

Birbright Citizenship

In 1993 the *New York Times* published an article that told the story of Senay Kocadag, a young woman born and raised in Berlin whose parents were immigrants from Turkey. Kocadag was 22 at the time, completing a degree in business administration. She had been educated in Germany and had lived her entire life there, leaving only for vacations. Yet she was not a citizen. "[I]t's frustrating," she was quoted as saying. "I'm completely at home here, and when I visit Turkey, I feel like a foreigner. But this society doesn't want to recognize me or accept me as German."¹

The *Times* story contrasted Kocadag's situation with that of people born in the United States who automatically receive citizenship at birth. Although the article did not say so explicitly, the implication was clear. The American policy was better. It treated people more fairly.

What should we think of this? Was the *Times* right to suggest that the American policy was morally superior or was that an expression of American cultural imperialism, projecting the view that the American way is always the best way and failing to respect the rights of other democratic states to choose their own policies? If Kocadag had been born after 2000, she would have received German citizenship automatically at birth, because by then Germany had changed its citizenship law.² What should we think about this change in German policy? Was this merely a normal policy decision like raising or lowering taxes or spending more or less on various public programs? Was it the sort of policy choice that every democratic state is morally free to decide for itself in accord with its own priorities (at least within wide limits), or was it a decision that involved fundamental principles of morality?

The question I am asking is a normative one, not a legal one. There is no doubt that under international law, Germany, as a sovereign state, had the legal authority to keep its old citizenship law or to adopt the new one and that no other actor had any right to intervene on that matter. The question is whether it was morally free to keep its old law or whether it was morally obliged to change it. Is each democracy morally free to determine for itself the criteria it will use

in granting citizenship at birth? Alternatively, are there standards of justice that govern birthright citizenship in contemporary democracies, setting moral limits to state discretion on this issue?

In this chapter I defend the latter view.³ Justice requires that democratic states grant citizenship at birth to the descendants of settled immigrants.

Preliminaries

This chapter and the next one form a unit, exploring questions about access to legal citizenship for settled immigrants, that is, immigrants who have legal authorization to reside on an ongoing basis in the state where they are living, and for their descendants.⁴ In this chapter I focus only on children born to settled immigrants in the new state where the immigrants are living. In the next chapter I explore questions about access to citizenship for those who arrive after birth.

Throughout this chapter and the next one, for reasons given in the introduction, I am simply presupposing that the questions I ask about access to citizenship arise in the context of an international order which divides the world into independent, sovereign states and within a moral framework that includes what I have called the conventional moral view on immigration, that is, that states are morally free to exercise considerable discretionary control over the admission and exclusion of immigrants despite the differences between states.

Finally, my discussion in this chapter and the next focuses on immigrants' access to citizenship as a legal status.⁵ As we will see in chapter 5, the importance of citizenship as a legal status is often exaggerated. Indeed, we could imagine other ways of institutionalizing the legal functions of citizenship as a legal status, perhaps eliminating the need for such a formal status altogether.⁶ Nevertheless, the legal status of citizenship does matter in some important respects now. For example, the legal status of citizenship is normally a prerequisite for voting in national elections. The status of citizenship also has implications under international law, entailing a right to diplomatic protection and a right to enter and reside in any state where one is a citizen. Above all, it is through the granting of legal status as a citizen that a modern state officially recognizes someone as a member of the political community. These facts about what the legal status of citizenship means today provide the anchor for my reflections in these two chapters. Over the course of the next two chapters, I will argue that there are moral principles that should govern access to the legal status of citizenship and that these principles apply to every contemporary democratic state in Europe and North America.

Birth and Belonging

How do people usually become citizens in democratic states? Most people acquire their citizenship automatically at birth. Birthright citizenship is such a familiar political and legal practice that it is hard even to notice it.⁷ Indeed, it seems so natural that when immigrants acquire citizenship after arriving in their new state, we call the process "naturalization." But legal citizenship is not a natural category, and acquiring citizenship is not a natural outcome of being born. People acquire citizenship as a result of some chosen set of legal rules, some political practice that states have established.

Does birthright citizenship make sense morally? In some ways granting citizenship at birth seems like an odd practice from a democratic perspective. After all, contemporary democracies emerged historically as a challenge to social orders based on inherited status.⁸ When democratic theorists ask who should be included in the citizenry, they usually emphasize factors like ongoing subjection to the laws or long-term residence in a state and participation in its civil society, and they appeal to norms like consent to authority and participation in decisions that affect one's interests.⁹ These sorts of considerations will play an important role in the next chapter when we turn to the issue of naturalization for adult immigrants, but they cannot easily be applied to babies. Newborns have no past (outside the womb) so one cannot appeal to their experience as a justification for granting them citizenship. They cannot be political agents, deliberating among political alternatives and exercising political will through voting and running for office. So, we cannot appeal directly to their right to consent or to participate as a justification for granting them citizenship. So, why do democratic states confer citizenship on newborn infants?

One part of the answer to that question is the modern international system. The world is divided up into states. Everybody is supposed to be assigned to some state, and that state is responsible, in certain respects, for its citizens. Statelessness, not having any formal nationality, is a problem from the perspective of the international system. It is also a problem from the perspective of the individual. Being stateless is a precarious and vulnerable condition in the modern world. That applies to babies as well.

The way the modern world is organized may give us one reason why everyone should be assigned some citizenship at birth, but it does not explain why any particular state ought to grant citizenship to any particular child. Indeed the principle of state sovereignty, which is a key part of the international system, grants each state the authority to decide for itself how to allocate its citizenship. There is an international convention on human rights that prohibits states from arbitrarily depriving an individual of her nationality once she has it and another

international convention on statelessness that provides guidelines for granting nationality to individuals who do not automatically get some citizenship at birth, but there are no general guidelines for how states ought to assign citizenship, whether at birth or afterwards.¹⁰ From the perspective of the international system, what matters primarily is that everyone has some citizenship not which citizenship anyone has.

Another answer to the question of why democratic states confer citizenship on babies is that even infants are moral persons. They cannot (yet) exercise political agency but they can be and are bearers of legal rights. So, the state has a duty to recognize them as moral persons and to protect their rights. Someone might say that the state acknowledges this duty by making the babies citizens. This response is more salient from a democratic perspective. It draws appropriate attention to the moral status of babies as persons and to the duty of the state to recognize that moral status by granting babies legal rights, but it does not yet explain why those legal rights should include the status of citizenship. After all, the state has a duty to respect the moral personhood and protect the legal rights of all those within its jurisdiction, even temporary visitors. It does not have to make them citizens to do this. So, we are back at the question of why a democratic state confers its citizenship at birth on *particular* infants and why it should do so.

The answer to that question has to lie in our sense of the moral relevance of the connections that are established at birth between a particular baby and a particular political community. Let's look first at the sorts of connections that make it morally obligatory for democratic states to grant citizenship at birth to the children of citizens. This will enable us to see that the children of immigrants have similar sorts of connections and so similar moral claims to birthright citizenship.

The Children of Resident Citizens

Consider first children who are born to parents who are citizens of the state where their children are born and who live in that state as well. In other words, the baby's parents are resident citizens. Every democratic state grants citizenship automatically to such children at birth.¹¹ Some readers may be inclined to say "Of course!" (or something less polite). It may seem intuitively obvious that this practice makes moral sense, but I want to make the underlying rationale explicit, and that rationale is not self-evident. As I noted above, birthright citizenship is not a natural phenomenon. It is a political practice, even when it concerns the children of resident citizens. What justifies this practice from a democratic perspective?

Some will want to point out that granting citizenship at birth to the children of resident citizens is in the state's interest. That is a highly plausible claim, although

anyone with a little imagination could come up with circumstances under which a state might find it in its interest not to grant citizenship to the children of some segment of its resident citizen population. In any event, my question is not why states follow this practice but whether they are morally obliged to do so. The fact that a policy is in the state's interest does not prove that the policy is morally permissible, and I want to know something more than that. I want to know whether the policy is morally required. Would a state act wrongly, from a democratic perspective, if it did not grant citizenship to the children of resident citizens? Is this something that justice requires? My answer to both of these questions is "yes." The challenge is to explain why.

Babies do not appear upon the earth unconnected to other human beings.¹² A baby emerges physically from her mother, of course, but she enters a social world. From the outset, she has various sorts of relationships and belongs to various sorts of human communities. She is connected to people, most intimately to parents and siblings, and through them to friends and more distant family members. Of course, these connections vary enormously. Her family may have one parent or two; the parent(s) may or may not be physically related to her; the extended social network may be large or small, intense or diffuse; it may or may not involve a religious or a cultural community into which she is welcomed as a new member. Unless a child is very unlucky, however, she will, from the moment of her birth, have connections to other human beings who feel an interest in and a responsibility for her well-being (even though the degree of interest and responsibility will vary enormously across individuals and communities). In various ways, these connections will affect not only the child's well-being but also her identity. Who we are depends in large part on how we see ourselves in relation to others, and how they see us.

One important relationship for a new baby is her relationship with a particular political community, namely, the state where she lives. We are embodied creatures. Most of our activities take place within some physical space. In the modern world, the physical spaces in which people live are organized politically primarily as territories governed by states.¹³ So, even though a baby cannot exercise any political agency, the state where she lives matters a lot to her life. As I noted above, the state can and should recognize her as a person and a bearer of rights. Beyond that, the state where she lives inevitably structures, secures and promotes her relationships with other human beings, including her family, in various ways. Indeed, the state has a fallback responsibility for the baby's well-being in case of a catastrophic failure of familial relationships (e.g., parental death, violence, or abandonment). In addition, the state has a wide range of responsibilities for the welfare and security of those living within its territory (though particular states interpret and implement these responsibilities in different ways).

When a baby is born to parents who are resident citizens, it is reasonable to expect that she will grow up in that state and receive her social formation there. Her parents will play an important role in that formation, of course, but so will the state through its educational system. Her life chances and choices will also be affected in central ways by the state's laws and policies. Although a child cannot exercise political agency at birth, she will be able to do so as an adult. If she is to play that role properly, she should see herself prospectively in it as she is growing up. She needs to know that she will be entitled to a voice in the community where she lives and that her voice will matter. In addition, political communities are an important source of identity for many, perhaps most, people in the modern world. A baby born to resident citizens is likely to develop a strong sense of identification with the political community in which she lives and in which her parents are citizens. She is likely to see herself and to be seen by others as someone who belongs in that community. All of these circumstances shape her relationship with the state where she is born from the outset. They give her a fundamental interest in being recognized as a member of that particular political community. Granting her citizenship at birth is a way of recognizing that relationship and giving it legal backing.

But why is granting her citizenship the appropriate way of recognizing this relationship? In the modern world, citizenship is the legal status by which we recognize a human being as an official member of the political community. This is not a necessary truth about the meaning of citizenship, but it is a fact about what citizenship means in contemporary democracies. Similarly, it is a fact that legal citizenship is a status that can be held by children as well as adults. Even human beings who are too young to exercise all of the rights or bear all of the duties that adult citizens bear can be citizens.¹⁴

The legal differences between adults and children should probably lead us to be more careful in deploying the rhetoric of equal citizenship because that rhetoric sometimes obscures children from our view. Nevertheless, the language of equal citizenship does capture an important truth about the relationship between citizen children and their political community. A young citizen will automatically acquire all of the rights and face all of the duties of an adult citizen once she reaches the age of maturity.¹⁵ She does not have to pass any tests or meet any standards to qualify for full citizenship. Thus, the child citizen is recognized as a full member, in important respects, even before she is capable of political agency or in possession of all of the rights of an adult citizen.

Birthing citizenship rests upon expectations that may not be fulfilled. The child's parents may take her abroad to live. If this happens after the child has spent much of her youth in the state, it is irrelevant to her claim to citizenship because the child will have developed her own connections to the political community and will have been profoundly shaped by her upbringing within the

state, even if she has not yet reached adulthood. But what if the family leaves while the child is still quite young? She may never develop the anticipated deep connections with the political community, but she will still have its citizenship. And citizenship tends to be sticky. Once granted, it is relatively hard to take back. So, a child of resident citizens who is granted citizenship at birth will probably keep that citizenship even if her parents move elsewhere and she does not grow up in the political community after all. Is that something to be concerned about?

I don't think so, at least in the absence of some plausible story about why this is likely to happen with great frequency and why it would create problems for the political community. If a child of resident citizens gets birthing citizenship and then leaves at a young age with her parents and grows up abroad, this simply means that the state has extended citizenship and the right to return to the political community to someone who was not raised there as had been expected. Relationships are always vulnerable to the possibility of disruption and disconnection. That is not a good enough reason to make only tentative commitments. It would be wrong for a state to hand out citizenship capriciously or randomly, but granting citizenship at birth to the children of resident citizens is neither random nor capricious, even if some of those who get citizenship leave and never return. No great harm is done to the community or to any individual if a state grants citizenship to someone whom it expects to live within its boundaries on an ongoing basis but who turns out, for whatever reason, not to do so. In a democratic state, citizenship policy should err on the side of inclusion. The fact that some children of resident citizens may leave is not a sufficient reason to deny citizenship to all of them.¹⁶ In sum, birthing citizenship for the children of resident citizens makes moral sense as a practice because it acknowledges the realities of the child's relationship to the community and the fundamental interest she has in maintaining that relationship. In a democratic framework, the state is morally obliged to take these sorts of fundamental interests into account in its citizenship policies.¹⁷ Granting citizenship at birth to the children of resident citizens is not just an administrative device that serves the state's interests. In a world in which every child is supposed to be assigned some citizenship at birth, it is a moral imperative. It would be unjust to do otherwise.

In thinking about the moral logic underlying birthing citizenship for the children of resident citizens, we should pay almost as much attention to the things that the state does not take into account as to the ones it does. In the actual practice of contemporary democratic states, all that matters is that the baby's parents are citizens of the state where the baby is born and that they live there. Nothing depends upon the baby's ancestry beyond her parents. The transmission of citizenship to children of resident citizens is not contingent upon what language the child's parents speak at home, what their political, religious, and moral views are, how patriotic they feel, how they live their lives, or what they

believe or value in general. These considerations and many others might be relevant if one were thinking about questions of belonging and exclusion from a sociological perspective, but they don't matter when the question is about the transmission of citizenship at birth.

Limiting what is relevant to birthright citizenship for the children of resident citizens is not some radical philosophical proposal. It is the way existing legal regimes treat this question in every contemporary democratic state. And so they should. In the past states restricted birthright citizenship on the basis of race, religion, and ethnicity, but no one defends that sort of policy today. The fundamental democratic principles of equal citizenship and respect for individual rights clearly exclude the idea of limiting access to citizenship on those sorts of grounds. Similarly, at birth, children have no cultural commitments or values or beliefs, so it is not possible to assign citizenship to them on the basis of such factors. The prerequisites for an undisputed right to the acquisition of citizenship at birth may legitimately involve only certain forms of connection to the community—important forms of connection but also ones that are limited in their content. They may involve only questions about the child's birthplace and about the legal status and residence of the child's parents.

The Children of Emigrant Citizens

I have focused so far on children born in a state to citizen parents who live there. That is, statistically, the normal case. But there is another group of citizens to consider—emigrant citizens, i.e., people who have moved abroad but who retain their citizenship in their country of origin. Let's call them emigrants for short. What sort of access should the children of emigrants have to citizenship in their parents' country of origin, at least if that country is a democracy?

Let's start again with actual practice. So far as I have been able to determine, every country in Europe and North America grants some sort of birthright entitlement to citizenship to children born abroad to emigrants.¹⁸ Often the child of emigrants simply becomes a citizen of her parents' country of origin at birth as a matter of law. Sometimes, the child has access to citizenship as an optional right. For example, the parents have to register the child with a consulate or fill out some form in order for her to gain citizenship status. In a few cases this transmission of parental citizenship is made contingent upon the child spending some time living in the country of parental origin before a certain age. Finally, the capacity of the children of emigrants to pass on that citizenship to their own descendants is sometimes limited in significant ways.

Let me illustrate from my own experience. My wife Jenny and I are American citizens. We were both born and raised in the United States and began our working careers there. We moved to Canada to pursue professional opportunities,

and our two sons were born in Canada. Because of our American citizenship, our children automatically became American citizens at birth, even though they also obtained Canadian citizenship at birth because Canada grants citizenship to anyone born on Canadian territory. Their American citizenship is not contingent. In other words, they will not lose their American citizenship unless they voluntarily renounce it. But their American citizenship differs from ours in one important way. Their capacity to pass on American citizenship to their own children is limited. If one of our sons has a child who is born outside the United States (and whose other parent is not an American), the child will not become an American citizen at birth—or indeed have any claim to American citizenship—unless our son has lived in the United States for a few years before the child is born. The point of this policy is to limit the indefinite transmission of American citizenship to people who have no real connection to the United States.

What should we make of this practice of granting birthright citizenship to the children of emigrants but limiting its subsequent transmission?¹⁹ I think this sort of policy is not only morally permissible but also morally required, at least within a certain discretionary range.

One possible justification for the practice is that it is a way for states to meet their general obligation to avoid statelessness. That is not entirely implausible, but if that were the only reason for the practice it would seem hard to explain why the children of emigrant citizens acquire their parents' citizenship even if they also obtain citizenship at birth in the state where their family lives.²⁰ That is often the case, as the story about my children illustrates. So, I think we have to look for a deeper rationale.

Leaving aside questions about the merits of specific rules, I think the general pattern of granting birthright citizenship to the children of emigrant citizens makes moral sense from a democratic perspective. It reflects a normative logic that is similar in some respects to the one that underlies birthright citizenship for the children of resident citizens, namely that moral claims to a particular citizenship at birth derive from the baby's connections to that political community and the ways in which those connections are likely to affect the child's interests and identity. In other words, having parents who are citizens matters morally to a child's claim to citizenship because it means that the child has important social connections to the community.

By definition, a child born abroad to emigrants is not connected to her parents' political community through birthplace and residence. In that respect, her claims to birthright citizenship are weaker than the claims of a child born in the state where her parents are citizens. Nevertheless, her claims are still strong enough to warrant recognizing her as a member of the community. A baby born abroad will have important ties to her parents' original political community

through her immediate family, not because of some imagined genetic link to most other citizens but because of her social situation and her existing and potential relationships. She has a reasonable prospect of growing up in the state if her parents decide to return there. In the meantime, she will almost certainly have relatives and family friends there whom her family will visit, and she is likely to acquire cultural and emotional ties to the country through her parents. Her parents' identities are likely to be shaped in powerful ways by the country they have left, and they may well want to pass that identity on to their child.

At the same time, states are, above all, territorial communities. Citizenship status should not become too disconnected from that fact. The emigrants themselves have a direct connection to the state, having lived on its territory. The potential for the children to live there, if their parents take them back, is strong enough to justify their citizenship. But if the children don't live there, it's less plausible to pass on citizenship to a generation twice removed from the one that did live there.

Let me again illustrate these general points from my own experience. As I noted, our sons acquired Canadian citizenship at birth. Nevertheless, it was very important to us that our children also have American citizenship. For one thing, our children were born relatively soon after we moved to Canada. We still saw ourselves then primarily as Americans rather than Canadians, and we wanted our children to have an American identity as well as a Canadian one. We were not certain that we would stay in Canada permanently. Our children's American citizenship guaranteed that we would have the legal right to move the entire family "back" to the United States if we wanted to do so. In fact we loved our jobs, we loved living in Toronto and in Canada, and over time we came to see ourselves as Canadian (as well as American). Things could have turned out differently, however. Moreover, when we moved to Canada, almost all of our close relatives were in the United States, including my parents and siblings and Jenny's parents and siblings. We returned frequently for visits. As a practical matter the fact that we all had American passports made family travel easier. A more fundamental issue was that the children would have had a right to move to the United States to live with relatives there if both of us had died while they were young. So, from our perspective, the fact that our children had acquired American citizenship at birth protected their (and our) vital interests, interests that were rooted in the lives we had led in the United States.²¹ On the other hand, having grown up in Canada and having Canadian citizenship, our sons see themselves primarily as Canadians. If they do not move to the United States, their own connections to the United States will be far more limited than the connections that Jenny and I had and have, and their identification with the United States much more attenuated. America was home for both of us for a long time. It has never been home for them. So, their moral claims to pass on American citizenship to their

own children are much weaker than our claims to pass on American citizenship to them.

The relative importance of children gaining citizenship in their emigrant parents' country of origin varies from case to case, depending on a wide range of individual and social circumstances, even among children who remain permanently in the state where they were born. Some have such strong connections to their parents' original country that it really is a second home, perhaps even their primary home in their identity and affections (though this is rare for children who are treated decently in the land where they live). For others, it is just a vague point of reference in their parents' past (though this, too, is rare if the parents left voluntarily as adults). Most fall somewhere in between these extremes. In any event, there is no plausible way to construct birthright citizenship rules that respond to these individual variations.

As we have already seen in discussing birthright citizenship for the children of resident citizens, a state cannot avoid adopting rules regarding the transmission of citizenship whose underlying rationale rests in part on generalizations, probabilities, and expectations about human lives and relationships. Given this indeterminacy and the fact that the children of emigrants have weaker moral claims to birthright citizenship than the children of resident citizens, it is reasonable for different states to make somewhat different judgments about the relative importance of their connections with the children of emigrants and to adopt somewhat different policies regarding the transmission of citizenship to them. Like the United States, many states grant the children of emigrants a simple and unqualified citizenship at birth, while setting further conditions on the transmission of that citizenship to their own children. That is clearly a morally permissible policy, given the analysis I have offered, but so would be a policy that was somewhat more restrictive or somewhat more expansive. For example, it would also be morally permissible (in my view) for states to grant only a right to citizenship and to require some form of registration for this right to be activated. This is one way of ensuring that the parents actually want their children to gain citizenship in their land of origin. By the same token, it would not be morally wrong for a state to adopt a somewhat less restrictive policy than the American one, for example, by permitting the children of emigrants to pass on citizenship to their own children automatically.

While there are no precise moral boundaries to the rules regulating the transmission of citizenship to the children of emigrants, the range of morally permissible rules is not unlimited. On the one hand, the children of emigrants normally have sufficient ties to their parents' community of origin to warrant some effective access to citizenship in that country. It would be unjust to exclude them altogether, even in cases where this would not leave them stateless. As we have seen, every democratic state does in fact grant the children of emigrants some

sort of birthright claim to citizenship. On the other hand, states should not be unduly expansive in granting citizenship to descendants of emigrants who have no other tie to the political community than their ancestry. Normally the grandchildren of immigrants have much weaker ties to their grandparents' country of origin than the children do and the great-grandchildren few if any ties. It would be wrong to regard citizenship in a democracy as a sort of feudal title or property right that could be passed on from one generation to the next regardless of where the heirs actually lived their lives.²² As the proximity to an ancestor who lived in the country decreases, so too does the plausibility of any justification for automatically granting citizenship.²³ This principle fits with the practices of many democratic states but it poses a strong challenge to the nationality policies of others which do permit the indefinite transmission of citizenship to generations born abroad.²⁴

Descendants of Immigrants

If the account I have offered of the moral logic underlying birthright citizenship for the children of citizens is correct, it has important implications for the question of access to citizenship for the children of immigrants: children who are born in a democratic state in which their parents have settled as legal immigrants should acquire citizenship automatically at birth because they, too, have sufficient ties to the community to merit recognition as members. Indeed because they have been born in the state and are likely to be raised there, they normally have even stronger ties to the political community and so stronger claims to birthright citizenship than the children of emigrant citizens (who, as we have seen, enjoy some form of birthright citizenship in every democratic state).

Recall the rationale that I offered for granting citizenship at birth to the children of resident citizens. It emphasized the fact that the baby was likely to grow up in the state, to receive her social formation there, and to have her life chances and choices deeply affected by the state's policies. These considerations apply also to the children of settled immigrants. If they are reasons why the children of resident citizens should get citizenship at birth, they are also reasons why the children of immigrants should get citizenship at birth. So, too, with the cultivation of political agency. The child of immigrants should be taught from the beginning that she is entitled to a voice in the community where she lives and that her voice will matter. And so, too, with political identity. Like the child of resident citizens, the child of immigrants has a deep interest in seeing herself and in being seen by others as someone who belongs in the political community in which she lives. Finally, like resident citizens, settled immigrants may leave, returning to their country of origin or going elsewhere and taking their children with them. If the children are old enough, they will have developed their own

connections to the community and so this fact will be irrelevant to their claim to citizenship. But like the children of resident citizens, some children of settled immigrants may leave at a young age and never return. As with the children of resident citizens and for the same sorts of reasons, this possibility does not provide a good enough reason not to grant them citizenship at birth.

In sum, the most important circumstances shaping a child's relationship with the state from the outset are the same for the child of immigrants as they are for the child of resident citizens. So, the child of immigrants has the same sort of fundamental interest in being recognized at birth as a member of the political community.

To be sure, the child of immigrants has a somewhat weaker claim to membership than the child of resident citizens, because, in the latter case, the parents' status as citizens provides another important social connection to the political community. This is not because the political community is constituted by blood ties among the citizens. Parentage is only relevant because it is an indicator of the child's social connections to the community. From that perspective the child of immigrants has a considerably stronger set of social connections and hence a stronger claim to membership than a child born to emigrant parents. The ties that come from actually living in a state are the most powerful basis for a claim to membership. Home is where one lives, and where one lives is the crucial variable for interests and for identity, both empirically and normatively. Senay Kocadag's story illustrates this point. Germany was her home, the place where she was born and brought up. That ought to have been recognized by granting her citizenship at birth (as is indeed the case now for children born in similar circumstances in Germany). Birthright citizenship is the only proper way to recognize the relationship between the newborn child of settled immigrants and the political community in which her family lives and in which she is expected to grow up. It is unjust not to grant citizenship at birth to the children of settled immigrants for the same reasons that make it unjust not to grant citizenship to the children of resident citizens.

Theory and Practice

Do my normative arguments about birthright citizenship for the children of immigrants present an interpretation of existing practices in democratic states or a critique of them? Later in this book I will sometimes defend positions that are radically at odds with the status quo, but on this issue there is no need to do so. Most democratic states now accept, implicitly or explicitly, some version of the principle that I have been defending about birthright citizenship for the descendants of immigrants. Let's consider how democratic states have dealt with

the transmission of citizenship in the past and how this has changed in response to immigration.

Understanding *Ius Sanguinis*

There are two common legal techniques for transmitting citizenship at birth: *ius soli* (literally, right of the soil), which grants citizenship on the basis of birth on the state's territory, and *ius sanguinis* (literally, right of blood), which grants citizenship on the basis of descent from citizen parents. These techniques can be qualified and combined in various ways. Either of these techniques will normally result in the automatic transmission of citizenship to the children of resident citizens, thus satisfying one of the requirements of justice with regard to the transmission of citizenship at birth.

In most states the citizenship laws rely primarily on one technique rather than the other for historical reasons that have nothing to do with immigration. Nevertheless, the choice of techniques does affect immigrants. A policy that transmits citizenship on the basis of birthplace (*ius soli*) will normally grant citizenship to the children of resident immigrants, while a policy that transmits citizenship only on the basis of descent from citizen parents (*ius sanguinis*) will not. In part for that reason and in part because several states that have long had a tradition of admitting immigrants also have long had *ius soli* policies in place (e.g., the United States, Canada, and Australia), people have tended to assume that states that rely primarily on *ius sanguinis* for the transmission of citizenship are hostile to immigrants while those that rely primarily on *ius soli* policies are welcoming. There is an element of truth in this view because it is not possible to extend birthright citizenship to the children of immigrants without introducing some form of *ius soli*, but it is deeply misleading in some respects.

Some people think that a citizenship policy that relies on *ius sanguinis* reflects an understanding of the state as an ethnic community in which citizens are connected to one another by blood, at least in the public imagination. That is not the only possible meaning of *ius sanguinis*, however. French reformers introduced the practice of *ius sanguinis* into modern Europe after the French Revolution on the grounds that it reflected a more republican conception of citizenship and community than *ius soli*, which was tied historically to the relation between subject and sovereign.³⁵ This change was not rooted in an ethnic conception of the nation. Most of the other states on the Continent followed the French example. Ironically, France itself supplemented its *ius sanguinis* rule with a (qualified) *ius soli* rule in the late nineteenth century, but few other continental states did likewise.³⁶

In the contemporary world, even countries like Canada and the United States that rely primarily on *ius soli* employ a version of *ius sanguinis* in granting

citizenship at birth to the children of their emigrant citizens (as my own children's case illustrates). These are states that have been built through immigration. Their populations are composed of many different ethnic backgrounds. Clearly, it does not make sense to interpret the use of *ius sanguinis* for the transmission of citizenship by states like Canada and the United States as a reflection of their ethnic conception of nationality. Being American or Canadian can certainly be an important identity but to think of it as an "ethnic" identity would be to stretch the meaning of that term considerably beyond its normal use. The use of *ius sanguinis* for the transmission of citizenship by these states is simply a way to meet the legitimate moral claims that children of emigrants have to be recognized as members of their parents' political community of origin.

In sum, it would be a mistake to throw the baby who gets her citizenship through *ius sanguinis* out with the soiled ethnic bathwater. It is not plausible to interpret every policy employing *ius sanguinis* as an expression of an ethnic conception of political community. *Ius sanguinis* is a perfectly legitimate mechanism for the transmission of citizenship so long as it is limited in extent.

Although *ius sanguinis* policies may be morally justifiable as a technique for citizenship transmission, it does not follow that there is no basis for criticizing particular uses of *ius sanguinis*. It is plausible to suppose that those who do think of the political community in ethnic terms would find *ius sanguinis* congenial and would want to resist the introduction of any form of *ius soli*. Such policies deserve criticism not because they use the technique of *ius sanguinis* but because they are ultimately based on a conception of political community that is incompatible with democratic principles.

Transforming Birthright Citizenship in Europe

If we look at contemporary developments in Western Europe over the past few decades we can see these different tendencies playing themselves out. Most of the states that had traditionally relied exclusively on *ius sanguinis* for the transmission of citizenship have introduced some version of *ius soli*. The few that have not are the ones most resistant to the inclusion of immigrants in the citizenry.

In general terms, and with occasional exceptions, the pattern is this.³⁷ In the 1950s and 1960s, many people entered Western European states as "guestworkers" who were expected to go home after a few years. Many did in fact return but many others stayed permanently and had children. In states that transmitted citizenship at birth only through *ius sanguinis*—and that was the case for most of the states on the Continent—the children of the guestworkers (the "second generation") were legally defined as foreigners even though they had been born in the "host" country and subsequently lived their entire lives there. This was the situation of Senay Kocadag, the woman in my opening anecdote about

German citizenship. Some of these children became citizens through naturalization, but most did not, in part because the process of naturalization was often demanding and discretionary, in part because they were not encouraged to do so by the "host" society, in part because they did not want to do so given their own attachments to their "home country" (i.e., their parents' country of origin), even though it was a place most of them had never lived. They in turn stayed and had children (the "third generation") who were also classified as foreigners. It became clear that unless the rules about the acquisition of citizenship were changed, there would be a "fourth generation" of "foreigners" and then a fifth—people whose families would have been living in the country since the time of their great-great grandparents but who would still be excluded from citizenship. Over time, most states came to recognize that there was no way to reconcile the ongoing exclusion of an entire segment of the settled population with democratic norms.²⁸

In the first instance, states saw that the third generation and beyond had to be included in the citizenry. It was not reasonable to pretend that the children of people who had lived their entire lives in the society would eventually go "home" to the country their grandparents or great-grandparents had left. Once the need to include the third generation was accepted, it became clear to many that they ought to be considered citizens from birth, just like the children of citizens, so that they could be socialized into the norms and practices of the society as they grew up. Most states now grant the third generation citizenship or at least a right to citizenship. In some cases, the third generation acquires citizenship automatically at birth (like the children of citizens) through what is called a double *ius soli* rule which grants birthright citizenship to any child born in the state to parents who were also born in the state.

Most democratic states have also recognized that this principle of inclusion applies, at least to some extent, to the second generation—children born to immigrant parents who have settled in a new state. The second generation generally enjoys at least a legal entitlement to citizenship and in many cases acquires citizenship automatically either at birth or at some later age. For example, some states (like Germany) grant citizenship at birth to any child born on the territory whose parents have been legal residents for a certain period of time. That was the reform introduced in 2000.

In sum, most Western European states have accepted the view that excluding the descendants of immigrants from citizenship generation after generation is incompatible with any plausible account of democratic principles and that this means that some form of birthright citizenship must be extended to the descendants of immigrants. The transformation of Germany's citizenship laws is the case that has been most widely discussed, but several other states have also moved away from limiting citizenship transmission to *ius sanguinis* and have

recognized that birth in the country to settled immigrants gives rise to some sort of legal right to citizenship.²⁹

I do not mean to suggest that everyone in Europe accepts this view of citizenship and immigration. A few states in Western Europe (e.g., Austria, Denmark) have no provisions to recognize the claims of the descendants of immigrants to birthright citizenship, although even these states usually facilitate access to citizenship for these children as adults which is a partial concession to the principles I am advancing. The states from Eastern Europe that have recently joined the EU base their birthright citizenship policies exclusively on *ius sanguinis* and permit indefinite transmission of citizenship to generations born abroad (although these states have only recently begun to deal with significant immigration and have not yet had to deal with the challenges that generational exclusion poses for democracy). Finally, it is probably fair to say that the acceptance of the rationale for birthright citizenship for the descendants of immigrants is more firmly established among the elites in many states than among the general population. Nevertheless, the most noteworthy fact is that many states with traditions of relying exclusively on *ius sanguinis* have changed their laws regarding birthright citizenship to add some version of a *ius soli* rule in order to include the descendants of immigrants in the citizenry. I do not think it is possible to explain these changes without appealing to ideas like the ones I have presented in this chapter about who should be regarded as a member of the political community at birth.³⁰

Limiting Ius Soli

None of the states that have adopted new *ius soli* laws has extended birthright citizenship to every person born on the state's territory. In most cases they grant birthright citizenship only if the child's parents are legal residents, sometimes requiring them to have had that status for an extended period of time, and sometimes only granting birthright citizenship to the third generation. So, the new *ius soli* policies are restricted in various ways. Moreover, some states that previously had unqualified or universal *ius soli* rules in place have made their rules more restrictive. The United Kingdom, Ireland, and Australia all had a long tradition of *ius soli* rules that granted citizenship to everyone born on the state's territory, but they have now adopted reforms that grant birthright citizenship to children who are born on the state's territory only if at least one of the parents is a citizen or a legal resident. A few states with long-standing universal *ius soli* laws, notably the United States and Canada, have not changed their policies (despite some public demands that they do so).

What should we make of this from a normative perspective? Should the states that have only recently introduced *ius soli* laws have extended birthright

citizenship further to include everyone born on the territory? Were the states that have changed their universal *ius soli* laws wrong to do so? Alternatively, were the states that have kept their universal *ius soli* laws wrong not to change them? Or is this an area where states are morally free to exercise their own preferences in how expansive or restrictive they will be?

For the reasons laid out in my earlier arguments, I think that states have an obligation to grant birthright citizenship to the children of settled immigrants. I would therefore argue that policies that only grant birthright citizenship to the third generation (as is the case with some of the states that have reformed their laws) do not go quite far enough. They do not grant citizenship at birth to everyone who ought to receive it. Nevertheless, I don't want to overstate this point. The most important consideration from a moral perspective is that, by adopting some sort of *ius soli* law, these states have recognized the principle that the descendants of immigrants deserve birthright citizenship when there is good reason to believe that they will grow up in the state where they were born. That is an important development, and it is much more important than the details of how a particular state determines the threshold for the assumption that a child is likely to grow up in the political community. By contrast, it seems to me that states that make no provisions to grant citizenship at birth to the descendants of immigrants are failing to meet basic democratic standards of justice.

The principle that I have been defending does not entail the view that anyone born in a state deserves birthright citizenship, however. My argument emphasizes the central importance of the expectation that a child will be raised in the state. It is not plausible to expect that everyone born in a state will grow up there, regardless of why the mother happens to be present in the state at the moment of her child's birth. Suppose that a child is born to parents who are present as tourists or temporary visitors. It seems reasonable to expect that the child will be raised elsewhere, presumably in her parents' home state, not in the place where she happened to be born. By itself, birthplace creates no compelling claim to membership. It is only when birthplace is linked to future expectations of living in the society that it gives rise to such a claim. For that reason, states adopting new *ius soli* laws do nothing wrong when they limit the reach of these laws to the children of settled immigrants.³¹

Of course, things can always turn out differently from what we expect. A temporary stay can become a permanent one. It is not necessary to address this contingency by extending birthright citizenship to everyone born on the territory, however. If the child does stay on, she will indeed establish the sorts of connections that generate a moral claim to citizenship, but this claim can be met by policies that grant citizenship automatically to any child who resides within the state for an extended period as a minor. Indeed, I will argue in the next chapter that justice requires states to adopt such policies.

If it is morally permissible for states introducing new *ius soli* laws to adopt rules that grant birthright citizenship only to children whose parents have ongoing residence permits, isn't it also acceptable, or perhaps even obligatory, for states with universal *ius soli* laws in place to modify their rules so as to impose the same sorts of restrictions? As I noted above, the United Kingdom, Ireland, and Australia have already changed their laws. Some argue that Canada and the United States should do so as well. Some of the public arguments that have been and still are advanced in these cases echo the analysis I have offered, namely, that the mere fact of being born in a country does not normally give rise to a strong moral claim to citizenship.³²

If the analysis I have offered so far is correct, it is morally permissible in principle for states with universal *ius soli* laws to modify them so as to restrict *ius soli* birthright citizenship to the children of citizens and settled immigrants. The reforms that have taken place in the *ius soli* states are sometimes described as moves in an illiberal or undemocratic direction. But the first and most important point to make about these changes is that they have respected the moral constraints imposed by democratic principles. As I explain below, there may be other grounds for criticizing these changes, but the changes themselves do not violate the state's obligations with regard to birthright citizenship, at least as I have interpreted those obligations. All of these states continue to grant citizenship at birth to the children of settled immigrants. In some ways, this is surprising, given the presence of strong anti-immigrant movements in all of these states. So, rather than simply seeing the changes that have taken place as illiberal or undemocratic, we can view the continued respect for this principle of granting birthright citizenship to the children of settled immigrants as a sign of how deeply rooted this understanding of democratic norms really is.

If policies restricting birthright citizenship to the children of citizens and residents are morally permissible in principle, why should anyone object to the fact that states with universal *ius soli* laws have changed them so as not to grant automatic citizenship to children born to tourists or temporary workers or irregular migrants? The answer is that laws and policies sometimes involve more than rules and rights. The reforms in the United Kingdom, Ireland, and Australia are troubling not because of the content of the policies but because of the symbolic meaning of the changes. At the time that the new policies were introduced, each of these states was faced with popular anti-immigrant movements that demonized and denigrated immigrants, often in racial terms. Critics have charged that the changes in the citizenship laws were introduced as a way of placating these anti-immigrant forces and that the reforms served to legitimate their anti-immigrant rhetoric. To the extent that these charges are true, the changes deserve criticism. I phrase my claim in this cautious way simply because I do not know the circumstances of each case well enough to make an informed

judgment about the criticisms. This requires a detailed contextual interpretation that is beyond the scope of this book. But the motives behind the changes and the symbolic effects of the changes are relevant moral considerations in assessing these cases. Even though there is nothing morally objectionable in principle in laws restricting *ius soli* to the children of citizens and residents, we should be concerned if the changes to the citizenship laws grew out of and contributed to racist or anti-immigrant currents in a society.

Should Canada and the United States follow in the wake of these other states and revise their universal birthright citizenship rules? There is no compelling moral reason to do so. The fact that it is morally permissible for a democratic state to adopt a more restrictive *ius soli* law does not mean that every democratic state is obliged to take this approach. A universal *ius soli* law runs a greater risk of granting birthright citizenship to some children who will not grow up within the state, but every birthright citizenship law runs that risk to some degree. To extend birthright citizenship to everyone born in the territory is not to give implicit endorsement to a morally objectionable conception of the political community as an unqualified *ius sanguinis* law does. The latter implicitly endorses an ethnic conception of the state; the former merely extends citizenship to some who have no strong moral claim to it. So, there is nothing morally unjust in the existing universal *ius soli* rules in Canada and the United States.

But wouldn't it be good public policy for them to bring their birthright citizenship laws into closer alignment with the underlying moral principle that gives rise to moral claims to birthright citizenship? Not necessarily. There are good contextual reasons for both Canada and the United States not to modify their universal *ius soli* policy.

Both Canada and the United States see themselves as countries of immigration. In various ways, welcoming immigrants is a central element in the national ideals of both states. Needless to say, this ideal has not always been realized in practice, but one important area where the inclusion of immigrants has never been in doubt has been the acceptance of the children of immigrants as citizens. The certainty that everyone born in the country would be included in the citizenry has played an important role in both states in sustaining their self-understandings as countries open to immigration. Any change in the universal reach of the citizenship laws, even one that continued to grant birthright citizenship to the children of settled immigrants, would probably be seen as a repudiation of that basic openness to immigration. I do not claim that it would be unjust to change these laws, but I do think that a restrictive change in either country would be a betrayal of a fundamental national ideal.

Changing the universal *ius soli* rule in the United States would be particularly damaging. The rule is part of the Fourteenth Amendment to the Constitution.³³ It is very difficult to change the Constitution. It requires the approval of two-thirds

of both houses of Congress and three-quarters of the state legislatures. So, it would only be feasible politically to amend this rule if a massive and powerful anti-immigrant movement swept the country. The Fourteenth Amendment overturned the notorious *Dred Scott* decision. It represents the deepest articulation of America's commitment to equality. To modify that amendment in response to an anti-immigrant movement would be a national tragedy.

Most of my discussion in this chapter, and indeed in the book as a whole, focuses on general principles that apply to all democratic states in Europe and North America. General principles are not the only normative considerations that count in assessing public policies, however. In this section, especially in the last few paragraphs, I have drawn attention to the importance of what a policy means in a given context and why that should matter to a normative evaluation of that policy. I cannot go into the detail required to consider these complications with respect to most of the issues I take up in this book. I emphasize them here in order to strike a cautionary note. Discussion of moral principles is not the only form of normative discourse. It is important not to move too quickly from an analysis of moral principles to conclusions about how we should act in the world.

Dual Citizenship at Birth

The issue of dual citizenship has played an important role in public debates about access to citizenship for immigrants and their descendants.³⁴ The refusal to grant birthright citizenship to the children of immigrants is often justified on the grounds that these children will gain another citizenship at birth—citizenship in their parents' country of origin.³⁵ Some states say that they regard dual citizenship as a problem and present their desire to avoid it as a justification for citizenship policies that restrict birthright citizenship for the second generation. Does the fact that the children of immigrants get their parents' citizenship at birth provide a democratic state any grounds for denying the children citizenship in the state where they are born and where their parents live?

No, for three interrelated reasons. First, citizenship in one's parents' country of origin is not an adequate substitute for citizenship in the country where one lives. Second, dual citizenship itself does not pose serious problems. Finally, acquiring dual citizenship at birth is widespread, unavoidable, and accepted for the children of citizens, and so it should be for the children of immigrants as well.

The first objection to using the prevention of dual citizenship as a justification for denying birthright citizenship to the children of immigrants is simple. The strongest moral claim that a child of immigrants has to citizenship at birth is her claim to be treated as a full member of the political community in the society in

which she was born and will be raised. Her claims to citizenship in her parents' country of origin are real but weaker. It is wrong for the state where she has the strongest claim to fail to recognize this claim. The fact that another state has recognized her as a member is no excuse for excluding her from membership in her actual home community.

Why does dual citizenship seem problematic to some people? Some compare the relationship between the citizen and the state to marriage, seeing dual citizenship as a form of bigamy. On this view, the state is entitled to the citizen's loyalty, allegiance, commitment, and emotional attachment. It is feared that dual citizenship will create divisions, even conflicts, in all these areas. Some worry about issues of political equality and fairness. They think that dual citizens will be able to vote in two different national elections which they see as a violation of the principle of one person, one vote. They also argue that having the additional options that a second citizenship provides conflicts with norms of fairness and equality of opportunity among citizens. Finally, people sometimes worry about the effects of dual citizenship on international order or on the dual citizens themselves. Who will be responsible for diplomatic protection if the dual citizen is in a third country? The dual citizen might owe similar legal duties to both states with respect to things like taxes and military service, but it would seem unfair to have to fulfill both. And what if the two states were in conflict with one another? Where would the dual citizen's loyalty and duty lie?

Few people who have studied the way dual citizenship works in practice share these worries. There is now a substantial scholarly literature that shows that alleged problems created by dual citizenship are exaggerated or misguided.³⁶ Even scholars who continue to express concerns about dual citizenship usually seek only to regulate or constrain it in some way rather than to eliminate it. These proposed regulations and constraints normally have no bearing on the acquisition of citizenship at birth.³⁷

The growing acceptance of dual citizenship is in part a response to two social developments of the late twentieth century that have changed the way we think about citizenship: the decline of compulsory military service for young men and the rise of feminism. Historically, military service was seen as one of the most important duties of a citizen. The citizen was expected to risk his life for his country if called upon to do so, and in an era of universal compulsory military service, almost every young man was asked to prepare to serve in that way even if he did not actually have to engage in armed conflict. Military service, even if compulsory, was seen as a very concrete manifestation of a citizen's loyalty and commitment to his political community. At the same time, the demand for exclusivity, for attachment to a single state, could readily be linked to a military role in which matters of life and death could depend upon whether one could count upon the loyalty and commitment of one's fellow soldiers. Many people

found it difficult to imagine that someone might serve in two different armies or might be free to choose between them, even if they were not in conflict with one another. Many took it as self-evident that the citizen soldier should be committed to a single state.

I have deliberately used the masculine pronoun in the previous paragraph (in contrast to my usual habit of using the feminine as the generic) because this conception of the citizen as soldier only applied to men. With very rare exceptions, women were never compelled to perform military service and often were permitted to do so only at the margins (say as nurses and secretaries) if at all. Thus the view that military service was at the core of citizenship implicitly presupposed that the "real" citizen was a man.³⁸

In practice, the problems posed by someone having dual citizenship and thus military obligations to two states were never as great as some supposed. States often entered into bilateral treaties which stipulated that service in either state fulfilled the individual's obligation or that he should do his military service in his place of habitual residence (reflecting the moral importance of residence). In the relatively rare case that a dual citizen was serving in the army of a state that was at war with the state of his other citizenship, it was possible to construe the decision to fight in one army as a renunciation of the opposing state's citizenship so that the person could be seen just as an enemy soldier and not as a traitor. But these cases were rare. Over the past few decades most states in Europe and North America have abolished universal conscription for technological, economic, and political reasons. With the elimination of compulsory military service for men, it has become harder to maintain the picture that citizenship has to be exclusive because the citizen's loyalty and commitment to the political community involve matters of life and death.

The decline of compulsory military service coincided in time with the rise of the feminist movement. This brought women more into the public realm and led to demands in many different areas that women be treated as equal citizens. One such area was the legal status of citizenship itself, and specifically the right to pass on one's citizenship to one's children. One of the earliest and easiest targets of feminist critiques was the common practice of giving priority to the male line of descent in the transmission of citizenship.

Step back for a moment and consider the question of citizenship acquisition in a "mixed" marriage (i.e., a marriage in which the spouses hold different citizenships).³⁹ In my previous discussion I observed that every democratic state grants birthright citizenship to the children of citizens, whether residents or emigrants. In that earlier discussion I implicitly assumed (for simplicity of exposition) that both parents had the same citizenship. But what if they don't? What if it is a mixed marriage? Should the child get only one parent's citizenship at birth or should she receive both?

The normative rationale for birthright citizenship that I have been presenting implies that a child should be entitled to some form of birthright citizenship in a democratic state, even if only one of her parents is a citizen and an emigrant at that. In my view, that single line of connection to the community generates strong enough links of interest and identity to justify recognition of the child as a member from the outset.

What about the actual practice of liberal democratic states in this regard? It fits with this rationale now, although it did not do so in the past. For much of the twentieth century, many states dealt with the question of mixed marriages by saying that children should receive only the father's citizenship.⁴⁰ In mixed marriages, the children often did not inherit the mother's citizenship even if the entire family was living in the mother's home country. These rules were defended in part as necessary to avoid dual citizenship and in part as ways to promote the unity of the family.⁴¹ I trust that it is unnecessary to spell out to contemporary readers how these citizenship practices disadvantaged women, denied the relevance of their political identities, and created serious practical difficulties in cases of marital breakups. I will assume that I do not need to explain why feminist critics regarded such rules as morally objectionable and unfair. In response to political and legal challenges, democratic states that still had such patriarchal rules in place changed their laws in the 1970s and 1980s. All democratic states now grant birthright citizenship of some sort to a child if either parent is a citizen. Since at least one spouse in a mixed marriage must be an emigrant (if the family is living together), this means that children are in fact entitled to some form of birthright citizenship on the basis of a single emigrant parent, as I have argued ought to be the case.

As a result of these changes designed to meet the requirements of gender equality, the number of children who have acquired two citizenships at birth has grown enormously over the past few decades, especially since the incidence of mixed marriages has also increased as a result of greater mobility and human contact across borders. There is no reliable data about how many people have acquired dual citizenship at birth because their parents have different citizenships, but all of the scholarly observers agree both that the number is large and growing and that this development has led to relatively few serious practical problems with respect to diplomacy or taxes or other overlapping obligations.

What about the other worries about dual citizenship? The concern that dual citizenship creates unfair advantages is hard to take very seriously. It does not create any advantages for a person within the state where she is living. It simply gives her an opportunity to live elsewhere that others do not enjoy, and that is an advantage only in relation to any of her fellow citizens who might want to live in the other state. Often most of them would not.

The idea that dual citizenship conflicts with a commitment to political equality is more contested. Some deny that it is a problem if someone votes in two different national elections on the grounds that the person is still only exercising a single vote within a given electorate. Others contend that even this violates democratic norms and worry further about dual citizens taking up high public office. I won't try to resolve these normative disputes here. The main point for my purposes is that even those most worried about the issue of political equality do not claim that this justifies a general opposition to dual citizenship as opposed to either restrictions on the voting rights of citizens living outside the country or expectations about the renunciation of a second citizenship by someone who takes up high public office.⁴²

The biggest concern about dual citizenship is the issue of divided loyalties. So, let's reconsider the image of citizenship as marriage and dual citizenship as bigamy. It's a curious choice of family analogies. One of the most common ways of describing one's home country is to call it a motherland or a fatherland. From this perspective, the appropriate family analogy for the relationship between citizen and state, especially a relationship that is established at birth, would not be the voluntary relationship of a marriage but the unchosen relationship of child to parent. Most children have two parents. We don't usually insist that they choose between them or even give priority to one over the other. The loyalty, commitment, allegiance, and emotional attachment that a child has to one parent need not conflict with the same sorts of connections to the other. Indeed, in a healthy family, the parents try to minimize such conflicts, even if they are at odds with each other through separation or divorce. It is rarely necessary to force the child to choose between the parents and important to avoid doing so in order to enable the child to maintain a loving relationship with both parents.

It is the same with a child who acquires two citizenships at birth. In fact in the vast majority of cases there is never any conflict that makes it necessary to choose between the two states, much less to make a definitive commitment to one over the other. Indeed, to require such a choice where the child has inherited one citizenship from one parent and another from the other would be, at least symbolically, to ask her to choose between her parents, to prefer her mother over her father or vice versa. This would be not only unnecessary but cruel. So far as I know, no democratic state requires its citizens to make such a choice. In any event, none should.

We are now in a position to see why denying birthright citizenship to the children of immigrants out of a desire to prevent their acquisition of more than one citizenship would be hypocritical and arbitrary. It would be hypocritical because all democratic states now accept dual citizenship at birth when it results from the child's parents' holding different citizenships. There is no plausible reason for treating dual citizenship at birth differently because one of the claims to

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citizenship arises from birthplace and residence rather than from parentage.⁴³ It would be arbitrary because it is no longer plausible (if it ever was) to argue that there is a deep public interest in preventing dual citizenship. By contrast, it is clear why individuals have a deep interest in acquiring citizenship in the place where they are born and raised as well as in the state(s) where their parents hold citizenship. Democratic states are not morally free to do whatever they want to the populations they govern. For a public policy to be justifiable, there must be some genuine public interest at stake and there must be some proportionality between whatever burden a policy imposes on individuals and the public good that the policy achieves. That is not the case if the children of immigrants are denied birthright citizenship to prevent their acquiring dual citizenship. The legitimate interest that the children of immigrants have in being able to possess dual citizenship clearly outweighs whatever interest the state may have in trying to restrict it.

Milikije Arifi is in her fifties. She was born in Macedonia, but she has lived in Switzerland since she was 18 and she raised a family there. Arifi applied for Swiss citizenship three times. Each time the town council of Adliswil, the Zurich suburb where Arifi lives, rejected her application, most recently in the spring of 2008, despite the fact that Arifi is fluent in German and had passed an exam on the history and government of Switzerland (and the local area, as well) at the time of her first application. The town council offered no public explanation for its decision not to approve Arifi's application for citizenship, but one member told a reporter: "It is not a matter of insufficient language ability or that they are a public threat. It is that their environment is not so good.... We are hearing people in the vicinity of the Arifis who don't want us to do it."

In the previous chapter I explored the moral claims of the descendants of immigrants to gain citizenship automatically in the country in which they are born. Now I turn to questions about access to citizenship for those who arrive after birth. Was the Swiss decision to deny citizenship to Arifi morally justifiable? The term for the acquisition of a new citizenship after birth is naturalization. What moral principles govern naturalization in liberal democratic states? Do immigrants like Arifi have any moral claims to naturalization or is this something that is entirely at the discretion of the states where they live? Are democratic states entitled to require immigrants seeking access to citizenship to meet certain conditions before gaining citizenship, and, if so, what sorts of conditions may they require?

In this chapter, I will build on arguments advanced in the previous chapter to defend the view that democratic principles severely limit the conditions which a democratic state may impose as prerequisites for citizenship. While states may exercise some discretion in the rules they establish for naturalization, they are obliged to respect the claims of belonging that arise from living in a political community on an ongoing basis. Policies that permit the exclusion of long-term legal immigrants like Milikije Arifi from citizenship are unjust. Keep in mind that in this chapter I am only talking about immigrants who have official permission to reside in the state on an ongoing basis.