be appealed in court. Once citizenship is granted it will not be revoked, even if it is later discovered that it was gained under false pretenses.

The German Path

German citizenship is automatically conferred on the children of German citizens. If the parents were married, only one parent need have German citizenship for the child to also be a German citizen. In the case that the parents are not married, citizenship is automatically conferred for those whose mothers are German citizens. If only the father is a German citizen, paternity must be acknowledged by the father or proven through a paternity test in order for the child to automatically be a citizen. Children who are adopted by German nationals also gain citizenship, as well as children who are found in Germany where both parents are unknown.

In the past decade, a limited form of jus soli was incorporated into German nationality law. Children born in Germany to foreign residents are also eligible for German citizenship under certain circumstances. If at least one parent has an

4 Committing a crime in Sweden does not automatically disqualify an applicant for citizenship. Rather, a convicted criminal must complete their sentence, pay all fines, and complete an additional waiting period before being eligible to apply for citizenship.
unlimited residence permit and has legally resided in Germany for at least eight years by the time of the birth, then the child is eligible for German citizenship from birth\textsuperscript{5}. Finally, citizenship is available by application. Applicants must be able to financially support themselves and their dependents, have a clean criminal record, swear allegiance to the German constitution, be willing to give up other citizenship, and demonstrate sufficient command of the German language. Also, applicants must generally have been legal residents for eight years, although exceptions are made for the spouses of German citizens, families of applicants that wish to apply together, and refugees or stateless persons. The fee for application is around $350 per adult, and an additional $70 for each dependent child applying for naturalization with their parent. Processing of applications is handled by local authorities, and each locality has the ability to reduce or waive fees, make allowances for time of residency requirements, and determine how applicants prove German language ability. Further, criminal background checks as well as national security checks are run on each applicant.

\textbf{The Japanese Path}

Japanese citizenship is governed by the Nationality Law, which contains twenty articles that outline how citizenship is gained, lost, reacquired, and enforced.

\textsuperscript{5}German Federal Ministry of the Interior, available at http://www.en.bmi.bund.de/cln_028/nn_148264/Internet/Content/Themen/Staatsangehoerigkeit/Einzels
Japanese citizenship is automatically conferred on the children of Japanese nationals. If at the time of birth either mother or father is a Japanese national, then the child will also be a Japanese national. The only allowance for a form of *jus solis* is in the rare case where both parents are unknown or have no nationality, and the child is born in Japan.

Japan also offers citizenship by notification, but this method is restricted to children younger than twenty years old that have a parent who was a Japanese national at the time the child was born and is a national at the time of notification as well. Further, notification must occur by December 31, 2011. This act was amended as of January 1, 2009 to allow children who were previously denied Japanese citizenship due to the unmarried status of their parents to now claim citizenship.

Finally, the most complex and tortuous method of gaining citizenship is by naturalization. The Nationality Law sets out the qualifications for applying for citizenship, but requires the permission of the Minister of Justice for all naturalizations. It is the Ministry of Justice that is responsible for approval or denial of applications. An applicant is required to have five years of consecutive residency, be at least twenty years old, be of upright conduct, be able to support herself and her family, be willing to surrender any other nationality, and have never plotted to overthrow the Japanese Constitution or government, nor belonged to a group that has plotted against the Japanese Constitution or government. There are then allowances

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eiten/Wichtige_Fragen_und_Antworten_zum_deutschen_Staatsangehoerigkeitsrecht_en.html
accessed January 2009
made for the residency requirement, and for certain children the age and livelihood requirement, but these allowances are made at the Minister's discretion. If an individual does not meet the requirements, but has "rendered especially meritorious service to Japan," they may be granted citizenship with the approval of the Diet (Nationality Law, Article 9)\(^6\).

If an applicant meets the requirements, they are then eligible to apply for citizenship, and this brings them to what Arudo Debito\(^7\) terms the documentation stage. Like other nations, Japan requires inter alia proof of employment, tax forms, a birth certificate, proof of current citizenship, alien registration card, and a list of current and previous addresses. It does not require an application fee, but there are often fees to get the necessary forms from the appropriate local authority. In addition, an application also requires documentation of family connections in Japan and overseas. For family connections in Japan, this means police records and city hall records. For family connections abroad, this can be rather cumbersome, as there is rarely any one single document that shows marriages, births and deaths of family members. Further, an applicant must submit a survey of good behavior and photographs of her family, her home, and her workplace.

Assuming all the proper documentation is submitted, a decision can take from one to three years to be rendered. In that time, an inspector from the Ministry of Justice will then visit the applicant's home and workplace, and interview neighbors.

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\(^6\) This article has never been invoked.

\(^7\) Arudo Debito, a professor at the University of Sapporo in Japan and an activist for non-nationals in Japan, became a naturalized citizen in 2000. Links to his work can be found at www.debito.org
and coworkers to determine if that applicant has integrated enough into Japanese culture. If an applicant is found to have submitted a falsified application, they can be punished with steep fines and jail time. Even if all the qualifications have been met and all the proper documentation submitted, should an inspector feel that an applicant is not living a sufficiently 'Japanese' lifestyle, they can deny the application. Statistics on numbers of denied applications are not released by the Ministry of Justice.

HOW THE PATHS HAVE CHANGED

History of Swedish Citizenship

Swedish citizenship policy has seen few changes over the last half century, and what changes it has seen have made it less restrictive. The Swedish Citizenship Act of 1950 allowed for naturalization after five continuous years as a permanent resident, but required naturalized citizens to give up their previous citizenship and required a certificate that showed the applicant spoke and could understand the Swedish language. The language requirement was not strictly enforced, however, and by the 1980s proof of proficiency was no longer a requirement for citizenship (Milani 2008).

During the 1990s, Sweden experienced an economic recession, but there was no subsequent constriction of immigration or naturalization rights (Europa 2008,
In fact, in 1997 the government appointed a committee to look into reintroduction of a language requirement for citizenship and whether dual citizenship should be allowed. The recommendations of this committee led to the Citizenship Act of 2001 which did not require any language proficiency for naturalization, and did allow for dual and multiple citizenship (Gustafson 2005, Milani 2008). The new Citizenship Act was focused on integrating foreign residents as completely into Sweden as possible, and saw language and the single citizenship requirements as a hindrance to that integration.

The 2001 Citizenship Act was not without controversy, and in 2002, the opposition party proposed a language test for naturalization. There was a great deal of media and public attention – newspapers printed editorials and letters that argued for both sides of the issue. Television programs also debated the proposal. Interestingly, both sides used integration as an argument for having such a test or for not having such a test. Those who wanted a test argued that immigrants needed those language skills to be good citizens, while those who argued against such a test saw it as a means of keeping immigrants from integrating. It was the latter argument that the legislature agreed with, and the language test proposition was defeated (Milani 2008).

In 2004, there was concern that the looming enlargement of the European Union would mean a large influx of immigrants from the new member states, which would in turn tax the welfare system. However, a proposal restricting welfare and labor rights for migrants from those new member states was rejected by the Riksdag in April of that year by a vote of 187 to 137. This defeat set Sweden apart from much
of the rest of the European Union as one of the few ‘old’ EU member states that did not limit social security or access to jobs to citizens of the new member states (Europa 2008, 4240).

History of German Citizenship

German citizenship has also long been bound by the idea of *jus sanguinis*, but unlike the other two cases, the path to citizenship in Germany has changed significantly in just the last few decades. Citizenship policy in Germany was based on the Nationality Law of 1913 until the 1990s, although it was briefly replaced by the Nuremberg Laws under the Nazi government in the 1930s and 40s, and then reinstated following the end of the Second World War (Europa 2008; 1949). Until Germany was reunited in 1990, the Federal Republic of Germany held on to the 1913 law as a political statement of being the sole legitimate German state. That is, although the East German government had its own laws regarding who was an *East* German citizen, the West German government recognized all East German citizens as simply German citizens. The Federal Republic of Germany considered itself the only *legitimate* government of Germany – including the territory called the German Democratic Republic. There was concern that altering the 1913 law would undermine that claim of legitimacy, as any new law could be seen as one sovereign state attempting to annex the citizens of another sovereign state (Thomas 2006).
This does not mean that there were no modifications to citizenship or naturalization policies. Prior to unification, the FRG had to deal with a significant number of immigrants that were recruited up until the 1970s. In order to alleviate the labor shortage of the 1950s and 60s, the FRG instituted a guest worker program that was meant to bring in the necessary labor on a short term, rotating basis. The idea was that those who came to work would not settle permanently in Germany but return to their country of origin once their time was up. The program seemed to go well, and was even celebrated by government officials. For example, when the one millionth guest worker arrived in September of 1964, he was greeted with a small celebration and was even given a welcome present of a new motorcycle by the Federal Minister of Labor Affairs. As the program continued, businesses lobbied the government to allow the guest workers to stay longer, since the short stays allowed by the guest worker program resulted in high turnover which in turn meant more time and resources spent in training new workers. In 1965 parliament responded to business concerns by allowing for longer stays for guest workers (Carle 2007).

However, less than a decade later, Germany experienced a severe recession that resulted in high levels of unemployment. The import of foreign labor stopped, and some on the guest worker program returned to their country of origin, but many workers stayed. After all, Germany had not just brought in labor — they had brought in people. Over time those people had settled, had families, and become part of communities. In 1977, guidelines for the naturalization of non-ethnic immigrants were instituted that included requiring ten years residency and surrendering previous
citizenship in order to become a German citizen. The application fee was set at DM 5,000 ($3,200), and the applicant had to show “voluntary and lasting orientation toward Germany determined by the applicant’s entire attitude toward the German culture” (Carle 2007, 151). By ensuring that citizenship was difficult to attain for non-ethnic immigrants, the German government succeeded in discouraging many foreign workers from applying for citizenship. The subjective nature of the application process further suppressed the levels of new citizens, as it was in the hands of the bureaucrats to decide if the applicant was both useful enough and committed enough to Germany to be approved for citizenship. Exceptions to these rules were allowed for ethnic German immigrants. From the end of the Second World War, the FRG wanted to show commitment to readmit German refugees that had been displaced during the war and to keep its claim as the sole legitimate German state. This general ease of ethnic naturalization was not constricted by the laws passed in the 1970s.

The 1977 guidelines did keep many immigrants from naturalizing, but it neither pushed them out of the country nor helped integrate those who stayed. In 1979, the Federal Commissioner for the Integration of Foreign Workers, Heinz Kuhn, published the results of a study where he argued that the solution for integration included granting local voting rights and naturalizing children of permanent residents. The Kuhn Memorandum was not popular, and the recommendations were not followed. In fact, anti-immigrant platforms were used by the CDU and CSU political parties in successful elections in the early 1980s. The ensuing CDU/CSU coalition did attempt to encourage foreigners to leave by passing a law in December of 1983 that
effectively paid foreigners to leave by giving them DM 10,500 ($7,000) and the money in their state pension funds. However, not many people repatriated for the money, and the government canceled the program (Carle 2007).

Conservatives continued to decry immigrants and non-ethnic Germans as "a grave threat" to Germany that would destroy the cohesiveness of the German language, history, and culture (Carle 2007). Yet the 1980s also saw liberal parties put forth proposals to make German nationality more accessible. In the end, neither the conservative push to constrict foreign residency law nor the liberal push to open nationality law was successful. No new changes would happen until after October of 1990, when Germany was reunified and had freed itself from the symbolic need to keep to the 1913 citizenship law.

In the 1990s, several significant changes happened to naturalization and citizenship policies. In 1993 the immigration rights that ethnic Germans had enjoyed were curtailed in response to the flood of ethnic immigrants from Russia and other Eastern European countries following the end of the Cold War. At the same time, barriers to naturalization for non ethnic Germans were lowered by reducing the application fee and by allowing more exceptions for duel citizenships (Thomas 2006, 247). In September of 1998, the sixteen year era of conservative rule was replaced by a liberal coalition government that quickly pressed for new nationality law reforms. Under this new coalition, a new citizenship law was passed in May of 1999 and took effect January 1, 2000. Under the new law, a form of *jus soli* was allowed in addition to keeping the previous methods of *jus sanguinis*. If at least one parent was a legal
resident of Germany, and had a residency permit to show that they had been there at least eight years, then if their child was born in Germany that child could receive German citizenship at birth. Further, that child could have duel citizenship until adulthood, when they would have to choose between one and the other. The new law also streamlined the naturalization process and made it less restrictive. Residency requirements were reduced from ten years to eight, and rather than a nebulous ‘lasting orientation to Germany’, applicants instead needed to show command of the German language and swear loyalty to the Basic Law (Thomas 2006, 250). The changes in legislation were intended to encourage foreign residents to assimilate since by the time this law passed the foreign population was estimated at about seven million – equivalent to almost 10 percent of the total German population (Europa 2008, 1952). This law replaced the 1913 law, and was seen as a means of both modernizing Germany and bringing it more in line with the rest of the European community.

History of Japanese Citizenship

Unlike many other nations, citizenship in Japan is traditionally based not on the idea of citizenship of the individual, but rather on the citizenship of the family. The political practice of keeping family registries was imported from China in the sixth century, and has remained an important part of recordkeeping to the present day. In previous centuries, the registry was used to differentiate between different classes,
extract tributes or resources, and generally used by rulers to keep their power or influence. When Western ideas of citizenship were brought over during the Meiji period\(^8\), citizenship law that was initially based on French jus soli code was eventually discarded because it did not fit as well with the practice of family registry\(^9\). Rather than change the registry system, in 1899 a nationality law was passed that based citizenship on jus sanguinis. There was still allowance for foreigners to gain Japanese citizenship, but this was generally done through marrying into a family (Kashiwazaki 1998).

It is important to note that the 1899 law did not define citizenship in ethnic terms, as Japanese citizenship was still available to peoples who were not ethnic Japanese, such as the minority Aum in the north. Like the other major powers of the time, Japan began to expand its territory in the late 1800s and early 1900s, and peoples of the annexed territories also gained citizenship. This was not to say that the peoples of the new territories were treated equally with the people of the Japanese archipelago, but they did have legal citizenship.

Following the Second World War, the government under occupation was concerned not with the expansion of citizenship but rather the dismantling of the Japanese empire. Koreans and Taiwanese that had been Japanese nationals prior to the war were, with the 1947 Alien Registration Law, labeled foreigners and required to carry identification as such. The 1950 Nationality Law kept jus sanguinis for

\(^8\)Denotes the time between 1868 and 1912 during which Japan went through rapid modernization and became a world power. Creating ‘modern’ laws was one of the conditions necessary for Japan to sign equal treaties with the other major powers of the time.
establishment of nationality. Article two of the law states that if the father is a Japanese national at the time of a child’s birth, then that child will also be a Japanese citizen. This does not depend on where the parents are living at the time, or where the birth takes place. The only allowance in the 1950 law made for a form of jus soli was for a child born in Japan whose parents are unknown, and so their nationality is unknown. In 1952 Japanese nationality was completely removed from the territories of Korea and Taiwan, as well as any from any Koreans or Taiwanese who were residing in Japan. Further, since Japanese citizenship is lost when another citizenship is gained, children of many expatriates were also not considered Japanese citizens (Thomas 2006).

In 1985 the citizenship law saw its first significant change. Prior to ratifying an international convention on the elimination of discrimination of women, the nationality law was amended so that citizenship was not based solely on the citizenship of the father, but citizenship could also be passed from the mother (Surak 2008). This change, although arguably allowing for more people born in Japan to become citizens, was still a strict adherent to the idea of jus sanguinis. The law stipulated that if a child is born out of wedlock, in order to be a Japanese citizen the mother needs to be a Japanese citizen or the father must file paperwork to legally acknowledge the child as his own. If the father does not do this before the child is born, then the child was not considered a Japanese citizen.

9 For a more detailed history of the passage of the 1899 law, see Kashiwazaki 1998
This has just recently changed, with the Japanese Supreme Court ruling that this form of denying citizenship is unconstitutional. Children born out of wedlock who have Japanese fathers and non-citizen mothers now have recourse to gain citizenship. What has not changed, however, is that those born in Japan of two non-Japanese citizens, even if those parents are permanent residents or had been born in Japan themselves, to attain citizenship outside of the normal application procedure. Even the descendants of Japanese abroad have a difficult time gaining citizenship, since the Japanese diaspora often gave up Japanese citizenship as part of their immigration to another country.

THE EXPLANATIONS: INTERNAL, INSTITUTIONAL AND EXTERNAL

The Internal Explanation

Japan, Germany and Sweden hold certain characteristics in common. In all three cases, there is an ethnic or national meaning, as well as a legal meaning, to the adjective that describes a member of the polity. For example, to be “Japanese” holds both the meaning of a citizen of Japan, as well as describing an ethnic heritage. Arguments that claim that it is the formational history of nations that determine the policy differences are problematic for explaining the variations between Japan, Germany and Sweden. If lack of historical immigration leads to more restrictive
regimes, then one would expect each of the cases to have restrictive regimes. As mass migration was not part of the formation of Germany, Japan or Sweden, one cannot point to that to explain Japan's consistent restrictiveness, Sweden's consistent liberalness, nor Germany's change in citizenship regime. The question of why these nations differ cannot, then, be explained by a historical lack of immigration that each of them shares.

Another possibility is that the internal answer lies in the differences in culture. To analyze the influence of culture on citizenship regimes, I gauge popular attitudes towards immigrants in each case using results from the World Values Survey. If it is the case that "immigration histories mold popular attitudes toward migration and ethnic heterogeneity and affect the institutionalization of migration policy and politics" then differing popular attitudes should indicate differing immigration histories (Freeman 1995, 881). The hypothesis is that if a nation is more accepting of immigration and ethnic heterogeneity, then that should translate into less restrictive citizenship regimes.

Within the World Values Survey, the only question that pertains directly to immigration that was asked in all three countries asked specifically about those who immigrate for work. Responses are: let anyone come, let them come as long as jobs are available, let them come with strict limits, or prohibit people from coming. Because this question is limited to immigration for work, the middle two responses are not as useful for this study, since those responses most closely answer the question. However, those who answered "Let anyone come" or "Prohibit people from
coming” could be seen as not just responding to the question of immigrant workers, but immigrants in general. The responses were as follows:

Table 3. Responses to question on limiting immigration 1995-1997 and 1999-2000, in percentages

<table>
<thead>
<tr>
<th>Response</th>
<th>Japan 1995</th>
<th>Germany 1997</th>
<th>Sweden 1996</th>
</tr>
</thead>
<tbody>
<tr>
<td>Let anyone come</td>
<td>4.2</td>
<td>10.8</td>
<td>8.7</td>
</tr>
<tr>
<td>As long as jobs are available</td>
<td>49.8</td>
<td>44.8</td>
<td>33.1</td>
</tr>
<tr>
<td>Positive responses, combined</td>
<td>54</td>
<td>55.6</td>
<td>41.8</td>
</tr>
<tr>
<td>Strict limits</td>
<td>41.5</td>
<td>37.9</td>
<td>57.2</td>
</tr>
<tr>
<td>Prohibit people from coming</td>
<td>4.5</td>
<td>6.4</td>
<td>0.9</td>
</tr>
<tr>
<td>Negative responses, combined</td>
<td>46</td>
<td>44.3</td>
<td>58.1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Response</th>
<th>Japan 2000</th>
<th>Germany 1999</th>
<th>Sweden 1999</th>
</tr>
</thead>
<tbody>
<tr>
<td>Let anyone come</td>
<td>5</td>
<td>4.8</td>
<td>16.3</td>
</tr>
<tr>
<td>As long as jobs are available</td>
<td>51.9</td>
<td>32.5</td>
<td>54.5</td>
</tr>
<tr>
<td>Positive responses, combined</td>
<td>56.9</td>
<td>37.3</td>
<td>70.8</td>
</tr>
<tr>
<td>Strict limits</td>
<td>39.7</td>
<td>54.3</td>
<td>28.7</td>
</tr>
<tr>
<td>Prohibit people from coming</td>
<td>3.3</td>
<td>8.4</td>
<td>0.5</td>
</tr>
<tr>
<td>Negative responses, combined</td>
<td>43</td>
<td>62.7</td>
<td>29.2</td>
</tr>
</tbody>
</table>


Japan and Germany were relatively similar, but Sweden was distinct in that in each survey, a near negligent amount of responses advocated prohibiting people from coming. Based on these responses, it can be argued that popular attitudes in Sweden are more accepting of immigration, which would go along with Sweden having relatively relaxed citizenship policy. However, it is puzzling that Japan, which has perhaps the most restrictive citizenship policies, does not have the most restrictive attitudes. It actually had lower numbers of respondents advocate prohibition than did
Germany. Further, it is interesting that Japan is becoming more tolerant (though not much), while Germany is becoming less tolerant.

To refine the question of culture or attitudes a bit more, we can look at the section where respondents choose which qualities are important to impart to children. Each respondent could choose up to five from the following list: good manners, independence, hard work, feeling of responsibility, imagination, tolerance and respect for other people, thrift saving money and things, determination perseverance, religious faith, unselfishness, and obedience. Although there is nothing directly relating to immigrants, the quality of tolerance and respect for other people is an important quality in accepting perhaps the ultimate outsider – the foreigner. The responses were as follows:

Table 4. Responses to question of the importance of tolerance 1995-1997 and 1999-2000, in percentages

<table>
<thead>
<tr>
<th></th>
<th>Japan 1995</th>
<th>Germany 1997</th>
<th>Sweden 1996</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not mentioned</td>
<td>41.1</td>
<td>11.7</td>
<td>9.6</td>
</tr>
<tr>
<td>Important</td>
<td>58.9</td>
<td>88.3</td>
<td>90.4</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Japan 2000</th>
<th>Germany 1999</th>
<th>Sweden 1999</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not mentioned</td>
<td>28.8</td>
<td>28</td>
<td>7.5</td>
</tr>
<tr>
<td>Important</td>
<td>71.2</td>
<td>72</td>
<td>92.5</td>
</tr>
</tbody>
</table>


Again, in Sweden an overwhelming percentage choose tolerance as an important quality to teach children. It is the comparative results of Japan and Germany however, that do not line up as easily. In the 1995-1997 survey, the numbers are consistent with the restrictiveness of citizenship regimes – with Japan
emphasizing tolerance the least, Germany more likely to select tolerance, and Sweden very likely to choose tolerance as an important quality. The 1999-2000 survey, though, shows Germany and Japan almost equal to each other – with Germans choosing tolerance less, and Japanese choosing tolerance more.

One final question that I turn to for cultural attitudes is the feeling of nationalism. Asked how proud they were to be Japanese, German, or Swedish, the responses were:

<table>
<thead>
<tr>
<th>Response</th>
<th>Japan 1995</th>
<th>Germany 1997</th>
<th>Sweden 1996</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very proud</td>
<td>22.2</td>
<td>14.7</td>
<td>46.1</td>
</tr>
<tr>
<td>Quite proud</td>
<td>36.9</td>
<td>44.9</td>
<td>42.9</td>
</tr>
</tbody>
</table>

*Positive responses, combined* 59.1 59.6 89

<table>
<thead>
<tr>
<th>Response</th>
<th>Japan 2000</th>
<th>Germany 1999</th>
<th>Sweden 1999</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Proud</td>
<td>22.8</td>
<td>21.4</td>
<td>41.4</td>
</tr>
<tr>
<td>Quite Proud</td>
<td>35.9</td>
<td>50.9</td>
<td>45.6</td>
</tr>
</tbody>
</table>

*Positive responses, combined* 58.7 72.3 87

<table>
<thead>
<tr>
<th>Response</th>
<th>Japan 2000</th>
<th>Germany 1999</th>
<th>Sweden 1999</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not very proud</td>
<td>37.5</td>
<td>21.7</td>
<td>11.6</td>
</tr>
<tr>
<td>Not at all proud</td>
<td>3.8</td>
<td>6</td>
<td>1.4</td>
</tr>
</tbody>
</table>

*Negative responses, combined* 41.3 27.7 13

Interestingly, the state with the highest level of national pride is also the state with the least restrictive citizenship regime. The results for Japan and Germany, again, are a bit less clear since in the 1995-1997 survey their responses are almost the same, while in the 1999-2000 survey, Germany appears to have more national pride than does Japan.

The internal, cultural analysis provides results that appear to show national attitudes following citizenship regimes, rather than precipitating them. Respondents from Sweden, which has long had a non-restrictive citizenship regime, place high importance on tolerance, generally support immigration, and display high national pride.

In Germany, the survey years straddle the push by the new center-left coalition government for a new citizenship law, although the law itself didn’t take effect until after the second survey was taken. From one survey to another, there was some decline in the importance of tolerance, some increase in national pride, and some increase in expressing support for the restriction of immigration. Perhaps these changes reflect the national discussion about citizenship and immigration from the elections and new citizenship law being worked on in the legislature. This might account for the switch from why in the surveys about immigration there was a decline in respondents who chose to let anyone come, and an increase in those supporting strict limits. There doesn’t seem to have been a change in Germany’s citizenship regime as a result of a supportive culture. The values surveyed do seem to reflect changes in the nation, but it is unclear whether those values created the impetus for change.
The Japanese case also seems to call into question the influence of culture on citizenship regimes. First, the importance of tolerance was indicated more often than not, and at levels that were similar to Germany in the 1999/2000 survey. National pride is divided almost equally between positive and negative responses, and these levels remain stable across the two surveys. Further, the levels of national pride were similar to those in Germany in the 1995/1997 survey, yet there was not the change of citizenship policies in Japan that Germany experienced. Similarly, responses in Japan regarding immigration did not change much from the 1995 to the 2000 survey, with more positive responses than negative responses, and Japan continues to have strict citizenship policies.

In sum, the cultural values seem to reflect, rather than anticipate, citizenship regimes. This is most clearly shown when considering that Japan and Germany had similar levels in the 1995/1997 survey, but it was only Germany that experienced significant change in citizenship policy. It appears that less restrictive citizenship regimes can be associated with high levels of popular tolerance as well as high levels of national pride. However, it is inconclusive if these attitudes are a determining factor in citizenship regimes, or if it is citizenship regimes that are determining attitudes.
The Institutional Explanation

This section looks at the explanatory power of institutions for restrictiveness in citizenship policy. Joppke (1998) has suggested that constitutional provisions, and the court systems that interpret them, help explain the variation in policy. Constitutional provisions can matter if those provisions protect individuals from the state. Such protection moves the emphasis from what is in the interest of the state to what is in the interest of the individual. Less restrictive access to citizenship is often more in the interest of the individual than in the interest of the state, hence less restrictive citizenship regimes would be associated with those countries that have strong protection of individual rights (Joppke 2005). Such rights-in-principal do not always translate to rights-in-practice, which is why the role of the courts can be very important (Foweraker and Landman 1997). Courts provide an arena where broad or unclear language of laws can be clarified, and where policies can be challenged (Epp 1997).

A hypothesis based on these theories would be that a nation with a less restrictive citizenship regime would have provisions protecting individual rights, and a court system that a non-citizen can easily utilize. To test the hypothesis, I will look at the constitutions of the three cases to see what provisions they have, if any, regarding an individual’s right to citizenship. Then I will look at the judicial system in
each country, to see if non-citizens have access to the courts, as well as how clear the
court structure is about where to contest citizenship issues.

The constitutions do differ in how much they explicitly discuss citizenship or
nationality. All three discuss the power of the legislature to determine citizenship, but
the Swedish constitution also details how nationals born or living abroad can lose
their citizenship and the German constitution states that German citizenship cannot be
removed if such removal would leave the individual stateless. The Japanese
constitution, however, does not say anything about nationality beyond that it is to be
determined by law.

As for institutionalized respect for individual rights and the rule of law, all
three cases have constitutions that incorporate liberal ideals of individual dignity and
equal treatment before the law. In the Swedish constitution it is in Chapter 1, Article 2
which declares equal worth of all and respect for the individual. In the German
constitution it is also in the first chapter, in Article 9, where equality before the law is
affirmed. Japan’s constitution declares all individual equality before the law in
Chapter III, Article 14.

Besides location – from nearly the beginning of the Swedish constitution to
being buried much further in the Japanese constitution – the constitutions also vary on
what additional guidance is given as to discrimination and equality. The German
constitution and the Japanese constitution outlaw discrimination based on race, creed
or family origin. The Swedish constitution goes a step beyond the German and
Japanese cases. In addition to banning discrimination based on race or national origin,
it also explicitly states that minorities should be afforded opportunities to develop and preserve their ethnic, religious, and linguistic cultures. Further, the Swedish constitution has a remarkable section where foreign residents are directly addressed, and in what ways they share similar rights to Swedish citizens (Chapter II, Article 20). In its constitution, Sweden not only outlaws discrimination, but explicitly sets forth the idea of multiculturalism as a national goal.

Simply having rights written down in a constitution is not sufficient without a judicial branch able and willing to enforce those rights (Joppke 1998; Keith, Tate and Poe 2009). Courts do not create cases, however, but can only deal with cases that are brought to them. It is logical that if the court system does not allow non-citizens to bring cases, or is difficult or confusing about where such cases should be brought, then less citizenship cases would be brought to court than in situations where non-citizens can bring cases, and it is clear where such cases should go.

Non-citizens can bring cases in Sweden, Germany and Japan, but beyond that fact the judicial systems in each nation are quite different. In Sweden, the court system is divided into three general, separate areas: the General Courts, the General Administrative Courts, and the special courts. The General Courts, whose highest court of appeal is the Supreme Court, deals with most criminal and civil cases. The General Administrative Courts, whose highest court of appeal is the Supreme Administrative Court, deal with disputes between individuals and communities. Finally, the special courts each deal with a specific technical area, such as labor disputes, or environmental cases. Among these specialized courts are the migration
courts, whose jurisdiction is to review decisions made by the Swedish Migration Board – the branch of the Swedish government that deals with aliens, naturalization and asylum. Decisions made by the lower migration courts can be appealed to the Higher Migration Board, which is the court of last resort for this form of case. Although the Supreme Court has the authority to overturn decisions of the Higher Migration Board, the Supreme Court’s role is seen as to deal with constitutional issues, and so it is unlikely to review migration cases.

An interesting aspect of the migration courts is that most cases are dealt through written procedures rather than oral hearings. This can be an advantage for migrants whose oral language skills might be limited. In sum, if a non-citizen in Sweden wants to dispute a decision made by the branch of the Swedish government that deals with naturalization, it is very clear where such cases should be taken, and the proceedings can be done through writing, so even those with limited Swedish language skills might bring cases.

Neither Germany nor Japan has such a clear path for citizenship cases. In Germany, the courts are divided into five groupings that deal with different types of cases. Ordinary courts deal with most criminal, civil and family cases. Administrative courts deal with legal protection against administrative acts. Labor courts deal with disputes between employers and employees. The final two courts, labor and financial, deal with issues such as social security and taxes. In addition to dividing courts by specialty, the courts are also divided by local, regional, state and federal level courts. There is no clear path for where naturalization issues should be. Likely, it would fall
under the jurisdiction of the administrative courts, although some might be tried in the ordinary courts. At that point, the applicant would need to choose to either bring the case to a local court, a regional court, or a higher court – each of which may have jurisdiction. Cases are typically tried through oral hearings, and decisions can be appealed to higher courts. The Federal Constitutional Court is the court of last resort, and while theoretically the Court can review cases that come from any of the branches or petitioned by individuals, it tends to limit the cases it hears to a select few.

In Japan, the court system is not as complex as in Germany, but neither does it have a specialized migration court like Sweden. Instead, there are two groups of courts of first instance – district courts and family courts. The district courts deal with most civil and criminal cases, while the family courts deal with issues such as divorce, custody, and juvenile crime. Like Germany, it is not clear to which court a citizenship case should be brought. While it may seem the district courts would make the most sense as a general civil issue, several Filipinos of Japanese descent have gained Japanese citizenship by asking the family courts to amend old family registries (Agnote 2009). Appeals from both district courts and family courts are dealt with by the High Courts. Decisions of the High Courts can only be appealed to the Supreme Court. As in Sweden and Germany, the Supreme Court is not required to review every case sent to it, and so the appeals process ends at the High Courts for most cases.

Comparing the three cases, Sweden certainly stands out for its commitment to multiculturalism described in its constitution, and the clear judicial path it provides for disputes regarding citizenship or naturalization. Between Germany and Japan,
however, the distinctions are not so clear. Both have constitutions that have similar language regarding individual rights, which makes sense as both constitutions were written under occupation. Neither have a court system that clearly distinguishes where disputes regarding citizenship policy should be tried, which could lead to discouragement of those who might otherwise bring a case forward. Therefore, while it may be important or even necessary to have constitutional provisions that protect individual rights and a judiciary in which to allow individuals to contest administrative decisions, the Japanese case seems to show that neither of these is sufficient.

The External Explanation

The external explanation offered two transnational pressures that could affect a national citizenship regime. The first is a positive pressure from ideas about international human rights and the influence of international organizations that has pushed nations to converge to more liberal citizenship regimes. The second is a negative pressure from military and security concerns that pushes a state to restrict its citizenship. In this section I look at some of the military concerns and international organizations of each case, to see if perhaps the external pressures have caused the differences in citizenship regimes.

Sweden is a traditionally neutral country which has kept out of any war or military alliance since the nineteenth century, while Germany and Japan were key
players in the Second World War. Since their defeat, however, Germany and Japan have followed different paths in regard to security. In occupation and reconstruction, the Allied Powers dealt with Germany and Japan differently in regards to military concerns and regional integration, and this was reflected in citizenship policy as well. Germany was to be integrated into Europe as a means of keeping a check on its power, and it kept a very open citizenship policy in order to insist on its claim as the sole legitimate German state, and as part of its place in the Cold War. After Germany reunified, German policy continued to be influenced by its membership in the European Union. In this case, Germany’s citizenship regime is being pushed to be more liberal in order to keep itself in line with the other European nations.\footnote{See, for example, the “Common Basic Principles for Immigrant Integration Policy in the European Union” available at \url{http://www.enaro.eu}, where member states are encourages to create opportunities for immigrants to integrate and participate socially, economically and politically.}

In contrast to the German case, the Allied Powers did not seek to integrate Japan within a regional network, but rather reorganized the Japanese government under a constitution that forbade the use of war, with special protection provided by the United States. Japan’s citizenry was restricted as part of the dismantling of the Japanese empire. Not only were territories such as Korea and Taiwan released from the Japanese empire and Japanese citizenship, but ethnic members of those territories were also divested of their Japanese citizenship, even if they were living or settled in the Japanese archipelago. As Japan continues to be a close ally to the United States and there is no Asian equivalent to the European Union, it does not face the regional pressures that Germany does to bring its citizenship policy in line with other nations.
Further, unlike Germany, which since the end of the Cold War has been surrounded by economic and military allies\textsuperscript{11}, Japan has less friendly relations with some of its closest neighbors. North Korean rockets could easily reach Japanese shores, and Japan and North Korea do not have very amiable relations. China also presents both an economic and military threat to Japan, and Sino-Japanese relations have also been marred by territory disputes. It could be that Japan has security concerns that could account for a restrictive citizenship regime. However, it does not account for why Japan has been \textit{consistently} restrictive. That could be explained by the lack of external pressure to become less restrictive.

Transnational explanations fit quite well. Sweden, which has stayed out of military engagements and has been involved in regional integration, also has the most liberal citizenship regime. Germany, which has been involved in military engagements, but has also been integrated into the European community, has a citizenship regime that has become less restrictive over the past decades. Japan, which has also been involved in military engagements, and currently faces regional threats, without a similarly strong regional integration, also has the most restrictive citizenship regime

\textsuperscript{11} Security concerns in Germany have shifted away from traditional geopolitical threats to focus on the threat of terrorism. This has led to a strengthening of deportation powers, but has not influenced citizenship policy.
CONCLUSION

Sweden, the nation with the least restrictive citizenship regime, has a populace that greatly values tolerance, accepts immigration, and has high national pride. Institutionally, it has constitutional provisions that protect individual rights and a court system where it is clear how to contest issues of citizenship and where language barriers should not deter litigation. It has been a member of the European Union since 1995, and has a history relatively free of military conflict.

Germany, the nation with a citizenship regime that has become less restrictive than it was, but still more restrictive than Sweden, has a populace that has expressed some decline in tolerance, some increase in national pride, and some increase in supporting strict limits on immigration. Constitutional provisions protect individuals, but because of overlapping jurisdictions of various courts, it is not as clear where citizenship cases should be heard. Germany is a founding member of the European Union, and since the end of the Second World War has been increasingly integrated economically and politically into the region. The reunification of East and West Germany, along with the end of the Cold War, changed Germany from a nation bordering the potentially hostile Soviet satellite states to one encircled by European allies.

Japan, the nation with the most restrictive citizenship regime, has a populace that generally values tolerance, is about evenly split between allowing immigrants in for work or imposing strict limits, and is also about evenly split between having
national pride or not. The constitution also contains provisions protecting individual rights, but the structure of the court system does not make it clear where citizenship cases should be tried. While it also has not been involved in major military conflict since the end of the Second World War, neither is it a member of a regional organization comparable to the European Union. It continues to have uneasy relations with close neighbors such as China and North Korea, with especially North Korea posing a possible security risk.

I began this project to look at why countries have different immigration regimes. In looking at Sweden, Germany and Japan, I draw the conclusion that while no one variable seems to be the definitive key, regional integration seems to have a strong influence on citizenship regime. It is this factor that sets Germany and Sweden most apart from Japan. Another variable that seems to have a strong influence on citizenship regime is security concerns. Sweden is relatively secure and has open citizenship policy. Japan has security issues with some of its closest neighbors, and has a very restrictive policy. Germany, which is in a much more secure position now than it was prior to reunification and the end of the Cold War, also has a less restrictive citizenship regime than it did thirty years ago. Looking just at the constitutional provisions or national values, Germany and Japan have many shared characteristics. Where they diverge, however, is in security concerns and regional integration.

As the European Union continues to integrate, it seems likely that in the long run citizenship policies of more restrictive members will open up, as the Union is
concerned not only with the movement of goods and capital, but of labor and peoples as well. As for Japan, it seems unlikely that pressure from any current memberships will open the citizenship regime. The international community looks to Japan as a strong economic player, and tends to leave matters of citizenship, migration, and individual rights to the domestic political sphere. Japan is party to some international agreements on individual rights, such as women’s rights, but there must be pressure to enforce those agreements domestically if those are to influence citizenship policies. If this pressure does not come from outside, then it will be up to either the legislature or the judicial branch.

Looking to the future, I do not anticipate great change in the Swedish path to citizenship. It is already a very open policy and as there isn’t much pressure, either internally or externally, to change its policy to be more restrictive. Germany might be more susceptible to change. Continued integration with the other European Union member states has helped lead to an easing of restrictions on citizenship, but over the short run it is conceivable that this will not be at a steady rate. As for the Japanese case, with no significant external or internal pressure for change and a generally conservative judiciary, it is unlikely that citizenship policy there will change much any time soon.

An area that this paper did not address was the role of interest groups and civil society play. In future research, it would be interesting to address these variables more systematically to see the effect that groups might play in effecting citizenship policy. Another possibility for future research would be to do a study that includes more of
the rich, industrialized nations to see if the same trends that are suggested by the cases evaluated in this study hold true in other cases as well.

Some might argue that citizenship regimes will not matter in the future, as international migration increases and supranational membership becomes more important. However, if there is such a future where national citizenship does not have value, it is likely a long way off. Citizenship is not a dead subject, as evidenced by recent changes in citizenship policy in all three cases. As long as citizenship has value and meaning, and as long as it is the states that control that citizenship, then understanding the differences and the causes behind those differences will continue to be important.
WORKS CITED


