

The Causes and Consequences of Germany's New Citizenship Law

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Until recently, Germany was viewed as having an outdated and restrictive citizenship policy that was impervious to demographic realities and liberalising trends. Yet despite many predictions of continuity, Germany's policies have undergone considerable changes over the past decade. Indeed, the German Nationality Act of 2000 represented a liberalisation of Germany's notorious 1913 law, yet the new law did not go nearly as far as the Schröder government had hoped and planned – largely due to a massive anti-immigrant petition campaign. This article traces the historical context in which German citizenship policy has developed and evolved, and it speculates about the longer-term effects of the 2000 law in terms of creating a new definition and perception of what it means to be German. The detailed focus on the German case also helps to illustrate more general arguments about the politics of citizenship. In particular, it shows how an elite-driven process can lead to liberalising change, but also how the mobilisation of xenophobia can lead to a sudden and restrictive backlash.

As the comparative study of national citizenship policies has become a growth industry in the social sciences, no country has received nearly as much attention – or criticism – as Germany.¹ Until recently, Germany was generally viewed as having an outdated and restrictive policy that was impervious to demographic realities and liberalising pressures and trends. Indeed, in his thorough account of the history and trajectory of Germany's citizenship policy, Rogers Brubaker wrote in 1992 that 'the automatic transformation of immigrants into citizens remains unthinkable in Germany'.² Yet despite many predictions of continuity, Germany's policies *have* undergone considerable changes over the past decade. Not only were naturalisation requirements loosened somewhat in 1993, but a major new Nationality Act was approved in 1999 and took effect in 2000. Nonetheless, the extent of the change remains an open question, and a careful examination of the evidence suggests that it may still be too early to categorically reject the 'spirit' of Brubaker's assessment.

This article focuses on the German case to illustrate more general dynamics and theoretical arguments about the *politics* of citizenship.³ It shows how an elite-driven process can lead to liberalising change – despite strong anti-immigrant sentiment within the population – but also how the mobilisation of xenophobia can lead to a rather sudden restrictive backlash. The article traces the historical context in which German citizenship policy developed and summarizes the pressures for liberalisation that increased from the 1970s to the 1990s, before showing how and why both the gradual liberalisation and the sudden restrictive backlash took place. The final sections

elucidate the main features of the new compromise law of 2000 and speculate about its longer-term effects in creating a new definition and perception of what it means to be German.

HISTORICAL OVERVIEW OF GERMAN CITIZENSHIP

Although Germany has long been characterised as the prototypical *jus sanguinis* country, it should be mentioned that during the first half of the nineteenth century many of the independent German states actually had a tradition of *jus domicili*, or principle of residence.⁴ *Jus sanguinis* was first introduced by Bavaria in 1818, adopted more widely by the Prussian citizenship law of 1842, consolidated by the formation of the unified German *Reich* in 1871, and then finally concretised by the German Nationality Law of 1913. The purpose of the 1913 law, which was solidified by the Constitution of 1919, was to supplement, rather than replace, the citizenship of the individual states within the federation.⁵ And the principle of this policy – which would remain firmly ingrained in German law for the next eight decades – was that German citizenship refers to a ‘community of descent’, with little regard for birthplace and residence.⁶

After the collapse of the Weimar Republic, this blood-based definition of citizenship was easily manipulated by the Nazi regime for its genocidal purposes.⁷ Upon coming to power, the Nazis quickly abolished regional citizenship (in the *Länder*) and created a unitary state. They also cancelled the naturalisations that had taken place in the Weimar period, revoked the German citizenship of those viewed as ‘having violated a duty of loyalty to the German Empire or the “German Nation”’, and withdrew the citizenship rights of German Jews. The Nazi policy was neatly summarised by point 4 of the Nazi party programme, which became concretised in the *Reichsbürgergesetz* of 1935: ‘Only *Volk*-comrades can be citizens. And only persons of German blood, irrespective of confession, can be *Volk*-comrades. No Jew can be a *Volk*-comrade’.⁸ In short, the Nazis took the *jus sanguinis* definition to its extreme, using it as a tool for racial hierarchy and mass murder.

Given how quickly the newly-constituted Federal Republic of Germany (FRG) emerged as a liberal democratic nation-state in the post-war period, one might have expected a new citizenship policy to replace the 1913 law, which the Nazis had abused so easily. Yet the old law remained in effect for two main practical and political reasons. First, hundreds of thousands of ‘ethnic Germans’ scattered around Eastern Europe (*Aussiedler*) were facing significant post-war recriminations, and allowing them to return to Germany was considered a basic and fundamental human rights issue. Second, East German citizens who managed to leave communist East Germany (*Übersiedler*), either voluntarily or by expulsion, were automatically granted West German citizenship upon arrival in the FRG, a policy that helped to put pressure on the East German regime (and one that clearly contributed to eventual German unification after hundreds of thousands of East Germans escaped to the West via Hungary in the spring of 1989).⁹ Both of these policies were encapsulated in the 1953 Federal Expellee Law of the FRG, which provided for the ‘right of return’ for all ‘ethnic Germans’ and their descendants.¹⁰

After German unification in 1990 and the collapse of the Soviet bloc in 1991, however, both of these reasons for maintaining such a broad interpretation of *jus sanguinis* became outdated and impractical. Most obviously, the second reason no longer served any purpose, since the disappearance of the German Democratic Republic (GDR) meant that all East Germans automatically became citizens of the FRG on 3 October 1990. And the grounds for the first reason became increasingly difficult to justify, as the collapse of communism allowed and encouraged vast numbers of residents from Eastern Europe to claim their German lineage, despite their ever more remote ancestry and attachments to Germany. Moreover, the accommodation of over two million *Aussiedler* between 1988 and 1996 – many of whom did not speak German well (if at all) and could only integrate into German society with great difficulty – was especially arduous for a German state that was already overburdened by the high costs of unification. In order to stem the tide of mass immigration of ‘ethnic Germans’, especially in the face of spreading rumours about the sale of fraudulent documents in order to ‘prove’ German ancestry, the German state imposed several stop-gap measures intended to reduce the numbers of *Aussiedler* coming into Germany. These included applying from abroad, passing a German language test and filling out a lengthy questionnaire. Moreover, in 1992 the state restricted the maximum number of *Aussiedler* permitted to move to Germany to 220,000 per year,¹¹ in addition to curtailing their language and financial assistance upon arrival in Germany.

At the same time as authorities tinkered with the *jus sanguinis* component of German citizenship policy – for people with some German ancestry but little connection to Germany – the justification for denying *jus soli* became even more tenuous and indefensible as it became clear that Germany had indeed become the permanent home of ever more foreign residents whose entire families, including children and grandchildren, were growing up and staying in Germany. The striking contrast between German-born Turks (speaking fluent German, often studying and working productively in Germany, yet not being granted citizenship) and the large numbers of ‘ethnic Germans’ (arriving with little to no knowledge of German language or culture, yet being granted citizenship automatically) was becoming more and more difficult to justify, either morally or economically.¹²

In short, despite repeated claims by German officials that ‘Germany is not, nor shall it become, a country of immigration’, the recent demographic realities – especially in such cities as Frankfurt, Stuttgart, Munich, Cologne, Düsseldorf, and Hamburg, where the proportion of foreign residents ranges from 15 to 30 per cent – began to tell otherwise.¹³ And while the justification for maintaining the 1913 citizenship law in the post-war Federal Republic may have been acceptable in the context of the Cold War, in the post-unification period it appeared increasingly anachronistic and offensive.

DOMESTIC AND INTERNATIONAL PRESSURES FOR LIBERALISATION

Over the course of several decades, as in most EU countries, Germany experienced significant domestic and international pressures to liberalise its citizenship policy. In fact, these were even more powerful in Germany, given both the high numbers of long-term foreign residents living there and the intense scrutiny that Germany has faced in light of

its Nazi past. The result was a varied set of factors that collectively and persistently pushed Germany in a liberalising direction.¹⁴

International pressures were certainly more visible in Germany than in other countries, though ultimately domestic factors were probably decisive. Germany suffered from the stigma of its 1913 law, which in the minds of many people was synonymous with Nazi rule and racist genocide. And it stood out in comparison to other European countries, especially neighbouring France, which had more inclusive policies for integrating immigrants. As international bodies such as the Council of Europe, the European Court of Justice, and the European Court of Human Rights began to play an increasingly important political, moral, and judicial role in Europe, there was a sense that Germany's law stood out as antiquated, inhumane, and in need of 'modernisation', all of which certainly had a steady, if subtle, impact on key decision-makers.¹⁵

There was also an economic motive for Germany's desire for greater international acceptance, particularly in the past decade. As Anil writes, 'Liberalising citizenship regulation was also seen as a way to improve Germany's image in order to attract highly skilled workers ... Compared to traditional migrant-receiving countries, Germany's exclusive citizenship policy was a disadvantage in the highly competitive international labour market for skilled workers'.¹⁶ In other words, although they were not explicitly linked – and the 'Green Card' initiative for recruiting high-tech workers did not emerge until a year after the citizenship reform had been implemented – the economic need for more (and particularly high-skilled) labour drove many businesses to push for a more liberal citizenship policy. But this was also the case in other restrictive countries (such as Austria, Denmark, or Italy) that did not liberalise, so while perhaps a necessary factor, the need for labour is not sufficient to account for Germany's change.

A host of domestic factors contributed to increasing the pressure on German policy-makers, ranging from demographic changes in German society, to a key related decision by the Federal Constitutional Court, to the legacy of the Nazi past and its influence in keeping the far right out of German politics. The most important influence was certainly the demographic situation mentioned briefly at the end of the previous section. German society was fundamentally changed by nearly two decades of 'guest worker' programmes, from the mid-1950s until 1973, which cycled millions of working men from Italy, Greece, Portugal, Turkey, and Yugoslavia in and out of Germany. At the peak of the programme in 1973 there were about 14 million guest workers residing in Germany, 11 million of whom left for their home countries when the oil crisis led to the end of the guest worker model.¹⁷ But three million of them – mainly from Turkey – stayed behind, and with the support of German and international courts, they eventually brought their families to join them and went on to have children who were born on German soil. The result was that Germany transformed from a society with under 700,000 foreigners in 1960 to one with 7.3 million foreigners today – constituting about 9 per cent of its population.¹⁸

In addition to the influx of guest workers and their families, most of which occurred many decades ago, a main reason for the high numbers of foreigners in Germany was the asylum crisis that took place in the early to mid-1990s. This situation developed because of Germany's unique asylum policy, which at the time was far more generous than any other country in Europe or the world.¹⁹ The policy was entrenched in post-war

Germany's Basic Law, or constitution, which represented a major change from the Nazi period by enshrining a number of civil and human rights. Up until the end of the Cold War, the result was relatively large, but still manageable, levels of asylum seekers – with, for example, 57,400 individual applicants in 1987 – the numbers began to increase dramatically in subsequent years, particularly after the dissolution of Yugoslavia. As Hansen and Koehler write, 'In late 1992, the number of asylum applications to Germany was spiralling out of control – reaching a record of 438,000 that year, a figure never seen before or since by any European nation. Yet Germany had a constitutionally entrenched right of asylum, and there was little the country could do'.²⁰

Meanwhile, the issue of asylum seekers became highly public in 1992 and 1993 in the aftermath of several violent attacks on asylum seekers and foreigners in the towns of Rostock, Mölln, and Solingen, which resulted in numerous demonstrations and counter-demonstrations.²¹ This public mobilisation made political parties on all sides uncomfortable, and they therefore 'removed immigration and asylum from public debate and entered into private negotiations'.²² The ensuing reform, which took effect in June and July of 1993, was a political compromise whereby the parties on the right were willing to liberalise the naturalisation procedures (more on that below) and to restrict and gradually eliminate the rights of 'ethnic Germans' to become citizens,²³ while the parties on the left agreed to change the asylum laws by not accepting asylum seekers who entered Germany through neighbouring or 'secure' third countries. In other words, with the exception of asylum seekers arriving by plane (which is very rare), the new law quickly and effectively put a stop to the asylum crisis. Nonetheless, many of those who had entered Germany as asylum seekers over the previous years still remained. The demographic diversity of German society was by then undeniable, which made the non-citizen status of so many millions of foreign residents all the more glaring.

Another domestic factor that added to the pressure for citizenship liberalisation was the German legal system. Several decades earlier, the courts – in Germany and elsewhere in Europe – had already played an important role in declaring and protecting the right to family unification.²⁴ In 1989, the Federal Constitutional Court took on the issue of voting by foreigners in local elections, which had recently been enacted in several cities and regions. The Court ruled that local voting by foreigners was unconstitutional, but it substantiated that opinion by advocating a liberalisation of the national citizenship law. As Hailbronner writes:

The Court stated that the concept of democracy as laid down in the Basic Law does not permit a disassociation of political rights from the concept of nationality. Nationality therefore is the legal prerequisite for the acquisition of political rights, legitimising the exercising of all power in the Federal Republic of Germany. The Court, however, also stated that the only possible approach to solving the gap between the permanent population and democratic participation lies in changing the nationality law, for example, by facilitation the acquisition of the German nationality by foreigners living permanently in Germany and thereby having become subject to German sovereignty in a manner comparable to German nationals.²⁵

In other words, while restrictive in the sense of preventing local voting rights for foreigners, this ruling provided added pressure for liberalisation from a highly influential and respected institution.

A final liberalising pressure relates to a particular feature of post-war German politics, which serves as a legacy of the Nazi past. From its founding in 1949, one of the dominant guiding principles of the Federal Republic has been to keep the nationalist far right in check. This has been applied in many arenas, but most importantly it has been enforced by the Federal Constitutional Court, which keeps a tight leash on all extremist groups, propaganda, and even speech. Politically, it has manifested itself in self-censorship by the political parties, which are generally (though not always) cautious about stirring up extreme nationalist sentiments in German society. The centre-right parties, however, have frequently tried to strike a careful balance, by condemning explicit nationalist and anti-immigrant groups while, at the same time, appealing to their potential supporters and sympathisers. They try not to go too far in the latter direction, for fear of creating political instability if the radical right were to become too powerful.

In the early 1990s – in the aftermath of unification and in the midst of the asylum crisis – many commentators expected a resurgence in support for the radical right.²⁶ But the parties on all sides of the spectrum remained vigilant, thereby keeping the potential radicalism in check.²⁷ As a result, there was a surprising general consensus across the political spectrum that long-term immigrants should be granted greater rights and opportunities for integration, while the vast numbers of both asylum seekers and ethnic Germans needed to be reduced.²⁸ That said, there was considerable disagreement on the details relating to policies toward each of those three groups, which resulted in the compromises and changes discussed in the following section.

On the issue of citizenship, the mainstream parties had a clear sense of their priorities and interests. The conservative parties had long received the overwhelming electoral support of ethnic Germans, and they were therefore in no rush to eliminate this steady influx of new supporters.²⁹ And the parties on the left were actively courting the support of immigrants who, if they were to become German citizens, would be likely to vote for them.³⁰ As the next section shows, these elite political battles played themselves out in a very intriguing way over the course of several decades.

Overall, the pressures for the liberalisation of Germany's citizenship law were varied and substantial. As a result of its outdated 1913 law, Germany suffered international embarrassment, which was particularly sensitive as the country was trying to overcome its Nazi past. More importantly, due to the influx of long-term guest workers and their families since the 1970s and of asylum seekers in the early 1990s, Germany found itself with a massive foreign population that could not simply be ignored. Moreover, the influence of the Federal Constitutional Court and the strategic calculations of political elites and parties also contributed to the sense that citizenship liberalisation was both necessary and likely.

THE POLITICS OF PARTIAL LIBERALISATION

The most obvious turning point for the liberalisation of Germany's citizenship law occurred on 27 September 1998, when the national elections resulted in the victory

of the Social Democrats (SPD) and Greens, who ousted the long-time governing coalition of Christian Democrats (CDU/CSU) and Free Democrats (FDP). Yet the groundwork for this reform had been set up over the preceding 16 years by actors from all four of these political parties. Indeed, despite their disagreements about how to proceed, the parties all recognised that the status quo of the late 1980s and early 1990s – both in terms of the unwarranted obstacles faced by long-term immigrants and the excessive ease with which ‘ethnic Germans’ were acquiring citizenship after the end of the Cold War – was unsustainable.

Intense and protracted political debates about Germany's citizenship policy emerged over the course of the 1980s, and they accelerated in the 1990s, involving all of the main political parties, along with legal experts and academics. But until January 1999, these discussions remained at the elite level with little popular involvement. As one analyst writes, ‘there existed no significant pressure for an alteration of policy from the electorate or from interest groups; indeed, the advocacy of inclusive policy positions in the 1980s frequently constituted a political risk’.³¹ In fact, the political parties seem to have made a conscious effort to ‘avoid any public reaction by keeping the matter out of public debate’.³²

As in most other European countries, the driving force for citizenship liberalisation came from the parties on the left.³³ In 1982, while in its last few months as leader of the national government with its then-coalition partner FDP, the SPD and Chancellor Helmut Schmidt attempted to pass a law that would have granted foreigners who were born and raised in Germany the right to German citizenship upon reaching adulthood.³⁴ The CDU/CSU, which had control of the upper house of parliament, the Bundesrat, blocked the proposal and went on to win the national Bundestag elections later that year, forming a coalition with the FDP. In subsequent years – on the regional level in 1986, 1988, and 1989, and on the national level in 1989 – as members of the opposition, the SPD repeatedly proposed incorporating *jus soli* into a revised law.³⁵

Of all the parties, the most liberal conception of citizenship was advocated by the leftist Greens, who in 1989 proposed a bill that would introduce *jus soli*, recognise dual citizenship, and allow for the naturalisation of all foreigners who had lived in Germany for at least five years. The Greens had also attempted to implement a number of laws in the 1980s, including local voting rights, a right of settlement (*Niederlassungsrecht*) that would have provided nearly all of the same rights as German citizens, the end of discretionary naturalisation policies, and eventually the establishment of national voting rights.³⁶ But these proposals were mainly symbolic, as the Greens were firmly in the opposition, with little chance of participating in a government for another decade to come. Nonetheless, they served as a liberal counterweight to the restrictiveness of the existing law at that time.

Within the CDU/CSU–FDP government, which lasted from 1982 to 1998, the coalition's harmony on citizenship policy was often strained, and the negotiations were at times quite turbulent.³⁷ The starting point of the CDU/CSU in 1982 showed no signs of openness, as they stated that the existing citizenship law was ‘sufficient and took the needs of foreigners into account, particularly those of the second generation’.³⁸ But over the course of the next decade, more CDU/CSU politicians began to view the status quo as untenable, and their openness to liberal alternatives grew.³⁹ Meanwhile, the FDP's position ‘lay between that of the SPD and the CDU/CSU

in its inclusiveness, as the party called for a general ease in policy and a right to citizenship for young foreigners, while stopping short of advocating *jus soli*.⁴⁰ The FDP's stance, which was represented by its member Liselotte Funcke who held the position of Commissioner of Foreigners, advocated 'humane' citizenship policies, including dual citizenship.⁴¹ The FDP also used this issue as a way to distinguish itself from its much larger coalition partner, and to highlight both its liberal profile and its independence.

Until 1990, the FDP made little headway on reforming Germany's citizenship policy, mainly because Interior Minister Friedrich Zimmermann, from Bavaria and the more conservative CSU, staunchly opposed any significant liberalisation of the 1913 law. In 1989, however, Chancellor Helmut Kohl dismissed Zimmermann as part of a broader reshuffling of his cabinet in order to counteract lagging poll numbers and his party's defeat in local elections. Zimmermann's successor as Interior Minister was Wolfgang Schäuble (CDU), who promptly brought the CDU, CSU, and FDP together to reach a compromise that sought to create 'calculable' naturalisation criteria, based on clear and objective criteria.⁴²

This new working relationship within the governing coalition resulted in the 1990 citizenship law, which slightly liberalised the requirements for naturalisation.⁴³ Despite the fact that final decisions on naturalisation were still to be made by local or regional bureaucrats, who had full discretion to approve or reject applications, this new law 'represented the first legal change in citizenship policy in an inclusive direction since Prussia's institution of German citizenship law in 1913'.⁴⁴ In 1993, the same government passed a small but very important revision to the 1990 policy, making naturalisation an *entitlement* – to those who satisfied the criteria – rather than discretionary.

As a consequence of these two reforms, the long-standing definition of German citizenship as being based on German descent was finally modified.⁴⁵ Although the requirements were still quite difficult compared to other European countries, it finally became conceivable that people from entirely non-German family backgrounds could become full citizens of Germany. And, not surprisingly, the number of naturalisations increased over the course of the 1990s – with four times as many in 1996 as in 1986 – although they remained relatively low in comparative perspective, particularly considering that most foreigners in Germany already satisfied the naturalisation requirements at the moment the laws were instituted.⁴⁶

In sum, the political process that led to the 1990 and 1993 reforms resulted from the steady and firm outside pressure exerted by the opposition SPD and Greens, an increase in the numbers and influence of liberals within the CDU, the internal demands made by the FDP on its coalition partner, and the replacement of a staunchly anti-immigrant CSU Interior Minister with a more open-minded and pragmatic successor. These political factors influenced and motivated the first steps of citizenship reform, which continued to develop in the following years.

Over the next five years of the CDU/CSU–FDP government, the issue of citizenship reform largely retreated from political debates and the policy-making agenda. Yet it remained in the background, as members of both the SPD and Greens viewed the new law as still too restrictive, and a number of CDU and FDP politicians agreed.⁴⁷ Starting in 1995, a small group of CDU parliamentarians led by Peter Altmaier and Norbert

Röttgen, known as the 'junge Wilden', convened secret weekly meetings with members of the FDP.⁴⁸ Their goal was to attempt to develop a new citizenship policy that would allow for automatic *jus soli* for third-generation immigrants, thus providing an impetus for longer-term integration.⁴⁹ They were not in full agreement on dual citizenship, as some found it completely acceptable, while others were still uncomfortable with it. The 'junge Wilden' had some support within the CDU, including from Interior Minister Schäuble, and they attempted to bring along the rest of the CDU/CSU to their position. In June of 1998, the party held a vote on the proposal, but only one-third of the CDU supported it, and the CSU was staunchly opposed.⁵⁰

Meanwhile, the FDP's position moved toward that of Altmaier and Röttgen. While several years earlier the party had been resistant to *jus soli* and in favour of dual citizenship, over the course of the mid-1990s it began to support the former, while hesitating about the latter. Consequently, the FDP – in conjunction with the 'junge Wilden' – developed a plan for an 'Optionsmodell', whereby children born in Germany to legal residents could automatically acquire German citizenship, and they could hold dual citizenship during their childhood, but would have to give one of them up at the age of 21.⁵¹

The work of the CDU 'junge Wilden' and the FDP seemed to be for naught once the parties lost the national elections and were forced to go into opposition. After all, they had failed to garner enough support from their own coalition government while it was in power. As it turns out, however, the groundwork they had prepared would prove to be pivotal for reaching a new compromise in 1999, once the FDP was no longer part of a governing coalition and instead had to seek out a role for itself as an opposition party that was willing to negotiate.

As mentioned above, a major impetus for change occurred in September 1998, when the SPD and Greens won the national elections and formed a coalition government under the leadership of Chancellor Gerhard Schröder. Although citizenship reform 'was not a central issue in the 1998 campaign',⁵² Schröder pledged to press ahead quickly with a fundamental change in the citizenship law immediately upon taking office. His government proposed an ambitious plan to establish *jus soli* for foreign children born on German soil, to ease naturalisation rights for foreigners residing in Germany, and most importantly – and most controversially – to allow foreigners to hold dual citizenship by acquiring German citizenship while maintaining their current nationality as well. Schröder did not shy away from the resulting controversy, and in a major speech to the Bundestag on 10 November 1998, he stated boldly and with confidence that he would pass this citizenship reform:

For far too long those who have come to work here, who pay their taxes and abide by our laws have been told they are just 'guests'. But in truth they have for years been part of German society. This government will modernise the law on nationality. That will enable those living permanently in Germany and their children born here to acquire full rights of citizenship. No one who wants to be a German citizen should have to renounce or deny his foreign roots. That is why we will also allow dual nationality. Integration clearly requires the full and active commitment of those who are to be integrated. But we will reach out a hand to those who live and work here and pay their taxes so they may be

encouraged to participate fully in the life of our democracy. This is responding positively to the realities in Europe. Our national consciousness depends not on some 'law of descent' of Wilhelmine tradition but on the self-assured democracy we now have.⁵³

This statement represented an ambitious goal – and a radical departure from previous policies. In a larger sense, it suggested the possibility that Germany could take another major step in the direction of creating a civic umbrella that not only accepts but also values pluralism and diversity, instead of categorising people in primordial, racial terms. Moreover, the introduction of dual citizenship would have established a right that exists in many other European countries and in the United States.⁵⁴

Shortly after the elections, the SPD–Green government seemed determined to bring about lasting citizenship reform, and leaders of both parties were confident that they would succeed.⁵⁵ As Hansen and Koehler write, 'The government had just won a landslide victory and enjoyed a comfortable majority in both chambers, whereas the opposition was still reeling from the (by German standards) crushing defeat . . . Thus, the government considered the move largely uncontroversial'.⁵⁶ Indeed, claiming that citizenship liberalisation was 'long overdue', the new Interior Minister Otto Schily (SPD) predicted that the changes would be approved smoothly and quickly in early 1999.⁵⁷ What Schily and his colleagues did not expect, however, was that the issue of citizenship was about to leave the realm of elite discussions and enter an entirely different world of populist politics, where public opinion and mobilisation would develop into a decisive factor – against liberalisation.

Indeed, the liberalisation that occurred over the 1980s and 1990s was notable for being quiet and elite-led. Politicians from the various parties had intentionally sought *not* to bring the issue into the public arena, for fear that anti-immigrant sentiment could escalate and play into the hands of the radical right, thereby threatening Germany's political stability and its international reputation. But Schröder's bold public pronouncement in the aftermath of a bitter election campaign shattered that elite consensus, ultimately damaging the chance of implementing his full proposal.

THE POLITICS OF RESTRICTIVE BACKLASH

Once Schröder made his proposal public, the debate over the citizenship law quickly left the inner sanctum of the Bundestag and the closed arena of parliamentary discussions. Parties on both sides of the proposal began openly to court public opinion. This was risky territory for those in favour of citizenship liberalisation, since many Germans held anti-immigrant views, especially on the issue of dual citizenship.⁵⁸ As Murray notes, referring to the 1980s and referencing the influential weekly *Der Spiegel*,

Opinion polls throughout the decade showed that the Germany public maintained negative attitudes toward foreigners residing in the Federal Republic. Even in 1989, when liberal voices among political parties were gaining strength, polls continued to demonstrate an 'alarmingly stable and negative' attitude toward immigrants.⁵⁹

Before 1998, even the centre-right parties had avoided exploiting the anti-foreigner sentiment for fear of stirring up right-wing extremism (and thereby damaging Germany's reputation abroad). Once they became members of the opposition in 1998, however, they decided to rouse up these latent tendencies in order to stop a political process they could no longer directly control.

For several months, the CDU/CSU made sweeping public condemnations of the SPD–Green proposal, arguing in quite sensationalist terms that, for example, 'foreigners will have a huge natural advantage over Germans' and that 'Germany will be transformed into a land of immigration, a land of unlimited immigration'.⁶⁰ When the government formally introduced its citizenship reform bill on 13 January 1999, Schröder seemed to give ground slightly, probably in reaction to the months of CDU/CSU attacks and their effectiveness with the public, stating: 'I stress: I do not want dual citizenship, but I will accept it in order to serve the goal of integration.'⁶¹ But the CDU/CSU continued to hammer away at the proposal for dual citizenship. Wolfgang Schäuble, then head of the CDU, made the argument that 'regularly allowing dual citizenship is poison to integration as well as to domestic order'.⁶² In short, the CDU/CSU argued that by granting dual citizenship, Germany would be allowing its new citizens to have divided loyalties, while not encouraging them to integrate into German society, which could result in possible terrorist links to their 'other' countries at 'home'.⁶³

Up until this point, there was still a disconnect between public opinion – which was latently, and now increasingly self-consciously, anti-immigrant – and the political debates among the parties. But this changed rather dramatically in the run-up to the February 1999 regional elections to the state parliament in Hessen, the region surrounding Frankfurt. The CDU/CSU made a crucial and unprecedented strategic move: 'rather than fighting the government in parliament, where they were a minority in both houses, they took the debate to the streets'.⁶⁴ First, Edmund Stoiber, the arch-conservative chairman of the CSU and Bavarian prime minister, called for a national plebiscite on dual citizenship, which was a strategy designed to embarrass the government, which had promised to encourage greater citizen participation than its predecessor had allowed. But the plebiscite idea was provocative in a country that – as a reaction to its fascist past – had intentionally avoided direct democracy as a means of shielding the political system from 'excessive' popular will and its potentially anti-democratic tendencies. As a result, Wolfgang Schäuble, then the CDU party chairman, reached a compromise solution within the CDU/CSU opposition, as he decided to endorse a signature campaign against dual citizenship.

Moreover, the opposition decided to focus the petition campaign on the upcoming *Landtag* elections in Hessen, which had traditionally been a Social Democratic stronghold. If the CDU were to pull off this electoral upset, it would not only send a strong symbolic message to the SPD–Green government that the German people were on their side, but they would take over the majority of seats in the Bundesrat, the upper house of parliament, and could thereby veto any legislation approved by the government. Since at that point it still looked unlikely that the SPD would lose its dominance in Hessen, the SPD and especially the Greens – having just entered a national government for the first time – neglected the election campaign in Hessen. Meanwhile, the CDU's Roland Koch agreed to lead the charge in the petition campaign as part of

his long shot bid to bring his party to victory, and thereby become the regional prime minister.

As it turns out, the signature campaign was more effective than even its originators and strongest supporters could have anticipated. Although it only began on 4 January 1999, within less than six weeks the petition had gathered over five million signatures.⁶⁵ And the CDU's entire campaign in Hessen was based on its opposition to the proposed citizenship law.⁶⁶ Moreover, public opinion surveys showed that increasing numbers of Germans were opposed to the concept of dual citizenship, up from 57 per cent in December 1998 to 63 per cent in January 1999.⁶⁷ Finally, this extraordinary display of public mobilisation led to the stunning defeat of the SPD–Green government in Hessen, thus ensuring that the national government no longer had the political means to pass its own proposal.⁶⁸

The massive mobilisation of the CDU petition drive and the Hessen defeat completely demotivated and demoralised the SPD,⁶⁹ which suddenly and without much hesitation dropped its once-strident plans for reform, and instead sought a much watered-down compromise with the FDP. The FDP's position – crafted during the period of secret meetings with the 'junge Wilden' from the CDU in the mid-1990s – was in support of liberalising citizenship requirements, but it remained absolutely opposed to allowing dual citizenship. As a result, after the Hessen debacle, the SPD–Greens faced the dilemma of either abandoning the issue altogether or saving face through a compromise plan with the FDP.

In other words, while the liberalisation process had proceeded for a period of nearly two decades, it did so quietly, at the elite level, and with little public involvement. However, once the CDU/CSU made the strategic decision to politicise the issue and to mobilise what had always been a latently anti-immigrant sentiment by focusing the campaign for the Hessen *Landtag* elections on the issue of opposition to dual citizenship, the terms changed. And as a result of this popular mobilisation, the process of liberalisation was abruptly and stunningly halted, leading to a backlash of restrictive measures that were amended to the government's original proposal. In short, the mobilisation of a previously latent anti-immigrant public essentially 'trumped' the long-standing and elite-driven process of liberalisation.

THE GERMAN NATIONALITY ACT OF 2000

Following decades of quiet negotiations and proposals, these two dramatic and public political swings – the triumphant entry of the SPD–Green government in September 1998 and the noisy backlash of the CDU petition campaign in February 1999 – took place within less than five months. During this time, the issue of citizenship became more public than both sides were comfortable with, and they therefore retreated to the more familiar and comfortable confines of elite-level negotiations in order to reach a face-saving compromise for all sides. The result was the German Nationality Act of 2000, which was proposed in March 1999 by the SPD–Green government, supported by the FDP, and tolerated by elements of the CDU/CSU. The law was approved easily in May 1999, and it took effect on 1 January 2000, to surprisingly little fanfare or discussion.

The compromise law resulted in three main sets of changes from the earlier law, as it had been amended most recently in 1993.⁷⁰ The first change in the 2000 law was the reduction of the residency requirement from 15 to 8 years,⁷¹ but as before this only applies to people who have a valid residence permit, gainful employment, no criminal convictions, and are willing to give up their prior citizenship. This liberalisation of the residency requirement was complemented by the incorporation of a new loyalty oath in support of the 'free and democratic order of the Constitution'.⁷² And the 2000 law also added a language requirement, although it has not been standardised on a national level, and is instead administered by individual regions.⁷³

Second, and most importantly, Article 4 of the new law now contains the principle of *jus soli*, though with certain specifications and peculiarities.⁷⁴ Children born on German soil now automatically become German citizens if at least one of the parents has had a legal residence permit for eight years or an unlimited residence permit for three years.⁷⁵ In practice, this residence restriction rules out many foreigners, since such permits are difficult to obtain, and they require steady paid employment and a lack of dependence on the welfare state. Furthermore, the German version of *jus soli* does not include a provision for *double jus soli* – as exists in Belgium, France, the Netherlands, and Spain – whereby the ('third-generation') German-born children of a ('second-generation') German-born person would automatically receive German citizenship, regardless of the status of that person's residence permit. Given how many second- and third-generation immigrants live in Germany, this restriction effectively prevents the acquisition of German citizenship for approximately 60 per cent of the children born in Germany since the law has taken effect.⁷⁶

The third and most innovative component of Germany's new citizenship law involves the 'option-model' (*Optionsmodell*) and dual citizenship. Children who receive German citizenship through the *jus soli* procedures described above are allowed to hold dual citizenship until adulthood, but then they must choose one or the other citizenship before reaching the age of 18.⁷⁷ This model was – with some minor modifications – essentially the same plan that the FDP and the CDU's 'junge Wilden' had developed in the mid-1990s. In other words, although their work at the time had not come to fruition,⁷⁸ and their efforts had largely been forgotten, their original plan later came to be the cornerstone of the SPD–Green government's compromise law.

A core feature of the new German citizenship law is the prevention of what had been the main objective of Schröder's original proposal: dual citizenship. As Green writes, 'If the introduction of *jus soli* constitutes the main innovation of the new law, it is the steadfast desire to avoid dual citizenships which lies at the heart of Germany's citizenship policy'.⁷⁹

In some respects, however, one can argue that the new law includes movement in a liberalising direction on dual citizenship.⁸⁰ After all, the option model provides a temporary reprieve for children who receive German citizenship via *jus soli* – and it remains to be seen how the German courts will enforce the 'option' if and when the law gets challenged by people who refuse to give up one or the other citizenship.⁸¹ Moreover, the requirement that naturalising citizens renounce their former citizenship can be waived in cases when that renunciation would bring about excessive

'hardship'.⁸² And in practice, according to a report from the Commissioner for Foreigners of the federal government, 44.6 per cent of naturalised citizens in the year 2000 were able to keep their citizenship. These figures included over 90 per cent of the people who originally came from countries like Iran and Afghanistan, but also 29 per cent of Turks.⁸³ The figures for Turkish-Germans was somewhat higher than usual in 2000 because of certain loopholes – which have since been closed – that allowed people to renounce their Turkish citizenship upon acquiring German citizenship, but immediately thereafter to reacquire their Turkish passports.⁸⁴ In 2003, only 14 per cent of Turks who became naturalised Germans were able to keep their Turkish citizenship as well.⁸⁵

Given that most estimates put the total number of dual citizens in Germany at over two million, it may sound as if dual citizenship is *de facto* actually quite widespread within the immigrant community, even if it is not permitted *de jure*. In fact, in their comparative assessment of dual citizenship policies, which distinguishes between countries that are 'open', 'tolerant', and 'restrictive', Aleinikoff and Klusmeyer place Germany in the 'tolerant' category.⁸⁶ But a closer look shows that most of the two million German dual citizens are either children of bi-national parents⁸⁷ or 'ethnic Germans' who have come from elsewhere in Europe.⁸⁸ The former generally become dual citizens automatically, by virtue of the *jus sanguinis* policies of both parents' countries, in a process that is very difficult for states to regulate, control, or even be aware of. The latter results from Germany's selective policy of not requiring ethnic Germans to renounce their other citizenship when they acquire a German passport – a feature that persists in the new law, even though it has not received much attention. Green characterises the distinction between the law's acceptance of dual citizenship for ethnic Germans and its steadfast opposition to dual citizenship for non-ethnic German immigrants as a 'blatant hypocrisy' that demonstrates the continuation of Germany's 'ethnocultural' identity, despite the significant liberalisation brought about by the new law.⁸⁹ As for the non-ethnic German immigrants, Green writes that 'those who have gained dual nationality as a result of naturalisation, either as a long-term resident non-national or as the spouse of a German citizen, constitute a clear minority of cases. Yet despite their small number, it is this category that has been by far the most politically controversial'.⁹⁰

In short, despite the partial liberalisation of dual citizenship in policy and practice, the 2000 law contains explicit restrictions on dual citizenship for immigrants – both for naturalising adults and for children who acquire German citizenship via *jus soli*. In comparison to the majority of European countries that have no such restrictions on dual citizenship, and especially in comparison to the Schröder government's lofty ambitions of establishing full dual citizenship, the new law clearly falls short.

Overall, the new law represents a significant liberalisation of the earlier law – both the infamous 1913 law and its liberalising amendments in 1990 and 1993. Certainly, a reduced residency requirement and the right to citizenship by *jus soli* facilitate the process by which foreigners can acquire full rights as German citizens. This represents a remarkable change after decades of exclusive reliance on *jus sanguinis*. Yet the prohibition of dual citizenship makes the liberalisation only partial, and it remains to be seen whether Germany will truly open up its conception of who can be German.

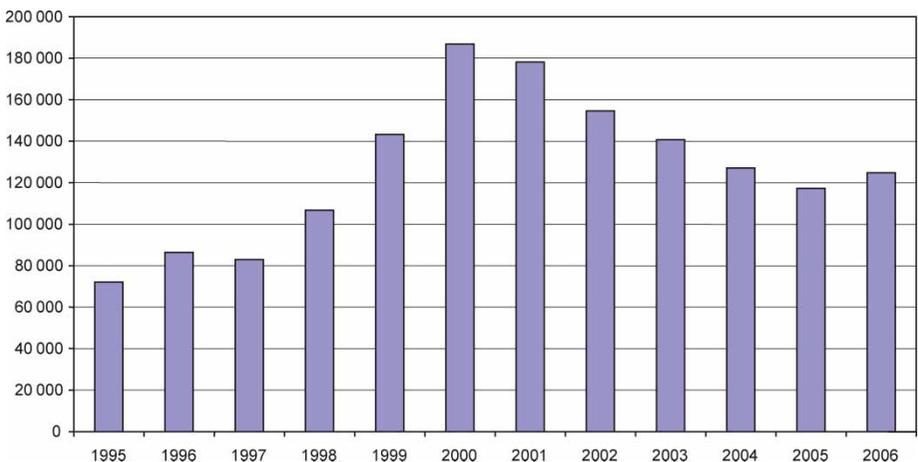
THE EFFECTS OF THE NEW LAW (SO FAR)

Remarkably, since the passage of the new compromise law, the question of citizenship reform has virtually disappeared from public debates. And – particularly surprising given the vehemence of the earlier debates and the wide divergence in opinions and political platforms – little discussion or analysis has been generated to determine the extent to which the new law represents significant and substantial reform (which was the goal of the SPD–Greens), or rather merely a minor incremental adjustment that will not change the status quo (which was the goal of the FDP, and especially the CDU/CSU). While it is perhaps too early to provide a definitive answer to that question, some informed speculation is warranted, given how crucial the citizenship issue will be for understanding the current and future shape and composition of German society.

While the SPD–Green government stressed that the law was ‘new’, it is in actuality a further amendment of the original 1913 law on German citizenship. Clearly the government had a strong interest in avoiding the ominous-sounding phrase ‘1913 law’ for which Germans have so often been reproached. In practice, however, the extent to which the current law is ‘new’ or merely amended is debatable.

The crux of the matter is whether the 2000 law will lead to a significant increase in the number of foreigners seeking and obtaining German citizenship. The pattern from before the recent change in the citizenship law is not particularly encouraging. As Figure 1 shows, since its peak in 2000, the number of naturalisations in Germany has decreased progressively each year until 2006, when it increased slightly from 2005. But even the 2006 figures are now lower than the levels from 1999 (i.e., the year before the reform took effect). While one could argue that a decline is to be expected given the cumulative effect of naturalisations, as over one million people

FIGURE 1
ANNUAL NUMBER OF NATURALISATIONS OF FOREIGNERS IN GERMANY



Note: These Figures are only for Foreigners of Non-German Descent; They do not Include ‘Ethnic Germans’ (*Aussiedler*).

Source: Statistisches Bundesamt.

have become naturalised Germans since 2000, this proportion is relatively small given that there are still over seven million foreigners residing in Germany today (about five million of whom are not citizens of EU countries). As Green puts it, 'while the incremental liberalisation of German citizenship during the 1990s is undeniable, the changes introduced have only had a comparatively modest impact'.⁹¹ If current patterns persist, it would appear that the 'new' law may not change the situation very much – and in this sense, the CDU and FDP will have obtained what they wanted when they stopped the initial SPD-Green proposal in 1999.

Why do so few eligible foreigners in Germany become German citizens? The answer is complicated, and it involves both the fine print and the unwritten effect of the German naturalisation law, both before and after the recent reform. One possible reason is that the German welfare state benefits are so generous that most foreigners already receive all rights and privileges, except the right to vote, and therefore they do not feel a strong need to acquire that right – since they are otherwise fully satisfied. Yet this argument does not explain the clear difference between Germany and a country like Sweden. Sweden's welfare state offers benefits at least as generous as those in Germany, yet its naturalisation rate is considerably higher.⁹²

Another possible reason has to do with the €255 processing fee to apply for German citizenship, but this is not much different than in other countries – in fact, it is quite reasonable from a comparative perspective.

A more likely reason is that foreigners in Germany do not want to renounce their current citizenship. Citizens of some countries – including Turkey, and also Poland – fear that, if they give up their current citizenship, they will have to relinquish any inheritance, property, and burial rights in their current country.⁹³ This may be perceived as too high a price to pay by many people who already feel cut off from their families. Of course, there are also cultural and patriotic sentiments that are difficult to come to grips with, and apparently not many foreigners are willing to abandon their current citizenship altogether. This sentiment may be especially pronounced for citizens of countries – like Turkey – that primarily think of citizenship along blood lines.

A final reason is more general, involving the broad image of Germany as a place that is not particularly hospitable to immigrants. Despite the large numbers of foreigners who capitalised upon Germany's generous asylum and immigration policies in the 1990s and continue to live there today, many immigrants would prefer – if they had a choice – to live elsewhere. Not only is Germany stigmatised by its racist and exclusionary Nazi past, but it suffers from the perception that non-natives are not welcome.⁹⁴ For example, the SPD-Green government's widely-publicised 'Green Card' programme, which sought to attract high-skilled labour (to fill important jobs in the high-tech field that Germans are not currently prepared to assume) was only a mixed success, as the government was not able to meet its target of 20,000 workers.⁹⁵ It certainly did not help that the CDU ran a campaign for the state elections in North Rhine-Westphalia on the theme of 'Kinder statt Inder' ('children instead of Indians') in 2000. In short, even when the economic demand is there, Germany does not seem to appeal as a final destination point to those with other options.

According to Green, despite the important changes in the 2000 law, Germany's citizenship policy retains 'more than a whiff of ethnocultural exclusivity'.⁹⁶ The

procedures for naturalisation are still complicated, with even longer processing times that last three to four years.⁹⁷ More importantly, in addition to the associated psychological difficulties, the act of relinquishing one's prior citizenship in order to become a naturalised German can be quite costly. Not only must people pay the fee for acquiring German citizenship, but they are often required to pay fees to renounce their other citizenship. And Germany will only allow the applicant to retain dual citizenship if the other country's fees are more than one month of the person's gross salary or €1,315.⁹⁸ This leads Green to conclude that the continuing low levels of naturalisations in Germany after the implementation of the new law is the intentional result of exclusionary policies, as he writes that 'Germany in effect discourages naturalisations and thereby continues to operate a broadly exclusive citizenship'.⁹⁹

Whatever the reasons, the main point is that under the previous law few foreigners were willing to take the necessary steps to acquire German citizenship, and so far the new law has not brought about any dramatic changes in this regard.

Will this pattern change? If so, how long it will take? One can conceive of two possible interpretations. The first is rather pessimistic about the potential for substantial change and improvement in the integration of foreigners in Germany. According to this view, the failure of Schröder's plan to implement dual citizenship, and the passage of the much weaker compromise law, represent a golden opportunity that was lost. It may take decades to develop the kind of momentum and political courage that Schröder initially displayed on behalf of Germany's millions of foreigners. Moreover, the dismal defeat of Schröder's plan at the hands of an unusual and massive citizen mobilisation – albeit in just one of the 16 federal states – against dual citizenship may well lay the issue to rest indefinitely. Finally, unless substantial numbers of foreigners acquire German citizenship and permanently integrate into German society, they will remain relegated as inconvenient third-class residents subject to potential recrimination and violence, and German lineage will continue to be perceived along primordial blood lines. In short, according to this interpretation, the 'new' citizenship will actually accomplish little substantive change or improvement, at least in the short and medium term.

A second interpretation – emphasised by the SPD–Greens, at least publicly – is much more optimistic. It recognises that the circumstances surrounding the Hessen elections were disastrous, but it views the setback on the issue of dual citizenship as relatively minor, stressing the positive changes that were achieved in the compromise law. According to this perspective, one should recognise that dual citizenship was too far of a stretch, and that it was an unrealistic (and politically naïve) goal. More importantly, however, the changes in the new law do make it easier for foreigners to become German citizens. While it may take some time to build up momentum, the process of further integration is inevitable, given the extent to which foreigners have already become an essential part of German society, increasingly well educated and self-sufficient, and their presence is crucial for both the current vitality of the high-technology industry and the future viability of the social security system. Moreover, although this is more of a medium- to long-term possibility, children of foreigners who can now acquire German citizenship automatically through the new right to *jus soli* will have to decide which citizenship to choose before they turn 18–23, and many of them may pick German citizenship two decades from now. In other words, according to this

interpretation, in due course Germany will eventually reach a point when a critical mass of foreigners will successfully seek and acquire German citizenship, thus encouraging and opening the door for the millions of others who are eligible.

It is still too early to say which interpretation will be borne out over the long term, and we are probably better served at this point by asking questions, rather than seeking to specify answers. What does the relative failure of Schröder's ambitious goals for citizenship reform mean for the future of group identities in post-unification Germany? Is it a major step backwards, the disappearance of a unique opportunity, or is it rather a matter of time before the right political and social conditions re-emerge, allowing the reform to be proposed again? How will the change be perceived within the foreign community, and will their disappointment lead to increasing animosity and hostilities between Germans and non-Germans? How would a potential terrorist attack on German soil exacerbate those differences? Will the continued lack of diversity within the people considered citizens of Germany have an impact on the lasting tensions between East and West, who are still co-existing within a limited framework of what it means to be German?¹⁰⁰ Or has that framework already been expanded, and will it continue to expand, so that it includes a wider definition of what it now means to be German?

CONCLUSION

The case of Germany helps to illustrate a broader argument about how and why citizenship liberalisation can occur. As in other countries such as Finland, Luxembourg, and Sweden, the gradual liberalisation that took place over the course of the 1990s in Germany occurred as a result of elite politics that did not include widespread consultations with, or mobilisation of, the general public. In the German case, this avoidance was intentional, as all of the mainstream parties did not want to fan the flames of the far right by involving a public that has long had latent anti-immigrant sentiments. But after the 1998 elections brought to power a left-of-centre SPD/Green government that proposed a rather sweeping and ambitious project to liberalise Germany's citizenship laws, the centre-right CDU/CSU parties decided to flout this taboo by taking the issue of dual citizenship 'to the people' by means of a petition campaign against the proposed law. The result – as in Austria, Denmark, and Italy – was the sudden and overwhelming mobilisation of a popular will that was clearly and firmly anti-immigrant. And the political outcome was the shocking loss of the new government's majority in the upper house, which led to a watered-down compromise law, which has only partially changed the situation for many foreigners in Germany, and whose longer-term consequences may not be clear for quite some time.

In other words, liberalisation was occurring in Germany as long as public mobilisation was not 'activated'. As soon as the public got involved, however, the full extent of liberalisation was blocked, and additional restrictive features were inserted. On the whole, the 2000 German citizenship law still represents a considerable liberalising change when compared to its infamous predecessor from 1913, but the politics surrounding that reform process help to illustrate the tremendous power of mobilised anti-immigrant sentiment.

NOTES

1. A search of the EBSCO online database of academic journals for the terms 'citizenship OR nationality' and 'law' and the country name showed that Germany has been the subject of more than twice as many publications as the next closest country, France, and more than four times as many as the next closest EU country.
2. Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge: Harvard University Press, 1992), p.185.
3. Marc Morjé Howard, 'Comparative Citizenship: An Agenda for Cross-National Research', *Perspectives on Politics* 4/3 (2006), pp.443–55.
4. Simon Green, 'Beyond Ethnoculturalism? German Citizenship in the New Millennium', *German Politics*, 9/3 (2000), p.108. Also see Andreas Fahrmeier, 'Nineteenth-Century German Citizenships: A Reconsideration', *Historical Journal* 40/3 (1997), pp.721–52.
5. Kay Hailbronner, 'Germany', in Rainer Bauböck, Eva Ersbøll, Kees Groenendijk and Harald Waldrauch (eds.), *Acquisition and Loss of Nationality* (Amsterdam: Amsterdam University Press, 2006), p.217.
6. Brubaker, *Citizenship and Nationhood in France and Germany*, p.115. There were, of course, exceptions to this principle, and certainly Germans living elsewhere could lose their German citizenship. The main point, however, is that it was made extremely difficult for a non-German to *acquire* German citizenship.
7. This is not to suggest that the 1913 citizenship law *caused* the Nazi citizenship policy. Rather, as Brubaker points out, the Nazi policy represented a 'radical novelty' that differed from the Wilhelmine tradition that had defined the 1913 law. Indeed, the *Reichbürgergesetz* within the Nuremberg laws of 1935 imposed extremist ethno-racial criteria that had not existed in the 1913 law – and which were promptly eliminated in the post-war period. Yet the point remains that it was easier for the Nazis to adapt the traditional German policy of exclusive *jus sanguinis* than it would have been to modify the French or American use of *jus soli*. See Brubaker, *Citizenship and Nationhood in France and Germany*, especially pp.165–8. Also see Dieter Gosewinkel, 'Citizenship and Naturalization Politics in Germany in the Nineteenth and Twentieth Centuries', in Daniel Levy and Yfaat Weiss (eds.), *Challenging Ethnic Citizenship: German and Israeli Perspectives on Immigration* (New York: Berghahn Books, 2002), p.60.
8. Quoted by Brubaker, *Citizenship and Nationhood in France and Germany*, p.167.
9. See, for example, Brubaker, *Citizenship and Nationhood in France and Germany*, pp.82–4.
10. See, for example, Simon Green, *The Politics of Exclusion: Institutions and Immigration Policy in Contemporary Germany* (Manchester: Manchester University Press, 2004), pp.30–31.
11. This assortment of strategies seems to have worked. The number of *Aussiedler* admitted in 1990 was 397,000, but after the new quota was implemented, the numbers dropped gradually and consistently, from 222,000 in 1994 to 105,000 in 1999, and slightly under 100,000 in subsequent years. The admission of *Aussiedler* is set to stop altogether in 2010. See Philip L. Martin, 'Germany: Reluctant Land of Immigration', *American Institute for Contemporary German Studies, German Issues Series* 21 (1998), pp.24–5; *Migration News* 7/7 (July 2000).
12. See, for example, Simon Green, 'Citizenship Policy in Germany', in Randall Hansen and Patrick Weil (eds.), *Towards a European Nationality: Citizenship, Immigration, and Nationality Law in the EU* (New York: Palgrave, 2001), especially, pp.44–6.
13. See Martin, 'Germany: Reluctant Land of Immigration', p.3.
14. Note that when I refer to 'Germany' or 'German society', I mean specifically the Federal Republic of Germany (FRG), which was really 'West Germany' until unification in 1990, and has been 'unified Germany' since then. This discussion does not delve into immigration or citizenship policies in the German Democratic Republic (GDR), or 'East Germany'.
15. Interview with Gerold Lehnguth, Ministry of Interior, Berlin, October 2004.
16. Merih Anil, 'No More Foreigners? The Remaking of German Naturalization and Citizenship Law, 1990–2000', *Dialectical Anthropology* 29/3–4 (2005), p.460.
17. Ruud Koopmans, 'Germany and Its Immigrants: An Ambivalent Relationship', *Journal of Ethnic and Migration Studies* 25/4 (1999), p.628.
18. Philip Martin, 'There is Nothing more Permanent than Temporary Foreign Workers' (Washington, DC: Center for Immigration Studies, 2001), p.3.
19. See, for example, Green, *The Politics of Exclusion*, pp.84–8.
20. Randall Hansen and Jobst Koehler, 'Issue Definition, Political Discourse and the Politics of Nationality Reform in France and Germany', *European Journal of Political Research* 44/5 (2005), pp.636–37.
21. Hermann Kurthen and Michael Minckenberg, 'Germany in Transition: Immigration, Racism and the Extreme Right', *Nations and Nationalism* 1/2 (1995), pp.175–96.

22. Hansen and Koehler, 'Issue Definition, Political Discourse and the Politics of Nationality Reform in France and Germany', p.637.
23. More specifically, one element of the compromise (*Kriegsfolgenbereinigungsgesetz*) defined immigration as a consequence of the second world war, thereby restricting the upper limit of 'ethnic German' immigration to the previous year's total (220,000), and reducing the annual amount each year thereafter. See Ulrich Herbert, *Geschichte der Ausländerpolitik in Deutschland* (Munich: Verlag C.H. Beck, 2001), especially, p.318.
24. Christian Joppke, 'Why Liberal States Accept Unwanted Immigration', *World Politics* 50/2 (1998), pp.266–93.
25. Hailbronner, 'Germany', p.220.
26. See Kurthen and Minkenberg, 'Germany in Transition'.
27. See David Art, *Debating the Lessons of History: The Politics of the Nazi Past in Germany and Austria* (Cambridge: Cambridge University Press, 2006).
28. For a convincing discussion of why Germany liberalised its citizenship policy whereas Austria did not – despite the fact that both countries had similar traditions and policies until recently – see Alice Ludvig, 'Why Should Austria be Different from Germany? The Two Recent Nationality Reforms in Contrast', *German Politics* 13/3 (2004), pp.499–515.
29. Simon Green, 'Between Ideology and Pragmatism: The Politics of Dual Nationality in Germany', *International Migration Review* 39/4 (2005), p.927. According to research by Andreas Wüst, 73 per cent of ethnic Germans from the former Soviet Union vote for the CDU/CSU, whereas only 23 per cent support the SPD, and 1 per cent the Greens. See Andreas Wüst, 'Naturalised Citizens as Voters: Behaviour and Impact', *German Politics* 13/2 (2004), p.351.
30. Note that this expectation has also proven to be accurate, as Wüst shows that 84 per cent of naturalised Turkish-Germans vote for the SPD and Greens, with only 11 per cent supporting the CDU/CSU. Wüst, 'Naturalised Citizens as Voters', p.351. In the 2005 elections, the SPD and Greens received 86 per cent of the votes of Turkish-Germans. See Philipp Lichterbeck, 'Deutschtürken: 86 Prozent für Rot–Grün', *Tagesspiegel*, 16 October 2005.
31. Laura Murray, 'Einwanderungsland Bundesrepublik Deutschland? Explaining the Evolving Positions of German Political Parties on Citizenship Policy', *German Politics and Society*, 33 (1994), pp.23–56.
32. Hansen and Koehler, 'Issue Definition, Political Discourse and the Politics of Nationality Reform in France and Germany', p.637.
33. See Christian Joppke, 'Citizenship between De- and Re-Ethnicization', *European Journal of Sociology* 44/3 (2003), pp.429–58.
34. Murray, 'Einwanderungsland Bundesrepublik Deutschland?', pp.32–9.
35. *Ibid.*
36. *Ibid.*, p.43.
37. Interview with Max Stadler, Member of Bundestag (FDP), Berlin, October 2004.
38. Murray, 'Einwanderungsland Bundesrepublik Deutschland?', p.31.
39. See the detailed discussion in Green, *The Politics of Exclusion*, pp.65–72.
40. Murray, 'Einwanderungsland Bundesrepublik Deutschland?', p.39.
41. *Ibid.*, p.40
42. *Ibid.*, p.30.
43. For people between the ages of 16 and 23, the new requirements included: 'renunciation of previous citizenship; normal residence in the Federal Republic for at least eight years; completion of six years' full time education, at least four of which at the secondary level; and an absence of criminal convictions'. For those older than 23, 'those ordinarily resident in Germany for 15 years had an entitlement to naturalise if they renounced their previous citizenship, had not been convicted of a criminal offence and were able to support themselves without claiming unemployment benefit or income support'. Hansen and Koehler, 'Issue Definition, Political Discourse and the Politics of Nationality Reform in France and Germany', p.636. Also see Hailbronner, 'Germany', pp.223–5.
44. Murray, 'Einwanderungsland Bundesrepublik Deutschland?', p.32.
45. Jost Halfmann, 'Immigration and Citizenship in Germany: Contemporary Dilemmas', *Political Studies* 45/2 (1997), pp.260–74; Randall Hansen, 'A European Citizenship or a Europe of Citizens? Third Country Nationals in the EU', *Journal of Ethnic and Migration Studies* 24/4 (1998), pp.751–68.
46. Hailbronner, 'Germany', p.221. Also see Rainer Münz and Ralf Ulrich, 'Germany and Its Immigrants: A Socio-Demographic Analysis', *Journal of Ethnic and Migration Studies* 24/1 (1998), p.49.
47. See, for example, Richard von Weizsäcker, 'Wer ist der Fremde?', *Die Zeit* 11 (1995).
48. Interviews with Peter Altmaier and Norbert Röttgen, Members of Bundestag (CDU), Berlin, October 2004.
49. At one point they proposed a special citizenship status (*Kinderstaatszugehörigkeit*) for the children of immigrants who were themselves born in Germany and fulfilled certain residency conditions. But this

- proposal was shelved in 1994 when it was deemed unlikely that such a 'quasi-nationality' would be accepted by international law. See Hailbronner, 'Germany', pp.221–2. Also see Green, 'Between Ideology and Pragmatism', p.938, and Green, *The Politics of Exclusion*, pp.92–5.
50. Ibid. Also see Green, 'Beyond Ethnoculturalism?', p.112.
 51. Hailbronner, 'Germany', p.223.
 52. Anil, 'No More Foreigners?', p.462.
 53. From the official translation, made available by the German Information Center, at <http://www.germany.info/relaunch/politics/speeches/111098.html>.
 54. See Marc Morjé Howard, 'Variation in Dual Citizenship Policies in the Countries of the EU', *International Migration Review* 39/3 (2005), pp.697–720.
 55. Interviews with Cornelia Sonntag-Wolgast and Eckhardt Barthel, Members of Bundestag (SPD), Berlin, October 2004. Also see Green, *The Politics of Exclusion*, pp.95–7.
 56. Hansen and Koehler, 'Issue Definition, Political Discourse and the Politics of Nationality Reform in France and Germany', p.638.
 57. *Migration News* 5/11 (November 1998).
 58. Green, 'Between Ideology and Pragmatism', p.944.
 59. Murray, 'Einwanderungsland Bundesrepublik Deutschland?', p.28.
 60. *Migration News* 5/11 (November 1998).
 61. *Migration News* 6/2 (February 1999).
 62. Robert Birnbaum, 'Schäuble: Doppelte Staatsbürgerschaft Ist Gift Für Die Integration', *Der Tagesspiegel*, 4 January 1999.
 63. This point was reinforced in an interview with Bernhard Mitko, a representative from the office of Michael Glos, Member of Bundestag (CSU), Berlin, October 2004.
 64. Hansen and Koehler, 'Issue Definition, Political Discourse and the Politics of Nationality Reform in France and Germany', p.638.
 65. Ibid, p.641.
 66. See Green, *The Politics of Exclusion*, pp.97–103.
 67. *Migration News* 6/2 (February 1999).
 68. Also see Green, 'Between Ideology and Pragmatism', pp.939–41.
 69. As the outgoing state governor Hans Eichel (SPD) put it, 'the double citizenship law issue became so emotional that it mobilised the opposition'. *Migration News* 6/3 (March 1999).
 70. Note that this refers to naturalisations based on a person's legal right (*Anspruchseinbürgerungen*), which is distinct from naturalisation by the discretion of German authorities (*Ermessenseinbürgerungen*).
 71. Until the 2000 law, discretionary naturalisation had included a 10-year residency requirement.
 72. Hailbronner, 'Germany', p.224.
 73. Ibid, p.225. Note that in practice, this has led to widely different levels of difficulty on the language tests, with, for example, much more challenging tests in Bavaria than in Berlin. See Green, 'Beyond Ethnoculturalism?', pp.114–115.
 74. Hailbronner, 'Germany', p.224.
 75. In addition, the law provided for a one-time option for children under the age of 10 whose parents fulfilled the new conditions to acquire German citizenship automatically between 1 January and 31 December of 2000. To the surprise of many, only about 45,000 children took advantage of this opportunity, about 13 per cent of those who were eligible. See Hailbronner, 'Germany', p.224. The figures come from the Statistisches Bundesamt, the German national statistical office, and were reprinted in Bundesamt für Migration und Flüchtlinge, 'Integration' (Nürnberg, 2005), p.89.
 76. Green writes that 'Although around two thirds of non-nationals fulfil the residential requirement, far fewer meet the residence status provision, which has meant that the new *ius soli* has applied only to about 40 percent of live births to non-national parents between 2000 and 2002'. Green, 'Between Ideology and Pragmatism', p.926. Also see Green, 'Beyond Ethnoculturalism?', p.114.
 77. In practice the age limit is actually 23, since there is a five-year period in which to make one's declaration after turning 18.
 78. Recall that they were resoundingly overruled by the CSU and the majority of the CDU.
 79. Green, 'Beyond Ethnoculturalism?', p.116.
 80. Indeed, Germany's dual citizenship scores on the Citizenship Policy Index shown in Chapter 1 reflect some liberalising change from the 1980s to today.
 81. Green, 'Beyond Ethnoculturalism?', p.120.
 82. Hailbronner, 'Germany', p.225. According to the new law, 'exceptions apply as in the past where the nationality cannot be given up, or where it is only possible to do so with particular difficulty'. Specific provisions exist for older people, refugees, and people from countries (such as Iran and Afghanistan) that essentially do not allow someone to give up that citizenship, or that charge exorbitant fees in

order to do so. The full citizenship law, including both the original 1913 law and subsequent amendments, is available from the Comparative Law Society's 'German Law Archive', at <http://www.iuscomp.org/gla/statutes/StAG.htm>.

83. 'Daten Und Fakten Zur Ausländersituation' (Berlin: Beauftragte der Bundesregierung für Ausländerfragen, 2002).
84. Interview with Tarik Tabbara, Beauftragte der Bundesregierung für Ausländerfragen, October 2004.
85. Green, 'Between Ideology and Pragmatism', p.930.
86. T. Alexander Aleinikoff and Douglas Klusmeyer, 'Plural Nationality: Facing the Future in a Migratory World', in T. Alexander Aleinikoff and Douglas Klusmeyer (eds.), *Citizenship Today: Global Perspectives and Practices* (Washington, DC: Carnegie Endowment for International Peace, 2001), p.76.
87. According to Green, 'Between 1975 and 1997, almost 780,000 German children were born to bi-national (married) parents'. Green, 'Between Ideology and Pragmatism', p.925.
88. *Ibid.*, pp.926–7.
89. Green, 'Beyond Ethnoculturalism?', p.119.
90. Green, 'Between Ideology and Pragmatism', p.927.
91. *Ibid.*, p.945.
92. See, for example, Stephen Castles and Mark J. Miller, *The Age of Migration* (New York: Guilford Press, 3rd edition 2003), p.246.
93. According to Philip Martin, the law in Turkey was modified in June 1996, and 'Turks who lose their Turkish nationality by becoming a citizen of another country [now] retain their rights to property and inheritance in Turkey'. Martin, 'Germany: Reluctant Land of Immigration', p.34. Few Turkish-Germans may realise this, however, following a propaganda campaign by some Turkish newspapers in Germany in December 1999, warning people not to give up their Turkish citizenship lest they lose these rights. *Migration News* 7/1 (January 2000).
94. This point was reinforced by an interview with Kenan Kolat, director of the Turkish Community of Germany (the largest immigrant organisation in Germany), Berlin, October 2004.
95. Horst Siebert, 'Germany: An Immigration Country' (Kiel: Kiel Institute for World Economics, 2003), pp.12–13.
96. Green, 'Between Ideology and Pragmatism', p.948.
97. *Ibid.*, p.931.
98. *Ibid.*, p.933.
99. *Ibid.*, p.921.
100. See Marc Howard, 'An East German Ethnicity? Understanding the New Division of Unified Germany', *German Politics and Society* 13/4 (1995), pp.49–70.