

German Nationality: An Illustration of Institutionalized Discrimination

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## ABSTRACT

On what normative grounds can the ethnic Turkish minority in Germany be denied political membership? Over 7% of the German population is made up of foreign residents, mostly ethnic Turks, with vague social rights and no political groups. This thesis is an attempt at uncovering the developments that have led to this situation by examining the history of German citizenship within the context of a large disenfranchised ethnic minority since the end of WWII. Finally, this thesis examines the latest legislation on German Nationality as an example of deepening ethno-cultural self-understanding institutionalized by the state that results in the discrimination of millions of foreign residents based solely on nationality.

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## Chapter 1

### *Introduction*

In the 2008 Soccer World Cup for the first time since the 1950s Germany faced Turkey in a major soccer tournament. The semi-finals match held special importance not only for soccer fans around the world, but for the millions of ethnic Turks residing in Germany with vague citizenship status. Two of the players on Turkey's national team – Hamit Altintop and Hakan Balta – are ethnic Turks born and raised in Germany. They play on German professional teams, but play for the Turkish National team instead of the German national team. They were in the spotlight because Germans were asking, “Why aren't these two talented players on *our* team?”

On the surface this is a question about the German national team's ability to retain talented players, but that is just the tip of the iceberg. This seemingly simple question raises much more difficult questions about why individuals who are for all intents and purposes German, would play for another national team. The answer of course, is far from simple. It begins with the fact that these individuals are *not* German – not legally at least. The same is true for millions of other ethnic Turks residing in Germany – essentially German, but not legally. This case elicits questions about who is German – what is included in that definition and who does it pertain to? Consequently, these questions also brought up issues about the effectiveness of integration policies aimed at socializing immigrants and residents of foreign descent into the German social, legal and economic communities. Debates emerged arguing that Germany's integration policies were broken if they were not successful in keeping talented players on the German national team, rather than playing for another country. The debate did not go unnoticed among the players either. According to *Spiegel Online*, “Altintop said that he hopes the match... can promote further integration of Turks in Germany” (CGH, 2008). Even soccer players can see the importance of examining the effects of the new Nationality law, especially

integration policies. The match brought to light several issues that Germany has been dealing with for decades – integrating a huge ethnic minority population into German society both socially and politically. Finally with the passing of the new Nationality Act in 1999 these issues are being taken seriously.

This thesis asks, “On what normative basis may the ethnic Turkish minority in Germany be denied political membership?” To answer this question, I employ a qualitative methodology consisting of context analysis and historical review. I do so by analyzing the 1999 legislation on Nationality and by establishing the discriminatory nature inherent in the new Nationality law. I answer this question by beginning in a historical vein mapping out how the boundaries that separate foreign residents (ethnic Turks) evolved through two processes: development of Nationality laws and the unique situation of migrant workers turning into guest workers. The German government defines the following as individuals with an immigrant background: immigrant foreigners, foreigners born in Germany, naturalised foreigners, ethnic German repatriates, and children with at least one parent who fulfils the specified criteria ([http://www.integration-in-deutschland.de/cln\\_092/nn\\_285694/SubSites/Integration/EN/01\\_Ueberblick/Grundlagen/InDeutschland/Zuwanderer/zuwanderer-node.html? nnn=true](http://www.integration-in-deutschland.de/cln_092/nn_285694/SubSites/Integration/EN/01_Ueberblick/Grundlagen/InDeutschland/Zuwanderer/zuwanderer-node.html? nnn=true)).

The question of how one group is made a sub-member of a population with partial rights but denied full access to citizenship is a historical, ethical and political question. It is historical because of the unique position Germany has created for herself: inviting millions of foreigners as laborers without a strategy in place for how to ensure their rights. It is a question of ethics because one group is essentially denied full political participation, thereby limiting their equality under the law. It is a political question because the political dimension of citizenship entails the nature of the relationships between citizens and the state and in this case, non-citizens and the state.

Prior to reforms enacted under the new Nationality law German citizenship was based on a community of descent or the principle of *jus sanguinis* meaning that German citizenship was passed down through family – specifically, from a German father “as provided by the 1913 law the citizenship of children still followed that of the father, except where children were born out of wedlock” (Nathans, 2004: 238,9). The new Nationality Act in Germany has been in effect since January 2000 with changes to previous immigration and naturalization policies including incorporating an element of the principle of *jus soli* opening up citizenship to place of birth, not just bloodlines. Under the provisions set up by this new law, Germany’s large foreign national populations now have the opportunity to become German citizens, not just residents with some, but not full rights. The new law is considered a step towards a more liberalized conception of citizenship where all individuals have equal access to and protection under the law, and away from what has historically been considered a restrictive and even ethno-national conception of citizenship. I argue that while the new law is a step away from restrictive citizenship policies, it is still discriminatory in nature. That being said, by examining German citizenship policies beginning in the early 19<sup>th</sup> century all the way to the current legislation and it’s outcomes, I demonstrate that the new Nationality law and the practices employed to enact the new law are little more than institutionalized and legalized discrimination.

This thesis will provide an exploration of citizenship theory, including current definitions of liberalized citizenship. Moreover, this thesis will provide an overview of the German nationality laws of the past and the present with a focus on the 1999 Nationality act including the party politics involved in the creation of the new law and certain outcomes from it, i.e. integration policies. The integration policies range from national efforts to efforts by private organizations and this thesis will also provide information from an independent evaluation of Germany’s integration policies. This thesis will examine efforts to target specific groups such as Islamic groups and ethnic Turkish populations as well as cases that are deemed discriminatory in these efforts.

Framed by the history of Germany's citizenship laws and given the large ethnic Turkish minority the most recent changes in Nationality laws only deepen the institutionalized discrimination.

### *Dimensions of Citizenship*

Citizenship as a normative concept has a legal construct and a political aspect. These aspects are intertwined but should be regarded as two different elements. "The central question then is how does the legal construct of citizenship as a formal status fit with the broader notions of citizenship implicit in the political dimension, i.e. democratic self-determination, full citizens' rights, membership in a political community, and citizens' participation in the polity and its citizenship practices" (Faist, 2007: 9)? The legal construction of citizenship within the State outlines the rights and duties of citizens in relation to the State, including laws and subjection. Moreover, citizenship offers a clearly defined people over which the State exerts its power. The political aspect of citizenship refers to the "relationship between citizens, the state, and democracy" (Faist, 2007: 9). Looking at immigrants as a context for citizenship conceptions, citizenship marks the distinction between members and non-members based on different relations with the state and allows us to highlight the boundaries of citizenship and political control over entry and exit (Baubock, 2006). To be clear, the German law is called the new Nationality law, which "refers to the international and external aspects of the relation between an individual and a sovereign state, whereas citizenship pertains to the internal aspects of this relation that are regulated by domestic law" (Baubock, 2006: 17).

For my thesis, the normative puzzle of legitimacy is of distinctions among non-citizens, i.e. co-ethnic non-citizens (ethnic Germans) versus other ethnic non-citizens (Turks). In other words, the question of legitimacy rests on the question of place versus descent. As Rainer Bauboeck (2006) states,

"The question whether preferential admission on similar grounds (exclusion/admission of certain ethnic and racial groups), which is



still widespread and potentially growing, also amounts to discrimination, is disputed and has not been fully addressed yet” (p. 18).

My research is an effort to address this question and answer in the affirmative, that preferential treatment under citizenship laws is tantamount to discrimination and I will demonstrate how by analyzing the political parties’ stances and debates leading up to and surrounding Germany’s latest Nationality law being passed. Moreover, Bauboeck (2006) calls for empirical research conducted on transnational citizenship to study how migrants combine or chose between political identities, and while my research does not focus on transnational citizenship, it does focus on how citizenship policies of states impact how immigrants makes these decisions.

#### *Toward a Republican-Liberal Model of Citizenship*

“Until the Reichsgruendung (beginning of the Reich) of 1871, German nationalist sentiment had contained both liberal and conservative strands. The former tendency was more favorable toward the emancipatory political quality of modern nationalism, whereas the latter tendency was more hostile regarding any association of radical Enlightenment beliefs with the idea of German nationhood (Verheyen 1999: 24). Liberal individualism ascribes citizens sovereignty in the sense that they ought to be in control over their lives, “[a]nd the threat to their sovereignty comes just as much from society, and especially the state, as it does from other individuals” (Oldfield, 1998: 76). Liberal individualism is a rights-based model of citizenship that does not presume any one preconceived notion of good (Oldfield, 1998). Moreover, it advocates procedures and rules and the maintenance of political institutions within which the individual can pursue his own goals free from interference from other individuals or the state (Oldfield, 1998). In the case of German-Turks, this group pursues equality via citizenship from state institutions but finds interference from the political institutions themselves that institute inequality via stratified citizenship access. John Stuart Mill asserts that anyone who receives benefits or protection of society owes something back to society. He continues that this “conduct consists, first, in not injuring the interests of one

another; or rather certain interest, which, either by express legal provision or by tacit understanding, ought to be considered as rights; and secondly, in each person's bearing his share of the labors and sacrifices incurred for defending the society or its members from injury and molestation" (Mill, 2002: 77). Based on this tenet of political liberalism, citizens receiving the benefits of belonging to German society owe it to society to not injure the interest of another. If ethnic Turks contribute to society, as I will demonstrate they do indeed, then they have the right to interest protection from interference by another – individual or State. Therefore, Turks contributing to society, pursuing equal access to citizenship should have the right to pursue those goals unencumbered. Relying solely on liberal individualism means relying on the individual to realize his civic duty towards society includes refraining from injuring the rights of another. As this thesis will demonstrate, this has not been the case in Germany with regards to the ethnic Turk population.

Civic-Republicanism on the other hand, justifies the exclusion of outsiders on the rationale of protecting the community. Oldfield's (1998) interpretation of the civic-republican tradition of citizenship of Machiavelli and Rousseau distinguishes between altruism and the ties that bond citizens together (p. 81).

Altruism is the response of one human being to another. Citizenship is exclusive: it is not a person's humanity that one is responding to, it is the fact that he or she is a fellow citizens, or a stranger. In choosing an identity for ourselves, we recognize both who our fellow citizens are, and those who are not members of our community (Oldfield, 1998: 81).

This speaks to the community that already exists and consists of citizens, not mere individuals. Moreover, in the civic-republican tradition of citizenship, the citizen is required to perform the duties of a citizen. Status is not sufficient, however, it is necessary. Oldfield (1998) points out that "unsupported, individuals cannot be expected to engage in the practice...it means...that they have to be provided with a sufficiency of motivation" (79). So, what then about individuals who are not yet members of the community,

but desire to be, and so engage in the practice of citizenship. Civic republicanism would encourage support for these individuals, but does not go so far as to call for the ascription of legal status first and foremost. Thus, the civic-republican tradition fails to serve as an adequate theoretical basis of citizenship for German-Turks, who after generations of participating in the economic and social life of Germany continue to find no support from the State's legal institutions.

The republican-liberal model of citizenship, espoused by Richard Dagger (1997), takes elements of civic-republicanism and liberal individualism and combines them in order to promote civic virtue. Dagger (1997) argues that making the case for civic virtue would better suit the needs of modern nation-states in response to the current discourse surrounding citizenship. The discourse about the lack of civic participation and the decline of political culture, specifically in Western Democratic states, provides an excellent context for reexamining the models on which many Western democratic states base their citizenship laws. Moreover, the political climate in Europe transitioning from independent nation-states to a European community makes this examination all the more vital.

Civic virtue, defined by Dagger (1997) is the specific role that an individual plays as citizen (p.13). In this vein, civic virtue refers to the individual playing the role of citizen exceptionally well like a painting virtuoso. According to Dagger (1997), promoting civic virtue is vital to a healthy society because "they [virtues] promote the good of the community or society, not because they directly promote the good of the individual" (p. 14). Civic virtue is relevant for citizenship discourse because the model that German citizenship is based on claims to be a tool for encouraging civic virtue, loyalty and allegiance. In the case of the German Nationality law, because it requires applicants for citizenship to renounce all other citizenships (making dual citizenship impossible except for certain situations which will be discussed in chapter 4) as well as successful completion of language and general knowledge tests before being eligible for naturalization, it effectively makes citizenship the *reward*

for adequate integration. Richard Dagger (1997) argues that a republican-liberal model of citizenship, in which citizenship is the base for integration rather than the reward, would encourage and support civic virtue, by “tying together a concern for rights with a sense of community or civic orientation” (p. 5).

The republican-liberal model recognizes four different yet overlapping dimensions: legal, ethical, integrative and educative (Dagger, 1997). Combined, these dimensions constitute the republican-liberal model, which according to Dagger (1997) provides incentives for both the individual and the State, which will be explained further below (p. 98). The legal dimension refers to the legal status of citizenship – either you are a citizen, or you’re not. This includes the rights and duties which although not exercised daily, an individual can exercise his/her rights whenever they might be threatened (Dagger, 1997). The ethical dimension of citizenship refers to the citizen who balances personal with public interests and takes an active part in public life (Dagger, 1997). These citizens might sacrifice personal interest for public interest if the moral argument is in favor of the public good, i.e. carpooling instead of driving oneself for clean air or less congestion. The integrative dimension of the republican-liberal model refers to the activity of citizenship as being more than the sum of all the roles that an individual may play. For example, an individual as a citizen is more than a mother, wife, professional, etc.; her role as a citizen allows her to integrate her various roles and integrates her into society as citizens first. So decisions that benefit the citizen, benefit the wife, mother, and professional roles as well. Thus, the legal status of citizenship becomes a necessary but not sufficient prerequisite to societal integration.

Citizenship based on the four dimensions of the republican-liberal model of citizenship, which attempts to harmonize two seemingly incompatible political theories, encourages an individual not only to become an active member of the community but also to function as a citizen thus superseding the various roles that an individual might play. However, according to the 1999 Nationality law, attaining citizenship is the prize or end goal for having completed an integration course and

proven one's loyalty. So, rather than citizenship being the prerequisite to successful integration, it is the certificate of completion. This, according to Dagger, leads to the type of citizenship that divorces active membership from legal status. Drawing from John Stuart Mill, Dagger notes the importance of recognizing this disconnect because to do so robs individuals of intellectual, practical and moral benefits. "If Mill is right, active citizenship performs an educative function by drawing out abilities in individuals that might otherwise remain untapped. Because these abilities will prove valuable in other aspects of the citizens' lives as well, the educative dimension of citizenship clearly promises to work to their benefit" (Dagger, 1997: 103). Dagger points out two other aspects of the educative dimension of republican-liberal citizenship. One is, as borrowed from Mill, participation encourages an individual to be cognizant of the community around him. In other words, active citizenship discourages individualism by cultivating his/her sense of being part of, not apart from, the community. Second, active participation encourages those who hold the legal status of citizens (i.e. citizens in name only) to become ethical citizens – again, those who balance personal with public interests and at times sacrifice the former for the latter. This model of citizenship thus becomes self-supporting.

"In its legal and ethical dimensions, it combines a respect for the rights and liberties of the individual as a citizen (in the legal sense) with the recognition for the need for active, public-spirited citizenship (the ethical sense). In its integrative and educative dimensions, it also promises the individual a more secure sense of self and the opportunity to develop important capacities – and this helps him or her to feel, in Tocquevillean fashion, the connection between his or her interests and the public interest" (Dagger, 1997: 104).

This is relevant because this is not the model on which Germany bases her citizenship laws. I will examine Dagger's explanation of its chief rival and his reasons for supporting the republican-liberal model as a demonstration of how requirements for and access to citizenship could be more equitable. Dagger defends

this model of citizenship against its rival “the so-called economic theory of democracy” in which the citizen is a consumer in the marketplace of rights and duties and the purpose of politics is “to coordinate or aggregate individual preferences” (Dagger, 1997: 105). This model is consistent with the economic strand of liberalism, “that regards the public as a loose collection of atomistic individuals and politics as simply another way to advance or defend one’s personal interests” (Dagger, 1997: 105). In the individual as consumer model, the market is made up of the rights and duties allotted to citizens. As consumers, logic dictates that individuals will act in their own best interest, including promoting the individuals’ preferences. Thus, in an interest aggregate forum, changing preferences is not the issue, rather the issue is, how best to achieve one’s interests. Therefore, Dagger (1997) argues that the first problem with this model of citizenship is precisely the competitive nature of the market of rights and duties that defines it (p.106). Rather, especially in a large society, the republican-liberal model requires us to ask how best to transform preferences (Dagger, 1997: 106). Second, interest-aggregation favors those with the resources to push their interests to the detriment of others. Third, rather than integrating individuals into the community, the citizen-as-consumer model encourages individualism in the competitive atmosphere of the market value of individuals (Dagger, 1997). Finally, Dagger (1997) argues that this model of citizenship is not capable of generating allegiance especially not compared to the republican-liberal model (p.107). This model puts a premium on the individual as consumer and as such promotes individualism, not community. Without this sense of community, what incentives exist for individuals to demonstrate their allegiance and consequently promote civic virtue (Dagger, 1997).

This final point is the most relevant argument for the case of examining German citizenship. The requirement for applicants for German citizenship to renounce all other citizenships is matter of loyalty and proving allegiance, which will be elaborated on further in chapter 2. As Dagger has argued, and as do I, the most effective method for encouraging allegiance via citizenship is by first granting legal status – creating citizens in name only. In accordance with the republican-liberal

model of citizenship, legal status then supports further integration encouraging loyalty as a characteristic of civic virtue, rather than divorcing civic virtue from citizenship as the citizen as consumer model does. According to John Stuart Mill, as referenced by Dagger (1997), “those who are citizens in name only may transform themselves into active, public-spirited citizens” (p.115). This supports the idea that legal status generates political integration. Moreover, as Robert Putnam (1993) states, because “[I]n the civic community, associations proliferate, memberships overlap, and participation spills into multiple arenas of community life” generating integration in one area of social life leads to integration in other areas as well (p. 183).

#### *Why does the case of German-Turks matter?*

The European Commission decided in 1973 to grant special rights for member states’ citizens living abroad. These were rights generally withheld from foreigners. They included “the rights to vote, to stand for election and to become a public official at local, regional and national levels” (Perching, 2006: 67). These rights are limited to the local and regional level and not available at the national level. However, these rights are only extended to EU member state citizens, not 3<sup>rd</sup> country nationals i.e. Turks in Germany. A third country national is a foreign resident in a EU member state whose nationality is not of a member state, “Third country nationals enjoy social rights, providing that they are members of the labour force, but no other rights comparable to those of Union citizens and no political rights at all” (Perching, 2006: 68). To deny long-term residents political rights based on nationality is discriminatory. Furthermore, when this practice is sanctioned by the state it amounts to legalized discrimination.

Union citizens have access to full political and social rights – the same as any other member state citizen, but 3<sup>rd</sup> country nationals do not. The result is that Union citizenship in effect, supersedes nation-state citizenship, but it is the member state that creates the stratification of citizenship. Because, if the member state did not have the requirement that one must give up his/her original citizenship in order to

enjoy full citizenship rights, then there would be no difference between Union citizens and 3<sup>rd</sup> country nationals. So, if Germany were to allow dual citizenship, then it would make 3<sup>rd</sup> country nationals equal to Union citizens – at least on the grounds of access to full citizenship rights. By not doing so, as the 1999 law does not do, citizenship stratification is even further institutionalized, deepening the lines between those with access to full citizenship rights and those without.

### *Plan of the Thesis*

Following this introduction in which I have made the argument that the 1999 German Nationality law has further legalized discrimination, I will map out how this has developed. The new Nationality law did not suddenly institutionalize discrimination based on nationality, it only deepened it. Chapter 2 is a historical review of German citizenship laws from the early 19<sup>th</sup> century until reforms were enacted in 1999. I pay special attention to the fact that German citizenship laws have always had a restrictive nature. From the early 1800s when the laws were restrictive against vagabonds and criminals to protect the financial interest of a town's citizens these policies were adopted at the state level long before German unification. When Otto von Bismarck unified the German states under Prussian authority in 1871, the citizenship laws were restrictive against Jews and Poles under a national policy of *Kulturnation* creating an ethno-national self-understanding in Germany. Chapter 2 describes how this particular notion of self-understanding remained largely in tact, even through German division post WWII, up until the 1990s. Then, I explain the reforms of the 1990s that eventually led up to the compromise of what would be the new Nationality law in 1999.

Chapter 3 unpacks the significance of the largest ethnic minority that exists in Germany – the German-Turks. I assess the immigration trends that led to such a large ethnic Turk population in Germany, including bilateral labor agreements between Germany and Turkey also known as the Guest Worker Program. From this, I investigate the reasons why so many individuals came to Germany as labor migrants and why so few returned home to Turkey. Then, chapter 3 examines the



different groups that make up ethnic Turks in Germany today, i.e. Kurds versus Turks, and also different religious groups like the Alevis and Ultranationalists. I point out these differences because as integration programs are more and more directed at ethnic Turks, the fact that these programs are not sensitive to cultural differences leads to ineffectiveness and perpetuates the discriminatory nature of these programs. Finally, this chapter examines how differences among ethnic Turks either helps or hinders naturalization efforts on behalf of the state.

Chapter 4 picks up where chapter 2 left off by analyzing the discourse surrounding the formulation of the new Nationality law in 1999. I begin by explaining the different positions of the political parties that took part in negotiating the terms of the new law as well as some politicking involving power plays in the national legislature, the Bundestag and Bundesrat. Following this, I describe the details of the new Nationality act, including the reforms to residency requirements and the effects of a partial *jus soli* principle. Furthermore, in order to demonstrate that the discriminatory nature of German citizenship laws is only deepened by this new legislation, I analyze the integration policies undertaken as part of the naturalization process. This section includes an introduction to the controversial “conscience tests” employed in Baden-Wuerttemberg which were later deemed illegitimate. Finally, this section provides information on the success and failures of integration programs as analyzed by an independent company review.

This thesis seeks to understand the normative rationale that has grounded German nationality laws for so long and continues to do so today within the context of a large foreign resident population predominantly from one country. I argue that grounds for excluding said population based on an ethno-national self-understanding amount to institutionalized and legalized discrimination. By providing a historical analysis of citizenship laws framed by the unique situation of foreign residents in Germany, particularly Turks, this thesis provides an argument for further research in the field of citizenship laws, including proposals to make access to citizenship more equitable and less discriminatory.

## Chapter 2

### *The History of German Citizenship Laws: 1806-1999*

#### *Introduction*

The nationality laws that dictate the parameters of citizenship in Germany were, and arguably still are, considered to be restrictive and conservative compared to other Western democratic states. Up until 1999, German nationality laws were based on the principle of *jus sanguinis*; the principle that citizenship is passed on by blood, that is, one is born into the community and cannot be made part of it any other way. The nationality laws of nearly every other Western state include some degree of *jus soli* to the basic principles of citizenship – the principle that citizenship is granted to all born on the soil of that state. The German approach to citizenship has only recently been amended to include *jus soli* on very limited terms to its citizenship laws. As discussed further below, the reason that the principle of *jus soli* was only recently added to citizenship laws is based on the historical development of the State of Germany. To demonstrate, this chapter is an historical overview of citizenship laws in Germany beginning in the early 1800s up until the 1990s providing evidence that German nationality laws have been discriminatory in nature.

In this chapter I will demonstrate that in the early 19<sup>th</sup> century, nationality laws were discriminatory towards any individual not born into the township and that this continued through unification in the late 19<sup>th</sup> century especially towards Jews and Poles. In the 20<sup>th</sup> century nationality remained restrictive, only being extended to ethnic Germans, wherever they resided. I do not focus on the EU in this chapter, but I do want to highlight an important issue: the impact of the relationship of the EU to its member states. Simon Green (2004) notes that the European Union is “a major source of domestic policy frameworks and initiatives” (p. 15). As such, it is worthwhile mentioning that EU policies regarding movement rights for all EU-nationals create a special situation for non-EU national foreigners in Germany.

“Already, the provisions for free movement in the Treaty of Rome have exempted EU nationals and their dependants from most immigration restrictions to Germany. This has created two classes of foreign residents, in the form of EU nationals and so-called third-country nationals, with real differences in the respective level of rights available to them” (Green, 2004).

The creation of two classes of foreign residents is an example of legal discrimination, sanctioned by the EU and institutionalized by the German government.

The purpose of this chapter is not to elaborate on any particular instance of ethnonationalism, i.e. the Holocaust, but rather to establish the discriminatory nature of nationality policies throughout German history. Moreover, in this chapter I will illustrate how discrimination against ethnic minorities in Germany begins with the governmental institutions stemming from the policies of townships and principalities to current Federal legislatures.

#### *German Nationality Law: Past to the Present*

Prior to the new Nationality Law passed in 1999, German nationality legislation began with the conviction that “severed citizenship from residence”, thus creating a community of citizenship where German nationality law was based on descent (Nathans, 2004 and Brubaker, 1992). This tradition of a non-inclusive conception of citizenship can be traced back to the early 19<sup>th</sup> century during the Revolutionary era of the 1840s and the Romantic Movement spurred by Napoleonic advances and annexations (Brubaker, 1992). The Romantic movement of the early 19<sup>th</sup> century, in response to French nationhood and expansionary policies, was rooted in the idea that the German nation was an organic, historical, ethno-national entity with specific customs, laws and language (Brubaker, 1992). This is the beginning of the conception of cultural nationhood in Germany, though at odds with the concept of political nationhood, which began at the same time. This also marks the beginning of the Prussian central administration’s necessity to do what France did – essentially a

project in nation-building. The truth of course, is that prior to Chancellor Bismarck in the late 19<sup>th</sup> century, the German states were not united in any sense of nationhood; rather at times they were loosely tied together in a German confederation with very little use for a centralized government. Following the Prussian defeat by Napoleon in 1806, national sentiment increased dramatically, celebrating and politicizing the uniqueness of being German (Barbieri 1998). The project of nationalizing Prussia from above coincided with the Romanticist notion of 'Germaness', the tradition of nationhood believed to be historically rooted and ethnocultural in nature (Brubaker, 1992). "The *Volksgeist* [national spirit] is constitutive, the state merely expressive, of nationhood" (Brubaker, 1992: 9). Beginning with the War of Liberation from 1813-1815, "romantic notions of the ethnocultural unity of the German people formed an ideology that eventually served as a legitimating basis in the formation of the German nation-state" (Barbieri 1998: 13). The Prussian state began the project of nation building in the early 19<sup>th</sup> century in the shadow of French occupation, struggling to balance Prussian statehood with German nationhood. According to Barbieri (1998), the project of German nation-building consisted of a "concerted effort to homogenize the population and culture" (p. 13). The balance of statehood and nationhood, according to Verheyen's analysis of the emergence of German nationalism "separated the idea of nationhood and nationalism from the Enlightenment" (Verheyen 1999: 24). And consequently, "conservative, authoritarian nationalism prevailed, and German national unity was established by means of warfare, under the auspices of illiberal, reluctant Prussia" (Verheyen 1999: 24). The authoritarian, regimented idea of nationalism would shape citizenship policies of the future, as discussed below.

In the early 19<sup>th</sup> century, German states began to codify their citizens with the goals of conscripting all eligible males for their armies, avoiding conflicts over the deportations of the poor and undesirables and promoting the settlement of desirable immigrants (Nathans, 2004). Towns generally allowed temporary residence for journeymen and laborers (desirables), additionally the state, i.e. Prussia, promoted permanent residence for skilled laborers and well-off families

(Nathans, 2004: 22). At first, these practices at the state level coexisted with the local citizenship policies of communities, which in practice existed as a constitutive community as described by Richard Dagger. According to Richard Dagger adopting Michael Sandel's explanation of a constitutive community

“To say that the members of a society are bound by a sense of community is not simply to say that a great many of them profess communitarian sentiments and pursue communitarian aims, but rather that they conceive their identity – the subject and not just the object of their feelings and aspirations – as defined to some extent by the community of which they are a part. For them, community describes not just what they *have* as fellow citizens, but also what they *are*, not a relationship they choose...but an attachment they discover, not merely an attribute but a constituent of their identity (Dagger, 1997: 49).”

Thinking about community in this way, allows us to understand why German villages, towns, cities and eventually states were seemingly hostile to those who were considered outsiders – those who were not born into the community, but came from somewhere else in an effort to join. Specifically, in early 19<sup>th</sup> century German States, the motivation to protect one's community from outsiders had to do with protecting the communal poor chest from travelling vagrants. For example, because Prussia abolished hereditary serfdom in 1806, and effectively released individuals from their formal ties to the land, individuals became increasingly tied to their community (Nathans, 2004). “Custom and law required communities to feed and house their permanent residents - those who were ‘heimatberechtig’, who belonged to the community – if they became destitute” (Nathans, 2004: 20). Since most families at this time were subsistence farmers or perhaps merchants, this was enough of a burden so that the poor from other cities or towns were not welcome. Hence, the principle of community along with the financial and psychological security was exclusive; meant only for those born into the community.

Foreign vagrants and the poor were so unwelcome in many German states that

between the 1820s and 1840s police officials kept records of vagabonds and criminals so as to share with other authorities “and in this way to assist in the apprehension, punishment and expulsion of vagabonds and criminals” (Nathans, 2004: 23). Coinciding with this movement to expel undesirables from German cities was the movement in German states to clarify their legal residency policies. The primary concern of the Ministry of the Interior was to control the entrance and exit of individuals in Prussia, whereas the primary concern for the Prussian Foreign Office was to establish who was and was not a Prussian subject (Nathans, 2004). Attention to this issue was a result of conflicts between states over expelled persons, i.e. the vagabonds and criminals. Persons expelled from one state had to go somewhere, so when they ended up as unwanted in another state; the first state was to blame. For example, Prussia made a treaty with Bavaria in 1818 clarifying who was responsible for the homeless – where they were permitted to live and who should take them in (Nathans, 2004). Ties to a state could be based on “birth to parents who were state members; birth to homeless parents within the state boundaries; marriage and independent economic activity; and ten years of tolerated residence” (Nathans, 2004). Agreements such as these did not, however, look out for the interests of individuals or of the German States as a whole; rather agreements such as these were more to protect the interests of the individual states (Nathans, 2004). Undesirable or unwanted persons, such as the homeless or foreigners, were denied social and political rights, even the right to seek employment for fear that this would restrict the opportunities of a town’s own citizens. In the early to mid 1800s, states’ policies towards foreigners were decidedly restrictive in an effort to protect its own resources. This was especially true in German states where homeless would turn up after being expelled en masse from Austria (Nathans, 2004). Until this point, these policies are not necessarily discriminatory nor were they meant to protect a common identity; they were just exclusive and based on economic protectionism. However, attitudes towards individual over collective rights begin to change in the mid 19<sup>th</sup> century.

As a result, in a citizenship law drafted in 1834 by the Foreign Office the two main

principles outlined the parameters of citizenship in Prussia. “First, it provided that mere residence in Prussia would never by itself lead to the acquisition of the status of subject. One could become a Prussian subject only by birth to Prussian parents, adoption, marriage to a Prussian man or by the explicit approval of the central administration, upon petition. Second, although this was implied rather than directly stated, Prussian subjects were to belong only to Prussia, and not to be the subjects of any other state” (Nathans, 2004: 59). As the Prussian State solidified its sovereignty over the status of its subjects the implication for surrounding states meant a change in the deportation treaties (Nathans, 2004). As Prussia remained the strongest of the German states, it hoped to serve as a model for other German states (Nathans, 2004). The significance of the 1834 citizenship law draft is the onset of institutionalizing the principle of *jus sanguinis* and a community of descent. Again, the concern for Prussia was to establish the parameters of subject-hood in an effort to control entry and exit. The discussion of protecting individual rights against the state emerged from English influences and took root in the German middle classes.

In the 1820s and 1830s the German middle classes became acquainted with philosophical reasons for protecting individuals’ rights in relation to the State (Nathans, 2004). Philosophers such as G.F. Hegel and Adam Smith remarked on the logic of ending the exclusionary practices of local communities when it came to citizenship (Nathans, 2004). Rather, as Eli Nathans (2004) interprets Hegel, localities worked to serve their own interests which were arguably narrow, and not in the interest of the State (p. 28). According to Hegel the State was more powerful and had the ability and necessity to overcome traditional local customs (Nathans, 2004). This was also true for excluding individuals. Hegel believed that “the state should remake all members of society in the most fundamental ways in accordance with universal truths, impl[ying] that in principle no individuals need be excluded from full citizenship because of cultural differences between themselves and the majority” (Nathans, 2004: 31). Adam Smith’s arguments, though not based on moral grounds, had sway because of economic prosperity. Smith argued that it went

against an individual's liberty to restrict his movement in such a way that might impede his ability to find gainful employment (Nathans, 2004). The impact this had on citizenship in the mid-19<sup>th</sup> century in Germany was the ideological justification administrators needed to change the laws of the state. This provided state administrators the rationale for overriding local laws and customs as well as providing subjects *some* economic and social rights – the right to move about freely to seek employment. However, this did not go so far as to grant political rights. Greater political rights were proposed during the 1848 Frankfurt Parliament, but in vain, as discussed below.

The revolutionary era of the 1840s began in France after the fall of the French monarchy in 1848. This spread to Germany where revolutionaries pressed the German princes to allow certain rights and pushed for national citizenship, helping unite the German principalities (Nathans, 2004). The Frankfurt Parliament, the first freely elected parliament created in 1848 in response to revolutionary uprisings, passed legislation that allowed all German citizens to move freely among the German states and settle wherever they chose (Nathans, 2004). Additionally, the parliament promised that “all individuals born and raised within the German State would be treated as full citizens” but this came with limits (Nathans, 2004). “The provision guaranteeing ethnic minorities the right to preserve their own culture and language was meant to operate only in areas where the non-German group was in the majority” i.e. Posen or Bohemia (Nathans, 2004). “Some deputies...accepted the idea of granting civic rights to ethnic minorities, but only in the expectation that the minorities would, sooner or later, merge culturally with the German majority” (Nathans, 2004). These liberal ideas of protecting individual rights against the state were short-lived in the German states. Though the Frankfurt Parliament never had any real power, its liberal ideas such as guaranteeing cultural rights for individuals were now associated with revolution and gave conservative forces reason to suppress revolutionary ideas and exert some control over residency policies. The mere presence of foreigners, at this time the Poles, was exploited to mark the lines between Germans and non-Germans. The *Kulturkampf* against Catholics and



movement restrictions for Jews all helped to enhance the image of 'Germaness' (Barbieri, 1998). By 1849, conservative forces, led by the Prussians, forced the dissolution of the Frankfurt Parliament as well as the ideals that shaped it (Nathans, 2004 and Tipton, 2003).

Tolerance and acceptance on the part of the State for foreigners disappeared. The chief form of punishment was expulsion. In the years up to unification in 1871, the process of Prussian citizenship codification began in earnest by extending citizenship to all individuals of annexed lands, if they so chose (Nathans, 2004). The consequence of not choosing Prussian citizenship was expulsion. Consequently the principle of *jus soli* was invoked in these annexed territories, but if one chose not to accept their Prussian citizenship they were forced to leave. However, after German unification in 1871, Chancellor Otto von Bismarck continued to shape citizenship laws but proceeded by invoking what was termed the *Kulturnation* (Brubaker 1992: 13). This marks the beginning of the ethno-cultural dimension of restrictive citizenship laws. The *Kulturnation* was based on ethnicity or more specifically the German ethnic group, "provisionally...this group includes those who speak German, have a German heritage, are of German stock, and are identified by others and by themselves as Germans" (Barbieri, 1998: 11). According to Barbieri (1998) the transition from Germaness being a matter of birthright or place of residence to describing the German *Volk* as a cohesive embodiment of historical culture is reflected in the *Kulturkampf* (p. 13). Moreover, as an example of ethno-cultural discrimination Barbieri (1998) points out that "being German was a question of quality, and other ethnic or national groups in German society were often distinguished as lesser or inferior" (p. 13). During unification praxis of *Kulturnation* or *Kulturkampf* was evidenced by the expulsion of Jews and Poles in the late 1880s.

The Prussian State feared an increase in Jewish and Polish populations in eastern Prussia and the German states and as such, "the intensifying conflict between Germans and Poles in eastern Prussia reinforced the ethnocultural, differentialist strand in the German understanding of nationhood" (Brubaker, 1992: 13; Nathans,

2004: 112). This non-inclusiveness towards non-ethnic Germans who resided in German states was reified up until the outbreak of war in 1914 “chiefly through the development of new nationwide institutions and processes and through the integrative working of the state on national consciousness” (Brubaker, 1992: 13). “Since individual German states conducted largely autonomous naturalization policies, Prussia – as the state most directly concerned both by the nationality struggle and by immigration from the east – was free to pursue a particularly restrictive policy toward Poles and Jews” (Brubaker, 1992: 15). Prussia’s nationalizing project, along with Prussian-German *Polenpolitik* (the perceived threat of Slavic influx) established an ethnonational understanding of immigration policies (Brubaker 1992).

The Citizenship Law of 1913 that institutionalized the principle of *jus sanguinis* began with the Bavarian citizenship act of 1818 and gained more general acceptance when it was incorporated by Prussia in 1842 (Green, 2004). By this time the political entity known as the *Volk* had undeniable purity. “For instance, a national liberal *Reichstag* deputy declared on 23 February 1912, during the deliberation on the RuStAG, that ‘the...aim of this law is to prevent foreigners who would not be welcome here from becoming Germans; non-German blood is to be prevented from being assimilated into the German Fatherland’ (quoted in *Frankfurter Rundschau*, 10 February 1999” (Green, 2004: 29). If the *Volk* was an undeniable organic entity, then logically it could only be passed on via descent and thus warranted protection under the law through the application of the principle of *jus sanguinis* (Green, 2004).

These restrictive citizenship laws that became institutionalized in the Wilhelmine era of the early 20<sup>th</sup> century remained in place up until the late 1990s and mostly unchanged except for stricter regulations beginning in 1933 and continuing throughout the Nazi era. In 1933, 6 weeks after Adolf Hitler became Chancellor, the naturalization of East European Jews was prohibited and this was later applied to all ‘non-Aryans’ in August of that same year (Nathans 2004). In 1934, once the Nazi party had effectively seized control over all the Land governments, individuals were

no longer citizens of the State by way of the Land, rather they became “simply Germans” (Nathans 2004: 219). In 1935 the Nuremberg Citizenship Law divided Germans into two classes of citizens with the creation of a new and hierarchically superior class, the Reichsbuerger (Nathans 2004). “It defined the Reichsbuerger to be every German citizen of ‘German or related blood who by his conduct shows that he desires and is fit loyally to serve the German Volk and state’” (Nathans 2004: 220). Reichsbuerger were the only class allowed to vote and hold public office. This relegated all other citizens to the lower class of Staatsangehoerige, including Jews and Germans whose political reliability was in doubt (Nathans 2004). By 1937 more laws had been passed stripping individuals of their German citizenship, especially Jews. “The Nazi state made more extensive use of the power to deprive emigrants of citizenship from 1937, when it began systematically to denaturalize Jewish emigrants who had not been made citizens during the Weimar Republic...The main purpose was to legalize the seizure of Jewish property” (Nathans 2004: 219). By stripping Jewish individuals of their citizenship, the Reich was able to confiscate their property legally and release thousands from their jobs – essentially isolating the whole population (Kirk 2007). The Nuremberg citizenship law made de jure what had been de facto up until this point – “ethnicity was the fundamental criterion for citizenship” (Kirk 2007: 179). Racial identification became politically qualified and Nazi policies to enforce these laws became increasingly violent.

While the Nazi policies were directed at expelling Jews from German citizenship, they were also expanded to include men from the annexed lands of Poland and Austria with the goal of pressing men into military service (Nathans 2004).<sup>1</sup> In 1938 when Austria was annexed by Germany all of its 6,759,000 citizens became Germans in accordance with the Nuremberg citizenship law (Nathans 2004). The fact that citizenship laws under the Nazi regime stripped thousands of Jews and other anti-Nazis of their citizenship but then expanded to include Austrians by 1938 may be attributed as the reason why December 31, 1937 was chosen as the date to

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<sup>1</sup> Jews were defined as the descendent of three Jewish grandparents, or someone who had “two Jewish grandparents and was also either a member of the Jewish religious community or was married to a full Jew” (Kirk, 2007: 180).

refer to citizenship laws after the creation of the Federal Republic of Germany. This will be explained in more detail further below.

During the War, Nazi policies towards non-ethnic Germans, especially Jews, included deportation and forced labor camps. “Pressure began to mount [in 1941 after Hitler’s invasion of the Soviet Union] for the deportation of all European Jews to the East, particularly in the wake of Stalin’s deportation of Volga Germans to central Asia” (Kirk 2007: 190). Moreover, Nazi policies escalated in violence to include the genocide of millions of Jews. “The pace and killing increased during the course of 1942 and 1943 in a single-minded drive to deport and murder all the Jews in Europe” (Kirk 2007: 191). These policies were part of the project of ‘Germanization’ (Nathans 2004). The regime attempted to create an institutionalized system of categorization in order to determine who was an ethnic German and who was not “to protect ethnic Germans, to prevent Poles from enjoying the privileges accorded Germans, and, above all, to promote the state’s project of Germanization” (Nathans 2004: 223). The simplicity of the regime’s goals, coupled with the brutality of its measures reflects a certain perversion of historically restrictive policies. The Nazi regime took these policies to new depths steeping Germany in shame, which the two States of post-war Germany would attempt to rectify.

The geopolitical situation during the postwar era of division left citizenship laws largely unchanged from the pre-war period. This was the case because in 1949 with the creation of West Germany as a sovereign entity “[t]he architects of the new state emphasized its provisional character and wrote into the Preamble to its Constitution commitment to the realization of German unity on the part of the “entire German people” (Brubaker, 1992: 169). The preamble of the Basic Law declares the transitional nature of the new Republic and article 146 maintains that the Basic Law will be invalidated as soon as the two Germanys were reunited.

“Conscious of its responsibility before god and mankind, filled with

the resolve to preserve its national and political unity and to serve world peace as an equal partner in a united Europe, the German people in the *Laender*... has, by virtue of its constituent power, enacted this Basic Law of the Federal Republic of Germany to give a new order to political life for a transitional period. It acted also on behalf of those Germans to whom participation is denied. The entire German people is called upon to accomplish, by free self-determination, the unity and freedom of Germany” (Grosser 1970: 73).

#### Article 146

“This Basic Law shall become invalid on the day when a constitution adopted in a free decision by the German people comes into force” (Grosser 1970: 73).

The Basic Law’s source of legitimacy was the Landtage – a delegation of the Land Ministers (essentially Governors) who ratified the Basic Law almost unanimously (only Bavaria dissented) (Grosser 1970). Moreover, Article 16 protects citizens from being stripped of their citizenship in an effort to ensure Hitler’s policies of stripping anti-Nazis and non-ethnic Germans of their citizenship could not be repeated (Grosser 1970). Additionally, Article 3 declares citizens’ equality under the law: “No one may be prejudiced or privileged because of his sex, descent, race, language, homeland and origin, faith or his religious and political opinions” (Grosser 1970: 83). This merits attention because it does explicitly state that all *citizens* have equal protection, but this does not extend to the process of attaining citizenship. This distinction will be discussed in further detail in chapter 4.

In fact, those who had legal claims to German citizenship as of December 31, 1937 (before the beginning of Hitler’s annexations) were still considered eligible for citizenship in 1990 (Brubaker, 1992). The reason for choosing December 31, 1937 could possibly be attributed to three different reasons. The first being, as discussed

above, it was an attempt at rectifying the injustice of stripping thousands of individuals of their German citizenship. Second, also discussed above, after the War, Germany could not claim citizens of another country, like Austria, to be her own. Thus, since Austria was forcibly annexed in March of 1938, choosing the end of 1937 as a cut off date excludes Austrians claimed as Germans due to annexation. The third and most ambiguous reason is that the Nazi regime for simplicity's sake "for the most part closed its eyes to the existence of ethnic minority groups inside Germany's 1937 borders – aside from Jews, Sinti and Roma – and members of these groups certainly were not eager to call attention to their distinctive heritage" (Nathans 2004: 228). Therefore, according to the Basic Law passed in 1949, citizenship included all ethnic German expellees or refugees from Eastern Europe and the Soviet Union, as well as those living in the German Democratic Republic (GDR), or East Germany (Brubaker, 1992). The discourse of citizenship always included all Germans, not just West Germans; this meant that GDR members were always considered to be German with no distinction between East and West. The provisional nature of the two German States is further evidenced by the choice of Bonn as the location for the seat of the FDR. "[T]he strongest argument in favor of the university town on the Rhine lay in its very inadequacy, which served to underline the provisional character of the Federal Republic; Frankfurt, by contrast, might have given the impression of being a real capital, where this right belonged to Berlin alone" (Grosser 1970: 93). Although the GDR established its own citizenship in 1967, this was deemed illegitimate by the FDR, still holding out for a unified Germany and one citizenship law (Brubaker, 1992). That citizenship pertained to all ethnic Germans including expellees and refugees from the East was also meant to be a provisional issue allowing immediate post-war refugees easier access to citizenship. The citizenship rules of the Grundgesetz (German Basic Law) were provisional because West Germany was meant to be provisional. Non-German immigrants and immediate post-war labor shortages were unforeseen, and therefore, changes to the citizenship law deemed unnecessary. Granting all ethnic Germans citizenship had not meant to be extended to those who came in the 1980s and 1990s; it was only designed for immediate post-war refugees (Brubaker, 1992).

In the 1970s and 1980s arguments against more liberal naturalization policies and citizenship laws were based on high unemployment rates, and an already dense population. However, at this time birth rates had lowered and certain sectors showed labor shortages. Arguments against more liberal naturalization policies welcomed ethnic Germans re-settling in Germany but remained exclusive towards the largest ethnic minority population, ethnic Turks. The real motivation behind non-inclusive citizenship policies was ethnocultural and political (Brubaker, 1992). By limiting citizenship acquisition only to ethnic Germans, Germany was never induced to create integration policies to help immigrants become part of the German social and political community. It was not until the new Nationality Law in 1999 that Citizenship policies reflected an acknowledgement of a significant ethnic minority population within society that necessitated full political participation.

#### *Reforms in the 1980s and 1990s*

By 1987 it was imperative that the legal status of foreign residents be resolved. Chancellor Kohl made it clear that it was the government's intention to address the issue since the failure of policies to encourage foreigners to return to their home country and restricting family reunification even further was not a political option (Green 2004). According to Green (2004) "In his first parliamentary statement of government policy on 13 October 1982" Chancellor Kohl made policies concerning foreign residents on of the four main areas for "urgent action" (p. 50). In 1988 the Ministry of the Interior, the department of German government in charge of nationality laws, was led by the Christian Socialist Union (CSU) the most conservative party in the German Bundestag (Green, 2004). The Minister of the Interior, Zimmerman, proposed two new laws: the Foreigners' Integration Law and the Foreigners' Entry Law, both of which caused public outcry after being published in the popular news magazine *Der Spiegel* in April 1988. These proposed bills invoked political opposition from the central and liberal political parties, the SPD, the Greens, the FDP, unions, churches and the Social Catholic wing of the CDU (Green, 2004). The aforementioned groups all wanted to reform the

Auslaendergesetz (foreigner's law) but not in a way that made the laws more restrictive. The two new proposals did not provide foreigners' legal residency status with any certainty, or any new naturalization procedures. Furthermore, the Foreigners' Entry Law "contained a comprehensive catalogue of measures designed to prevent any new immigration to West Germany" (Green, 2004: 60). "The emergence of these two draft laws in 1988 represents a caesura in the debate over the content of the new Auslaendergesetz" (Green, 2004: 62). The CSU showed their hand with these two proposals and found no support, leading the government to seek a compromise. "...[T]here was little political agreement within the government over whether the new law should consist of a radical tightening of immigration and residence law, or whether the emphasis should be on improving conditions for foreigners" (Green, 2004: 63). The proposal of two restrictive laws while not garnering any support, seemed to at least serve as the catalyst for citizenship policy reform.

In 1989 the Eckwerte paper (a paper setting the political parameters for reform) included contributions from all the coalition partners and at first seemed to depart from the excessively restrictive 1988 drafts and gained much support (Green 2004). However, during the legislative sessions it was obvious that disagreements along party lines were still strong. "The ensuing debate illustrated the polarized nature of the party political positions between government and opposition, as well as the determination of the coalition partners to drive through the compromise that had been reached" (Duetscher Bundestag Plenarprotokoll 11/195 as quoted in Green, 2004). In the end, the SPD and Green parties were excluded from final sessions and the CDU/CSU majority used that power to push the bill through both the Bundestag and Bundesrat in May of 1990, two days before it lost its majority in the Bundesrat (Green, 2004).

In the 1990s non-nationals already had access to limited political and social rights, but in the '90s there was a sharp increase of Turkish nationals seeking naturalization for full German citizenship, which would provide full security of



residence and full political rights. For example, citizenship guarantees minorities protection from deportation, as well as suffrage and the right to run for and hold public office. For example, German citizenship is required for public service positions, so non-nationals were not eligible for these positions (Green, 2004).<sup>2</sup> However, given the institutional difficulties developing because of reunification, citizenship laws regarding the millions of foreign residents in Germany at the time, were not at the forefront of political discussions. After unification, in the early 1990s, citizenship laws came back onto the scene and revolved around three main issues:

- “Whether the territorial principle of ascription (*jus soli*) should be introduced in order to provide citizenship automatically to the second and subsequent generations of non-nationals
- Whether the residence requirement for simplified naturalization of first-generation non-nationals should be reduced from its level of fifteen years in the 1990 *Auslaendergesetz*
- Whether dual and multiple citizenships should continue to be rejected in naturalizations, which would necessarily also mean the rejection of *jus soli*” (Green, 2004: 81).

The big issue for reforms was dual citizenship. Naturalization rates were still relatively low in the ‘90s because of applicants’ reluctance to apply for citizenship without the option for dual citizenship. Simon Green (2004) states that not being able to attain dual citizenship was the single biggest reason people didn’t apply for naturalization. Because applicants are required to give up their original citizenship in order to attain German citizenship bureaucratic issues, loss of inheritance rights in Turkey, exorbitant fees to release young males from military duty, and the State’s reluctance to release citizens all hindered efforts at naturalization (Green, 2004). Moreover, Green (2004) attributes slow progress on any new nationality law on

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<sup>2</sup> These restrictions were relaxed for EU citizens following a 1973 European Commission agreement granting full social and political rights resulting in the fact that now they enjoy security of residence and access to the labour market equal to that of Germans

what he terms the “semisoveriegn structure of the German State” resulting in more “non-decisions” than anything new in the 1990s (p. 85). According to Green, only with a complete overhaul of government was any kind of reform possible, and even then political parties “acting as nodes of the policy-making network, explicitly employed the structures of federalism to limit the reach of the SPD-Green government’s reform proposals in early 1999” (Green, 2004: 83). The SPD-Green reform proposals and the compromise that characterizes the 1999 Nationality law is the topic of chapter 3.

Table 2.1

## Summary of Citizenship reform proposals, 1998-99

	Policy in 1999	1 <sup>st</sup> Government Proposal (pre-Hesse election)	2 <sup>nd</sup> Proposal (post-Hesse Land election)
Standard discretionary naturalization	Minimum 10 years' residence	Minimum 5 Years' residence	No change from 1999 policy
Simplified naturalization	Legal right between 16 and 23, with 8 years' residence and 6 years in German school	Legal right after 5 years' residence	No specific provisions
Simplified naturalization for other foreigners	Legal right after 15 years' residence	Legal right after 8 years' residence	Legal right after 8 years' residence
Principal exclusions	Criminal record, drawing of unemployment benefit or income support (with exception for hardship); NB <i>not</i> absence of language skills	Criminal record, drawing of unemployment benefit or income support, anti-constitutional activities, absence of language skills	Criminal record, drawing of unemployment benefit or income support (with exceptions for hardship), anti-constitutional activities, absence of language skills
Ius soli	No	Yes, if one parent born in Germany or immigrated before age 14	Yes, from second generation if one parent has 8 years' residence and secure residence permit' also 12 month transition arrangements for children born after 1 January 1990
Dual Citizenship	No, except if home state did not normally release its citizens or failed to do so within reasonable time limit; toleration also possible if release	Yes	No change from 1999 policy, but with more exceptions. Also via ius soli to age 23, at which time German citizenship is revoked unless release from other

	made dependent on performing national service		citizenship can be proven
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Source: Green, S. (2004). The Politics of Exclusion. Manchester and New York : Manchester University Press

### *Conclusion*

Nationality laws in Germany from the early 19<sup>th</sup> century to the present day have been restrictive based on economic protectionism, geopolitics, religious convictions, and finally ethno-culturalism. These policies put forth by the State legalized the discriminatory nature of nationality laws, and the fact remains that the nationality laws remained institutionally discriminatory.

The main principle that these German laws clung to is that of *jus sanguinis* which is defined as “a community of descent” in contrast to the principle of *jus soli*, which “defines the citizenry as a territorial community” (Brubaker, 1992). That is, one became a German citizen only by “birth to [German] parents, adoption, marriage to a [German] man or by the explicit approval of the central administration, upon petition” (Nathans, 2004: 59). Furthermore, an implicit understanding of the law required citizens to belong only to the German state; subjects could not be subjects of any other state. Prior to changes to the Nationality law in the 1990s, “[b]irth and prolonged residence in Germany [had] no bearing on citizenship status” following the principle of *jus sanguinis*, that citizenship is “ascribed to children of citizens” (Brubaker, 1992: 172). Moreover, the law prevented second-generation or third-generation immigrants born in Germany to acquire citizenship except through naturalization (Brubaker, 1992). Even with certain reforms in the 1990s targeted at the large ethnic Turkish population with the goal of allowing naturalization after eight years of residence in Germany, the laws still required applicants to give up their original citizenship – prohibiting dual citizenship. “The required renunciation of their original citizenship ... deterred, for both material and symbolic reasons, many otherwise qualified candidates from seeking naturalization” (Brubaker, 1992: 173).

This chapter has demonstrated the exclusive nature of nationality laws of the early 19<sup>th</sup> century German towns and cities, of Bismarck's nationalization projects, of the era of German division and finally of the 1980s and 1990s. The exclusive nature of nationality laws has been and has remained discriminatory towards the homeless, ethnic Poles, Jews, and non-ethnic German immigrants.

## Chapter 3

### *Who are the German-Turks?*

#### *From Post-WWII immigration to Present Day*

##### *Introduction*

The ethnic Turkish population is the largest non-national minority in Germany making up over 25% of the foreign population. Given this fact, the new nationality law of 1999 has the greatest impact on this population. However, being the largest ethnic minority population does not make German-Turks a homogenized group to whom the new Nationality Law ascribes its policies evenly. Therefore, a proper analysis of the new Nationality Law requires a more elaborate knowledge of who German-Turks are. That being the case, we must first understand the history of Turkish immigration to Germany. Why is there such a large ethnic Turkish population, in comparison to other ethnic minorities? Why does this one ethnic minority population receive so much more attention than any others? Are all ethnic Turks alike? These questions drive this chapter. Perhaps by answering these questions, we can determine why accessing citizenship, though historically difficult for any foreign population in Germany, is such a crucial point for German-Turks.

This chapter will review Turkish immigration trends beginning in the post-WWII era, immigration demographics and finally demographic trends in the current German-Turk population including what objectives are expected to be met from the Nationality Laws. This review is presented in order to better understand the policies of conservative political parties in Germany who actively worked to limit citizenship rights to this particular population. Excluding permanent residents from full rights is tantamount to political tyranny – subjecting these residents to legislation without representation. Given this, I argue that the discriminatory nature of German citizenship laws is even further institutionalized by the new Nationality Law of 1999 because of the way it neglects the claims of its largest ethnic minority population to equal rights under the law.

## *Immigration*

Scholars point out that immigration into Germany can be categorized into three major waves beginning in 1945 and continuing to the present day. The first major wave was a labor migration wave beginning directly after WWII and continued on until the global economic recession in the mid-1970s (Messina, 2007). The second wave began before the end of the first, and consisted mainly of family reunification of those laborers from the first labor migration wave and continues on until the present day (Messina, 2007). The third wave is considered to be an irregular or forced migration, consisting of refugees and asylum seekers as well as legal and illegal aliens starting in the mid-1980s and continuing until today (Messina, 2007). For the purposes of this thesis, in this chapter I will concentrate on the first wave of immigration – labor immigration because the labor immigration agreements between Germany and Turkey created a unique situation in Germany, which will be discussed further below. The following table indicates the immigration and non-national population in West Germany between 1981 and 1990.

Table 3.1 Immigration and the non-national population in West Germany, 1981-90

	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Foreign population (m)	4.6	4.7	4.5	4.4	4.4	4.5	4.2	4.5	4.8	5.3
As % of total population	7.5	7.6	7.4	7.1	7.2	7.4	6.9	7.3	7.7	8.4
Foreign children born in Germany, as % of live births	12.8	11.8	10.4	9.4	9.2	9.4	10.5	10.9	11.7	11.9
Naturalization rate (%)	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.4	0.4	0.4
Ethnic German immigrants (000)	69	48	38	36	39	43	70	203	377	397

Source: Green, S. (2004). *The Politics of Exclusion*. Manchester and New York : Manchester University Press; collated from Green, 2001a; Beauftragte der Bundesregierung (2002); Bundesverwaltungsamt

Labor migration can be attributed to the economic boom directly following World War II. Europe suffered a labor shortage due to heavy losses incurred during the war, and in turn, sought out laborers from Southern European and Mediterranean

countries (Messina, 2007). Labor migration was thought to have a negligible long-term effect because, “most of those involved assumed that foreign workers would voluntarily return ‘home’ once the engine of economic growth dramatically slowed and the demand for cheap labor subsided in the advanced economies of Western Europe. This widely held assumption can be labeled as the *guest worker myth*” (Messina, 2007). The Guest Worker Program in Germany originally set up a time limit on residency in Germany to two years. “However, German employers and the Federal Ministry of Labour found the two-year limitation to be against the interests of the German economy and pushed for its annulment during the negotiations for the 1964 protocol” (Akgunduz, 2008). German industry representatives argued that limiting residency to two years was not enough time to train new employees appropriately. Furthermore, German business feared a recall of workers to their home countries once they were sufficiently skilled, leaving Germany with a labor shortage again. Because it was easier for firms to retain their workers rather than train new ones after only two years, firms and immigrants often found themselves “allied against Germany’s increasingly restrictive labor immigration policies” (Messina, 2004). However, for the 1964 protocol, both sides dropped any residency limitation. Thus, no explicit clause in the bilateral labor agreements stated that migration was temporary.

The first labor migration agreement between Turkey and Germany was signed in 1961, and arranged for the recruitment of Turkish laborers to work in Germany. The agreement contained the proviso that migration was temporary. The purpose was twofold: this allowed for Germany not to have to make any arrangements for permanent settlement and comforted Turkey with the knowledge that laborers with skills, knowledge and money would return home, thereby helping Turkey’s economy. According to the İİBK<sup>3</sup> there were five aims to be served by encouraging labor migration from Turkey to Germany: (1) Integrating Turkey into the European political and economic community, (2) Reducing under-employment in Turkey, (3)

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<sup>3</sup> İş ve İsci Bulma Kurumu (Turkish Employment Service)



Raising hard currency revenues, (4) Workers' acquisition of knowledge and skills that they would return home with, (5) Encouraging firms to set up subsidiaries in Turkey, thus helping boost the economy (Akgunduz 52). Turkey signed other such agreements with The Netherlands, France and Austria, but the overwhelming majority of laborers were sent to Germany. For Turkey's part, the federal government organized recruitment via an employment bureau for regulating laborers' exits with the goal of making migration as easy as possible both psychologically and financially (Akgunduz, 2008). "The first main feature of the system was that all authority for the registration and dispatch of migrant workers was of the PIBK, and recruitment and mediation activities by private bureaus and individuals were banned" (Akgunduz, 2008). These bans were put in place to protect workers against swindlers as well as for the benefit of the Turkish national government – this way they were assured they were sending only those whose absence would not harm the Turkish economy. The second feature of the system was a set of conditions that applicants for migration would have to meet; these included:

- (a) Applicants had to be able-bodied, literate, and between the ages 18 and 45 if skilled and 18 and 35 if unskilled.
- (b) Applicants must not have a criminal record – anyone convicted of one of the listed crimes could not apply even if their crimes had been amnestied.
- (c) Male applicants must have completed military service, and only vocational high school and technical school graduates could be exempted from this rule. The rationale being that these youngsters could combine work with further study in their field abroad. In 1967, those who received nominative demand through the intermediary of their parents working abroad were also given the same exception.
- (d) Skilled workers whose migration was considered detrimental to Turkish Industry would not be sent.
- (e) Workers who had been or were going to be laid off would be preferentially forwarded to the demand side, regardless of their place on the waiting list.
- (f) The same preferential treatment was applied to candidates able to speak English, German, or French. The specification of these conditions followed consultations with the receiving countries, particularly Germany (Akgunduz, 2008)<sup>4</sup>.

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<sup>4</sup> As reproduced from the PIBK 1968

Not only did these conditions meet the specifications of the receiving countries, some, like Germany, actually specified “the number, qualifications, age and family status of workers to be recruited” (Akgunduz, 2008). These specifications came to be known as anonymous demands. The receiving country submitted these specifications as anonymous demands for labor to the ПBK, after which, the ПBK would nominate candidates for further screening. “Accordingly, only those who had spouses, children or parents working legally abroad or had previously worked abroad could be subject to nominative calls” (Akgunduz, 2008). Nominative calls were calls for specific individuals for work, called for by name and sponsored by family members already in Germany. Thus began the practice of family reunification via strong social networks. According to the recruitment agreements in 1961 and the later revisions in 1964, receiving countries had the full authority to screen, accept or reject candidates for labor. Furthermore, the 1961 agreement did not protect any social rights for workers, and only in 1964 were these provisions added including allowances for children and spouses (Akgunduz, 2008).

The early migration agreements were carried out in a largely apolitical environment (Messina, 2007). Any backlash, outcry or debate against a federally supported and organized immigration policy did not occur until the late 1970s when a global recession brought attention to job shortages – jobs filled by immigrant laborers. The labor immigration initiated by the Federal government was meant to be temporary and cyclical in nature with a steady rotation of laborers entering Germany and then returning home; this meant that immigration was not an electoral issue for German politicians. Labor migration allowed Germany to fill the undesirable jobs (jobs that Germans did not want to take) and concentrate on the task of reconstructing after the War. Immigrant laborers were cheaper to hire, easier to fire and more flexible about working conditions, making them ideal laborers for less than ideal jobs (Messina, 2007).

The second wave of immigration consisted largely of family reunification and boomed after Germany put a stop to labor migration in 1973 in response to a global economic downturn. Immigrant laborers had created strong economic, social and cultural roots in the host country, creating intricate social networks (Messina, 2007). Messina (2007) suggests that this second wave of immigration was tolerated so well by receiving countries because it allowed for a stabilization of labor immigration as well as more time for social integration; both of these becoming important electoral issues for politicians in the mid to late 1970s (p. 38).

### *Who were the Turkish Immigrants?*

In his research on Turkish immigration to Western Europe, Ahmet Akgunduz (2008) states that the reasons most scholars believe labor migration was so popular in the post WWII era was due to “ ‘slow economic and industrial growth’, ‘fast population growth rate’, ‘disparity between economic growth and population growth’, and ‘unemployment’ ” (p. 1,2). However, his research offers different explanations as to why such large numbers of laborers migrated to Western Europe and Germany in particular. His research leads him to believe that more than slow economic growth and high population growth, the push of the Federal government in Turkey to encourage migration might be more accurate. Furthermore, he posits that the motivations of the host country, such as Germany, are really the loci of the pull for labor migration. He points out that other Western European countries were previously colonial powers and therefore, had stores of colonial repatriates who replenished the diminished labor force. Germany’s repatriation was made up of exiled Germans or ethnic Germans living in Eastern European countries and when these numbers did not meet the demand for labor, Germany looked elsewhere, first to Italy and then to Turkey (Akgunduz, 2008).

According to Akgunduz’s (2008) research, previous theories stating that low industrialization rates, high unemployment rates and poverty led to record numbers of emigrants from Turkey to Germany are not supported by the evidence. His research shows that wages increased, unemployment was not unusually high and

industrialization rates increased between 1960 and 1976 (p. 15,16). However, he does acknowledge that a development gap did still exist between Turkey and Southern European countries and an even wider gap existed between Turkey and Western European countries, especially Germany (Akgunduz, 2008). National income was distributed unevenly among social classes but also among regions in Turkey. Turkish provinces in the North and West with the largest concentration of big cities fared better economically and were considered more modernized and developed than provinces in the South and East (Akgunduz, 2008). Interestingly enough, his studies found that migrants were more likely to come from the more developed regions of the North and West than the less developed regions of the South and East despite the fact that labor recruitment quotas were set in an effort to encourage migration from these regions (Akgunduz, 2008). In fact, Akgunduz attributes high migration rates to high population growth rather than slow economic growth. This invokes Marx's principle of capitalist accumulation, which posits that as productivity increases, population increases at a faster rate, outgrowing its ability to sell its labor. Thus, according to Akgunduz's (2008) research, unemployment in Turkey was due to an increase in population at such a rate, that it outgrew the rate of job production. Furthermore, in the 1960s job searchers were mostly unskilled seasonal laborers looking for agrarian work (Akgunduz, 2008). When these aspects are combined, they support Akgunduz's claim that unemployment rates, industrialization rates and poverty do not explain emigration. That being established, we must look to other reasons why laborers immigrated to Germany.

As previously stated, labor recruitment was largely a demand side initiative. However, the reasons for migrating to the West to take up work vary. Knowing why laborers migrated to the West assists in understanding the demographics of these migrants. Ahmet Akgunduz (2008) compiled data on the reasons why laborers went to the West from the following sources: "case studies in central Anatolia, some...sample surveys relating to the migration to Germany or returnees in certain provinces and interviews with 11 randomly selected first-generation migrant

workers in the Netherlands” (p. 149). The overwhelmingly most popular response as the reason for migration was to earn a better income in order to either buy equipment, land or a new home back in Turkey or to secure a better future for the immigrant’s family (Akgunduz, 2008). This is represented in table 3.2

Table 3.2 Main motivations to go to the West (Percentages)

Main reasons	Abadan 1964	DPT 1967b	Aker 1972	DPT 1974a	Kudat and Ozkan 1976	Neuloh* <sup>5</sup> 1976
To buy equipment, land, house, etc	26.0	-	63.6	60.5	62.7	39.9
To pay debts	0.6	-	0.9	-	-	-
To save money for the future	20.0	68.9	13.6	-	12.2	5.5
To secure children’s future	18.6	1.4	-	-	7.3	-
Education, vocational progress	26.7	19.7	1.0	8.8	7.4	7.4
To see Europe, to learn a foreign language	3.0	6.8	-	14.2	4.6	18.4
Not finding a job, or scarcity of jobs	-	-	11.6	4.2	1.3	22.1
To join the spouse, family member	-	-	-	2.7	2.4	-
Other reasons, no answer	5.1	3.2	9.3	9.6	2.1	6.7
Total	100	100	100	100	100	100

Note: \*Neuloh (1976: 66) does not specify the number of sample workers; the survey was originally carried out by the Institute of Empirical Sociology, 1969, Saarbrueken.

Source: Akgunduz, A. (2008). Labour Migration from Turkey to Western Europe, 1960-1974 : A multidisciplinary Analysis. England and Vermont : Ashgate.

At first, Germany recruited laborers for agrarian work from Southern European countries, like Italy. But as industry took off in the 1960s, Germany recruited labor immigrants for work in the two most important sectors: “iron and metal production and processing; and the processing industry, iron and metal excluded” (Akgunduz, 2008). The chart below depicts what sectors of industry Turks were recruited to work in from 1961 to 1974.

Turkish laborers who immigrated to Germany between 1961 and 1973 were not for the most part seasonal agrarian laborers, but rather opportunists seizing the moment to seek better employment and higher wages in an effort to secure a better or perhaps more prosperous future for themselves and their families. They were

<sup>5</sup> The data represent a compilation of data from surveys, conducted by Abadan, DPT, Aker, Kudat and Ozkan and Neuloh in the respective years.

not only openly invited by the German government and encouraged by the Turkish government but supported financially and psychologically. Turkish laborers were recruited to fill first sector industry jobs and as such, became an integral part of the German economic reconstruction in the post war era. The following table shows that Turkish laborers recruited for labor, were recruited for jobs in the two main sectors of industry: iron-metal production and processing and the processing industry excluding iron-metal.

Table 3.3 Employment of Turkish workers in Germany, by sector of economy, 1962-1973

Year	Iron-metal production and processing	Processing - Industry - excluding iron-metal	Mining production and processing of stone and earth, energy	Construction	Agriculture, stock farming, horticulture, forest hunting, fishery	Trade, money and insurance	Service	Transport	Public service and service in public interest	All sectors
1962	9,880	2,783	1,425	2,649	80	414	126	152	999	18,558
1963	14,243	5,176	4,122	5,986	267	580	376	600	1,612	32,962
1964	33,883	12,541	12,378	18,546	619	1,237	732	2,847	2,389	85,172
1965	54,071	25,713	15,857	25,006	1,023	2,025	1,747	3,543	3,792	132,777
1966	63,573	38,110	15,263	28,223	1,272	3,081	2,349	3,983	5,096	168,959
1967	48,489	32,823	10,517	22,666	1,153	3,221	3,096	3,424	5,940	121,309
1968	62,559	40,481	9,939	23,834	1,123	3,292	2,938	3,384	5,453	152,905
1969	106,102	62,969	15,141	37,920	1,083	4,656	4,241	5,142	6,360	244,335
1970	157,485	85,705	24,647	53,733	2,647	6,882	6,387	7,737	8,673	353,898
1971	185,757	111,159	33,304	72,099	4,043	11,931	10,815	10,594	13,443	453,145
1972	206,398	128,401	33,272	79,220	4,677	16,058	14,352	11,485	17,231	311,104
1973	318,808	136,595	32,491	75,296	4,111	17,277	14,271	11,748	17,827	528,414

Source: Akgunduz, A. (2008). *Labour Migration from Turkey to Western Europe, 1960-1974 A Multidisciplinary Analysis*. Hampshire: Ashgate.

### *German-Turks Today*

Ethnic Turks living in Germany today make up over a quarter of the foreign population, the largest ethnic minority group in Germany. Families have been reunited from Turkey, new families have been created, so that at present there are third and fourth generation ethnic Turks living in Germany. The political situation

for this population remains ambiguous, mostly because German-Turks are considered to be third country nationals in Germany. Because Turkey is not a EU member state, Turks who live in Germany do not have the same rights as citizens of EU member states (also known as a second Member State) (Perching 2006). While most labor and social rights are extended to non-national foreigners political rights, such as local voting rights, remain elusive (Perching 2006). “Third country nationals (non-EU citizens living in EU member states) enjoy social rights, providing that they are members of the labour force, but no other rights comparable to those of Union citizens and no political rights at all” (Perching, 2006). Non-national foreigners do not have the right to vote, run for or hold elected public office. This creates a disenfranchised and largely under-represented 7% of the total population.

The large population of ethnic Turks in Germany is a perfect example of a transnational community or a Diaspora. Modern Diasporas “develop and maintain multilateral connections with various political and social groups in their host countries, homelands, and third countries” (Argun, 2003 p. 5). According to Betigul Argun (2003), ethnic identities are experienced more fully in the Diaspora than in the homeland. This phenomenon is attributable to what Argun terms ghettoization of the immigrant population, increased politicization within the Diaspora as well as procedural difficulties in attaining citizenship. “As in the past, the law continues to allow for considerable local discretion in making the decision whether or not to grant citizenship, even when all requirements are fulfilled” (Argun 2003: 69). Another procedural difficulty comes from Turkish policies. “Turkish newspapers in Germany have been systematically urging Turks not to apply for German citizenship because they would have to give up their Turkish citizenship without which it might be difficult to inherit land, own a business, or be buried in Turkey” (Argun 2003: 70). Moreover, ghettoization of the immigrant population refers to the mentality of immigrants that obliges them to live amongst each other, even when living abroad (Argun, 2003). This is particularly true for the German-Turk population. “Migrants’ cultural demands create the structures necessary to reproduce and sustain their cultures. The need for kosher meat, proper burials, contacts with their points of



departures all create ethnic and religious business and networks...these... are important factors in the dual processes of identification with the homeland and politicization of the Diaspora” (Argun, 2003 p. 70). Ghettoization of the immigrant population in praxis is non-integration. Other non-integration practices include discretionary procedures taken by local authorities on whether or not to grant citizenship (Argun, 2003). Although not official, this practice has a long history in Germany, especially in Laender such as Bavaria and Baden-Württemberg. Moreover, the new Nationality Law incorporates a language portion to the application for naturalization, which arguably keeps elderly immigrants at a disadvantage, not having the same opportunities or perhaps abilities to learn German (Argun, 2003). The new law also forces applicants for naturalization to give up their foreign nationality, if the foreign nationality is one deemed undesirable, such as Turkey. Generally this is applied to most non-western countries. Many applicants who would prefer dual nationality recognition are not happy about this new clause in the Nationality Law. “The fact that the new German law, and particularly the provision about dual citizenship, has received a rather cold welcome from migrants from Turkey shows that Turkish nationals are not keen on losing their institutional and psychological ties to Turkey” (Argun, 2003 p. 70).

The fear of losing one’s ties to the homeland is exacerbated by the Turkish state’s policies towards citizens who wish to give up their Turkish citizenship. “Turkey charges about 4700 dollars from persons who want to give up their Turkish citizenship without doing their military service” (Argun, 2003 p. 69). Families want to retain their ties to the homeland and pass those ties on to their children creating cultural clubs and sports organizations to keep the old identity passing onto the second, third and fourth generations (Argun, 2003). Retaining ethnic identities, or rather nurturing them to the point of politicization, tends to make immigrants even more interested and involved in politics at home, rather than the host country. According to Argun, this happens more frequently in countries where political openness is not possible in the home country but it is in the host country because

now they have the opportunity and the ability to affect politics whereas before they might not have.

Politicization of the ethnic Turk minority developed in the 1980s after the military coup in Turkey. Today, four main sub-national groups can be identified as having political agendas: Kurds, Alevis, Ultrationalists and Islamists (Argun, 2003). These four groups have a notable political presence in Europe, garnering funding, clout and support towards their goals of affecting politics in Turkey, not Germany (Argun, 2003). Each of these groups is situated in a different position vis-à-vis the Turkish state and therefore each has different goals, but it can be said that “with the exception of ultrationalists, who have the state’s endorsement back home more than other groups examined and who therefore act as conservative forces that reinforce the existing order, all of these groups organize themselves along relatively subversive political ideas” (Argun, 2003 p. 67). The ultrationalists in Germany, not only have the state’s endorsement they have strong ties still with the Ultrationalist party in Turkey, The Nationalist Action Party (MHP), or the Grey Wolves (Arslan, 2004).

Differentiation among these groups gained recognition earlier in Germany than in Turkey. In the early 1980s the Kurdish Culture and Information Center in Berlin was founded, marking the earliest official attempt at differentiating this group from the rest of the sub-national group of Turkish immigrants (Argun, 2003). The organization was established in response to Kurdish minorities’ claims of Germany’s homogenizing immigration policies. For example, children of Kurdish immigrants who don’t speak German or Turkish were sent to the same schools as Turkish children and expected to learn at the same rate. Additionally, Kurdish women tend to associate only with other Kurdish women, making German public policies that were disseminated among Turkish speaking immigrants even more difficult to access (Argun, 2003). Additionally, because the nature of Kurdish immigration has been asylum seeking more so than labor immigration, policies that lump ethnic Kurds and Turks together can be potentially dangerous. Moreover, differences

among Kurds leads to even further complications. Moderate Kurdish political parties such as the Socialist Party of Kurdistan and the Association of Kurdish Workers from Kurdistan want to see a federal system in Turkey where the equality of Kurds is constitutionally established (Argun, 2003). On the other hand, the PKK wants to see an autonomous and legally recognized State of Kurdistan.

Traditionally, the politics of Kurdistan have taken place in the European Theater, where Kurds from different countries tend to gravitate towards each other rather than towards their fellow countrymen. Argun notes that the only Kurdish consulate that exists in the world is on the World Wide Web, pointing out the conceptual nature of Kurdish politics that can only take place free from persecution in Europe, especially Germany. Consequently, due to the tense political relations that exist between Turkey and Germany (as well as the rest of the EU) Kurds have trouble naturalizing even though there are an estimated 11 thousand Kurds in Germany (Argun, 2003). Therefore, rather than easing tensions and problems that stem from policies of integration, xenophobia and citizenship issues, policies of multiculturalism encouraged ethnic identification and religious differentiation because these projects promoted cultural diversity (Argun, 2003). "Indeed, the entire ethnic and religious-cultural diversity of the Turkish society, while deliberately understated in Turkey, has been flourishing freely in German cities in the last two decades" (Argun 2003: 68). Thus, recognition of ethnic and religious differences proliferated whereas in Turkey they could not.

The Alevis are the most populous group of Turks in Germany, consisting of over 30% of the Turkish population (Argun, 2003). Alevis are the most secular of all the different ethnic Turkish groups, considering themselves the Turkish brand of Muslims stemming from Turkish roots rather than Arabic (Argun, 2003). This translates into their beliefs in a strong secular state, further separating religion from the state. Alevis typically support left of center and social democratic political parties, following the belief that social justice and equality are core tenets of their religion. Because they consider themselves 'true Turks' and support secularism they enjoy a certain degree of state sponsorship (Argun, 2003). However, because

they seek recognition of their cultural roots as different from other Turkish groups, they challenge the image of ethnic Turkish homogeneity (Argun, 2003). The Federation of Alevi Organizations in Germany (AABF) located in Cologne centralizes efforts of Alevi organizations to maintain traditional practices and beliefs. Subjecting the religious group that is committed to the belief in secularism and makes up the largest proportion of ethnic Turks in Germany to tests designed to determine their commitment to democratic principles seems to be contradictory. At the very least it shows a lack of understanding on the part of German officials who feel the need to exploit what they see as incompatibilities between democratic principles and Islam. At the worst, it shows the discriminatory essence of these naturalization policies.

Another element that develops in the Turkish Diaspora in Germany in the 1980s is the notion of European Turkishness. This begins with the MHP, or Grey Wolves, organization, which being exiled after the 1980 military coup began to consider themselves as ambassadors to Europe, thereby being above the need to integrate. In fact, members of this organization are so closely tied to their Turkish counterparts that they cling to the notion of being more special than other immigrants. "...Their answer to these conditions is not to struggle for equal rights but instead to initiate a self-ethnicisation process" (Arslan, 2004 p.134). The notion of European Turkishness holds special importance for pro-European Turkish officials as it may offer incentives for EU acceptance. Whether this yields positive results for Turkey's goals for EU ascension is yet to be seen and could be the topic of further research.

The conservative MHP organization and the Kurdish organizations are examples of the increasing presence of transnational politics. According to Thomas Faist as noted in Emre Arslan's (2004) work, transnational refers to "relatively stable, enduring and dense sets of ties reaching beyond and across the borders of sovereign states" (p. 113). Research on aspects of transnational politics and society with specific regard to German-Turks include not only political associations but also marriages, social customs and media outreach. The Turkish immigrant milieu of

strong transnational social networks is only important for this thesis in so far as it affects citizenship laws. The evidence supports the hypothesis that non-ethnic German foreign nationals' negative attitudes towards citizenship and integration policies is fodder for the proverbial cannon of conservative political parties whose goal is to limit naturalization in Germany.

### *Conclusion*

Beginning with the first wave of Turkish immigration in 1945 consisting of laborers and continuing on to the second wave consisting of laborer's family members, Turks residing in Germany have existed as key, yet segregated portion of society. Migrant laborers filled positions in key sectors of industry like iron and metal production, which helped in Germany's economic recovery after WWII. All the while, however, the migrant labor population's existence was deemed temporary with little to no residency security. The presumed temporary nature of labor migration resulted in the absence of any clear long-term residency policies. In effect, the German State was unprepared for the second wave of Turkish immigration – that of family reunification. Families reuniting with their first wave counterparts changed the nature of Turkish immigration from a temporary to a long-term existence. Still however, German policies concerning non-ethnic immigrants remained the same. That is, they did not reflect the necessity of long-term foreign residency policies.

As time went on, the diversity of the ethnic Turk population necessitated policies that reflected this, and still German policies remained unchanged. Thus, different Turkish religious and ethnic groups became politicized. The result of this, is the *mélange* of Turkish associations that work to improve conditions for Turks in Germany as well as Turkey. Thus, Turks in Germany today inhabit a transnational space; another reason why their situation in Germany is so unique.

The position as third country nationals in Germany is not particular to ethnic Turks, but the fact that ethnic Turks make up over 7% of the population does make it a unique situation. Furthermore, this makes the project of analyzing German

citizenship laws all the more important. German citizenship laws continue to discriminate against its largest ethnic minority population. Chapter 4 will discuss how the most recent citizenship law demonstrates this discrimination.

## Chapter 4

### *The New Nationality Law of 1999*

#### *Introduction*

After years of no reform to the citizenship law and only minor changes through the 1990s, the 1998 Bundestag election gave the new government a mandate to reform citizenship law in a meaningful way. The 1998 election ended the longest Chancellorship in the history of the Federal Republic, that of Helmut Kohl. The conservative party CDU/CSU had its worst performance since 1949 and the result was the first ever SPD/Green coalition led by Gerhard Schroeder (Green 2004). “Given that both the SPD and the Greens had developed broadly similar positions during their time in opposition” the new government strove for wider reforms. This chapter offers an examination of the new Nationality Law as a demonstration of the continuation of institutionalized discrimination against the ethnic Turkish minority.

As previously stated, the Nationality law of West Germany after division, bestowed citizenship on any individual who was eligible as of 1937 to hold German citizenship as laid out in Article 16 of the German Basic Law. The reasons for this, as explained above, reflected the provisional nature of the two States of Germany. The law deferred making any serious changes to Nationality laws until after reunification; any major change in the law prior to reunification could either violate international law by claiming another States’ residents as her own, or would deprive individuals of their nationality in the event of reunification. The provisional nature of citizenship laws in both West and East Germany is key because it led to a stagnant policy of citizenship and thereby naturalization. As long as the two States of Germany remained divided, the Basic Law declared that no changes would be made to citizenship policies. Only upon reunification would *all* German peoples create and ratify a constitution that revised these laws. Moreover, the Basic Law was intended only to be an interim constitution stating that upon reunification and a new Constitution the Basic Law would be invalid. Again, as stated above, Article 146 states that “[T]his Basic Law shall become invalid on the day when a constitution

adopted in a free decision by the German people comes into force” (Grosser 1970: 73). The reluctance to reform these laws coincided with the largest influx and settlement of non-nationals in German history. Hesitance to act until after reunification essentially allowed for the proverbial elephant in the room (millions of foreign residents) to grow larger until finally it outgrew the room. Thomas Faist accredits constitutional barriers to citizenship law reforms: “Article 16 of the Basic Law (German constitution) constitutes strong institutional protection against the deprivation of citizenship...” unless under very restrictive conditions (Faist, 2007). Consequently, opponents of more liberalized nationality laws argue that access to citizenship should be just as restrictive, hence the opposition to dual nationality and an easier naturalization process.

#### *Leading Up to New Nationality*

In the 1998 Bundestag election, with the victory of the SPD, and the selection of Gerhard Schroeder as the new chancellor, citizenship and asylum policy were on the top of the reform list. The SPD and Green coalition majority in the government held similar positions as far as the necessity for reform, but the Greens wanted an even more liberalized version – one that went as far as possible from “the bad old days of overt German ethnonationalism” (Green, 2004: 96). In the end, they agreed that the issue of multiple citizenship was a key factor in changing the laws – the issue over whether to incorporate the concept of *jus soli* into citizenship law. The SPD supported the notion of double *jus soli* where the principle is applied to third generation non-nationals to ensure the integration of foreigners (Green, 2004). The Greens supported the notion of simple *jus soli* where the principle applied to second-generation non-nationals. The coalition’s proposed compromise dramatically changed German nationality law suggesting “that double *jus soli* should be supplemented by simple *jus soli* for children of non-nationals who had immigrated during childhood” (Green, 2004: 97). By incorporating *jus soli* in the proposed bill, the government was above all changing the basis of the definition of German citizenship.



A 1998 Land election in the state of Hesse proved a golden opportunity for the opposition CDU/CSU. The SPD/Green coalition enjoyed a strong position in both houses of the Parliament and felt that passing the bill would be an easy task (Green 2004). An upcoming Land election in Hesse in February 1999 seemed to be no cause for concern. Hesse had remained a SPD stronghold since 1945 with only one brief CDU interruption in the late 1980s (Green 2004). However, after losing their majority in the Bundesrat, the CDU/CSU needed an issue on which to destabilize SPD/Green support and found it in the debate over dual nationality. If the CDU/CSU won in Hesse, the government's majority in the Bundesrat would be lost, and their hand would be forced to negotiate with the CDU/CSU. When a document was leaked that outlined the proposed bill to significantly reform nationality laws to include dual nationality and relaxed requirements for naturalization, the CDU/CSU had found their Achilles' heel. Reluctantly and against established political manners, the CDU leadership led by Wolfgang Schaueble, acquiesced to the CSU and launched the populist maneuver. Green (2004) points out that Schaueble himself states in his memoirs:

During an interview with two journalists from [the highly respected liberal weekly newspaper – SG] *Die Zeit* ...I realized how difficult it would be to diffuse allegations of anti-foreigner populism.

Nonetheless, I was more determined than ever to push ahead with the petition campaign. (Shaueble, 2001: 86) (p. 99)

The CDU/CSU launched a petition campaign on January 4, 1999 against the government's proposed bill and with approximately 5 million signatures from across the country, decidedly won the Hesse election and ended the government's majority in the Bundesrat (Green, 2004). As table 4.1 indicates, the petition campaign only demonstrated what the CDU/CSU thought all along – public opinion was decidedly against dual nationality.

Table 4.1

Public opinion on dual citizenship, 1999

	January 1999		February 1999	
	For %	Against %	For %	Against %
Total	32	63	27	68
SPD voters	44	50	37	59
CDU/CSU voters	15	81	12	82
Green voters	70	30	69	28
FDP voters	26	59	30	67
PDS voters	45	52	44	52

Source: *Politbarometer* polls, January and Februar 1999 (Forschungsgruppe Wahlen 2000). 'Don't Knows' account for the remainder

Source: Green, S. (2004). The Politics of Exclusion. Manchester & New York : Manchester University Press.

The deputy CDU leader Juergen Ruetggers was tasked with designing an opposition citizenship bill (Green 2004). Politicking between the CDU and the CSU left Ruetggers with no other option but to propose the 'naturalization guarantee' model (Green 2004). "In consequence, the CDU/CSU's parliamentary bill on citizenship (Bundestagsdrucksache 14/535) neither included *jus soli* nor made any provision for dual citizenship beyond the existing regulations" (Green 2004: 99). Moreover, the CDU/CSU opposition to the proposed citizenship law argued that allowing dual citizenship would open the door for even more immigration (threatening German job security) and "threatened the existence of the German state in the same way that the left-wing RAF terrorists had done in the 1970s and 1980s" (Green, 2004 & Faist, 2007). Thus, it was a matter of national security as well as economic interest to oppose it. Additionally, the petition campaign exploited the ideological differences between the SPD and the Greens. The aforementioned disagreement over the degree to which to incorporate *jus soli* was only resolved after intervention from the leadership of both parties (Green, 2004). Furthermore, after the petition campaign, which resulted in a win for the CDU/CSU in Hesse, "it was actually the Greens who effectively lost the election for the government, by losing four percentage points; the SPD actually marginally increased its vote share" (Green, 2004: 101). This created the opportunity for the CDU/CSU to break apart the coalition and consequently decrease the coalition's power in the legislature.

“At the same time, Interior Minister Schilly once again outmaneuvered the Greens by introducing some decidedly conservative markers into the bill...the small print quickly revealed that the requirements for naturalization were actually tightened in several areas: in contrast to the existing simplified naturalization procedure, the new bill excluded foreigners on social security and unemployment benefit from naturalization, as well as requiring applicants both to possess adequate language skills and to declare their loyalty to the constitution” (Green, 2004: 99).

As a result of the Hesse election, the SPD/Green coalition lost its majority in the Bundesrat. Without the necessary majority, the coalition was now unable to push through the proposed nationality bill. Rather than reaching a compromise with the CDU/CSU, the government dropped the Greens from the coalition and joined with the centrist and opposition party the FDP in March of 1999 (Green 2004).

“Following these negotiations, a new bill was presented which both removed the general acceptance of dual citizenship from the bill, and also introduced, at the behest of the FDP, simple *jus soli*. In addition, the revised bill envisaged that any dual citizens thereby created would lose their German nationality by the age of twenty-three unless the secured release from their other citizenship” (Green, 2004: 102). Moving quickly, the government pushed the new bill through the Bundestag. In an April 13 Interior Affairs Select Committee hearing with “fourteen experts whose evidence was invited, nine were academics and only one represented the views of the immigrant community”<sup>6</sup> (Green, 2004: 102). The legislation was pushed through ignoring both the opposition’s demands as well as real input from immigrant community representatives. Moreover, 23 members of the CDU/CSU abstained from the final vote rather than voting against the bill, giving the SPD the narrow majority it needed. The new legislation was passed on May 21, 1999 and came into effect January of the following year.

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<sup>6</sup> Source: Deutscher Bundestag Innenhausschuss, 1999

### *Details of the 1999 Nationality Act*

The Deutsche Bundestag passed the legislation in 1999 titled **The Nationality Act**, which reformed nationality laws and introduced important innovations. These include citizenship based on place of birth and reduced length of residence required for naturalization. Essentially, the German nationality law no longer adheres only to the principle of *jus sanguinis*. According to this new law, citizenship is granted “on birth to all individuals born in the state when at least one parent had legally lived for eight years in Germany and had for three years had an unlimited right to remain” (Nathans, 2004: 249). The main clause in this new law is the “requirement that the children of aliens who in this fashion acquire citizenship file, before their twenty-fourth birthday, a declaration that they wish to remain German citizens and, furthermore, demonstrate that they have lost or given up all other citizenships” (Nathans, 2004: 249). The new nationality law is more liberalized, shifting the basic principle of citizenship to a conditional understanding of *jus soli*. However, these conditions are still considered strict in a liberal, and European, approach to citizenship, as opposed to an American kind of approach, based on *jus soli*.

Naturalization processes for individuals include residency requirements, which have been reduced from fifteen to eight years, as well as integration requirements. Integration policies include requirements to “declare their allegiance to our constitution and have a sufficient command of the German language. Knowledge of German is an essential prerequisite for integration into our society. Candidates for naturalization must be able to support themselves without recourse to social assistance or unemployment benefits (Arbeitslosengeld II), unless this is due to circumstances beyond their control”

([http://www.bmi.bund.de/cln\\_028/nn\\_148248/Internet/Content/Themen/Integration/Daten.html](http://www.bmi.bund.de/cln_028/nn_148248/Internet/Content/Themen/Integration/Daten.html)).

Dual citizenship is possible under the new Nationality law but it remains the exception, not the rule. Children born on German soil to at least one German parent are granted German citizenship, maintaining the principle of *jus sanguinis* bestowing

citizenship based on descent. On the other hand, children born to foreign parents on German soil, are granted dual citizenship if at least one parent has resided legally in Germany or over eight years

([http://www.bmi.bund.de/cln\\_104/SharedDocs/Standardartikel/DE/Themen/MigrationIntegration/ohneMarginalspalte/Das\\_Gesetz\\_zur\\_Reform.html?nn=257720](http://www.bmi.bund.de/cln_104/SharedDocs/Standardartikel/DE/Themen/MigrationIntegration/ohneMarginalspalte/Das_Gesetz_zur_Reform.html?nn=257720)).

Children in this circumstance enjoy dual citizenship until they are eighteen, at which point they have five years to choose between their German or foreign citizenship ([http://www.bmi.bund.de/cln\\_104/SharedDocs/Standardartikel/DE/Themen/MigrationIntegration/ohneMarginalspalte/Das\\_Gesetz\\_zur\\_Reform.html?nn=257720](http://www.bmi.bund.de/cln_104/SharedDocs/Standardartikel/DE/Themen/MigrationIntegration/ohneMarginalspalte/Das_Gesetz_zur_Reform.html?nn=257720))<sup>7</sup>.

If, by the age of 24, the child does not choose, their German citizenship is automatically revoked reducing the individual's status back to being a foreign resident (DW, 2008). Foreign residents enjoy freedom of movement rights if they are part of the labor force, but no political rights such as local voting (Perching, 2006). Over 33% of German-Turks were actually born in Germany making ethnic Turks the largest domestic-born foreign population (Auslaenderzahlen 12). 1/3 of the ethnic Turkish population therefore has some claims to citizenship based on the principle of *jus soli* but in Germany this depends on the residency status of the parents.<sup>8</sup> Relying heavily on the principle of *jus sanguinis* essentially excludes millions of German residents from gaining citizenship. Excluding millions of residents from gaining citizenship prevents full political participation for millions of individuals who are still obliged to abide by the laws they have no say in creating. Dual citizenship is, as a rule, not granted through naturalization, which once again invokes the principle of *jus sanguinis*. There are very few exceptions to this rule. Some exceptions include: policies for asylum seekers and the elderly or circumstances where humiliating or exceptional practices would be required for an individual to give up their previous citizenship (this includes circumstances where it is illegal for a citizen to renounce his/her former citizenship). "A person can become a German citizen at some time after his/her birth through the Einbürgerung (German naturalization) process, i.e., by applying for German citizenship and

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<sup>7</sup> Author's translation

<sup>8</sup> Residency status of parents is not available.

satisfying certain legal requirements. One requirement is the formal renunciation of all other nationalities, unless legally impossible under the laws of the applicant's home country" ([http://germany.usembassy.gov/acs/dual\\_nationality.html](http://germany.usembassy.gov/acs/dual_nationality.html)). The issue of dual citizenship generally does not affect EU Member State citizens because according to the Freedom of Movement Act, Member State citizens enjoy the same rights as nationals, which is discussed below (Perching, 2006).<sup>9</sup> Dual citizenship is still the exception, not the rule in Germany, as was designed by the new Nationality law.

Interestingly, while EU nationals have the right to dual nationality, this is the group that arguably has no need or claim to dual nationality. "In effect Union citizenship instituted a new type of fragmented citizenship: Union citizens possess civil, social and political rights (and duties) with regard to the nation state whose nationality they hold; they enjoy residential and social, but not the full range of political rights vis-à-vis a second Member State in which they reside. Political rights are only granted at the local and the European levels but not at the politically more relevant nation-state level" (Perching, 2006: 68). Under current EU law, citizens of EU Member States living in another EU Member State have the same rights as citizens. As such, one has no need to give up his/her original citizenship in order to enjoy the same rights and protections under the law as citizens of that state. Therefore, there is no incentive for a EU national to apply for naturalization, so the individual does not need dual citizenship nor is he ever required to relinquish his/her original citizenship. As previously stated, the case is not the same for third-country non-nationals such as the ethnic Turkish population in Germany. Because Turkey is not an EU member state, the same rights do not apply to Turkish nationals seeking naturalization. "In effect, the boundary between citizens and non-citizens varies depending on country of residence and citizenship policies in that country...As long as each Member State continues to hold the sole right to regulate acquisition and

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<sup>9</sup> Foreign EU nationals hold the same political and social rights as nationals in every EU member state. For example, a Frenchman living in Germany has the same rights as other Germans, making it unnecessary to seek dual citizenship.

loss of citizenship, Member States can even undermine Union policies with regard to the integration of immigrants by setting strict standards for naturalization or enhancing the differences between the legal position of third country nationals and their own nationals” (Perching, 2006: 71). The discrimination towards third-country nationals is thereby institutionalized by the legislation that dictates who has access to certain privileges like dual nationality. Moreover, while the EU has included antidiscrimination Articles into the Treaty of Amsterdam<sup>10</sup> “the exclusion of discrimination based on nationality and the different scopes of protection in the directives remain the main weaknesses of EU-antidiscrimination regulations (Perching, 2006: 80). Thus, the hierarchy of citizenship laws institutionalized in Germany and sanctified by the EU does nothing to protect against the discrimination of millions of ethnic Turks based on nationality.

#### *Naturalization Processes, Including Integration Policies*

For those foreign residents who seek naturalization, rather than dual citizenship, integration policies were created and went into effect on January 1, 2005. In order to be naturalized, applicants must pass a naturalization test consisting of 33 questions, which requires general knowledge in German history, culture, and politics as well as a firm understanding of the German language. General knowledge of German history and culture refers to “the meaning of the freely democratic fundamental organization of Germany, the party system, the federal construction, the welfare-state, the equality, the tolerance and the freedom of religion. And they should know, respect and follow the German constitution and the laws”

([http://www.bmi.bund.de/cln\\_104/DE/Themen/MigrationIntegration/Integration/Integrationspolitik/integrationspolitik\\_node.html](http://www.bmi.bund.de/cln_104/DE/Themen/MigrationIntegration/Integration/Integrationspolitik/integrationspolitik_node.html)).<sup>11</sup>

The following are examples from the German Naturalization test

<http://www.integration-in->

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<sup>10</sup> The Treaty of Amsterdam signed in October 1997, amends the Treaty of the European Union placing a greater emphasis on citizenship and individual rights (Perching, 2006).

<sup>11</sup> Author’s translation

[deutschland.de/cln\\_092/nn\\_1344996/SharedDocs/Anlagen/EN/Integration/Downloads/Sonstiges/musterbogen\\_einbuengerungstest.templateId=raw,property=publicationFile.pdf/musterbogen\\_einbuengerungstest.pdf](https://deutschland.de/cln_092/nn_1344996/SharedDocs/Anlagen/EN/Integration/Downloads/Sonstiges/musterbogen_einbuengerungstest.templateId=raw,property=publicationFile.pdf/musterbogen_einbuengerungstest.pdf) (my own translation):

#19: What happened on November 9, 1938 in Germany?

- A. With an attack on Poland, the second World War began
- B. The National Socialists lost a vote and the government
- C. Jewish businesses and synagogues are destroyed by the National Socialists and its followers
- D. Hitler becomes President of the Reich and forbids all other political parties

#14: What is allowed for Federal and Land elections?

- A. A man can make the selection for his wife
- B. A man can vote via a letter
- C. A man can vote via a telephone call
- D. Children can vote at the age of 14

#10: Freedom of expression in Germany means that I...

- A. Can include false information on leaflets and pamphlets
- B. Can print my opinion on leaflets and distribute them
- C. Can wear Nazi symbols
- D. Can state my opinion, so long as I do not contradict the Government

#2: On what holiday do people wear colorful masks and costumes?

- A. On Rose Monday
- B. On May Day
- C. At Oktoberfest
- D. On Pentecost



These questions are examples of the type of questions designed to test German culture, politics and history – also known as general knowledge about Germany. While these topics are covered during integration courses (more of which will be discussed further below) questions about specific dates can be considered overly specific. Considering the integration course consists of 600 hours of language and only 45 of general knowledge (see below), specific historical dates seem overly burdensome.

Participants must reach the B1 proficiency level to be considered passing.

([http://www.bmi.bund.de/cln\\_028/nn\\_148248/Internet/Content/Themen/Integration/Daten.html](http://www.bmi.bund.de/cln_028/nn_148248/Internet/Content/Themen/Integration/Daten.html)).

Language learners at the B1 level

- Can understand the main points of clear standard input on familiar matters regularly encountered in work, school, leisure, etc.;
- Can deal with most situations likely to arise whilst traveling in an area where the language is spoken;
- Can produce simple connected text on topics which are familiar or of personal interest;
- Can describe experiences and events, dreams, hopes and ambitions and briefly give reasons and explanations for opinions and plans.

B1 language examinations are marked and evaluated centrally in Germany (<http://www.epsb.ca/datafiles/InternationalGermanDiplomas.pdf>)

Passing the test requires answering 17 out of 33 questions correctly. Three of the 33 questions are about the specific Land where the individual testing resides

([http://www.integration-in-deutschland.de/cln\\_092/nn\\_1344996/SubSites/Integration/EN/02\\_Zuwanderer/Einbuengerungstest/einbuengerungstest-node.html?\\_nnn=true](http://www.integration-in-deutschland.de/cln_092/nn_1344996/SubSites/Integration/EN/02_Zuwanderer/Einbuengerungstest/einbuengerungstest-node.html?_nnn=true)). Therefore, the

integration courses are twofold: with a language component and an orientation component focusing on the German legal system, culture and history. The language portion consists of the ‘Basic Language Course’ and a follow up language course totaling 600 hours of course work. By the end of the course participants will be comfortable with topics including “shopping and living, health, work and careers, educating and raising children, leisure time and social interaction”

([http://www.integration-in-deutschland.de/cln\\_092/nn\\_285108/SubSites/Integration/EN/02\\_Zuwanderer/Integrationskurse/InhaltUndAblauf/inhaltundablauf-node.html? nnn=true](http://www.integration-in-deutschland.de/cln_092/nn_285108/SubSites/Integration/EN/02_Zuwanderer/Integrationskurse/InhaltUndAblauf/inhaltundablauf-node.html? nnn=true))

Additionally, participants will “also learn to write letters and e-mails in German, to fill out forms, to make telephone calls and to apply for jobs”

([http://www.integration-in-deutschland.de/cln\\_092/nn\\_285108/SubSites/Integration/EN/02\\_Zuwanderer/Integrationskurse/InhaltUndAblauf/inhaltundablauf-node.html? nnn=true](http://www.integration-in-deutschland.de/cln_092/nn_285108/SubSites/Integration/EN/02_Zuwanderer/Integrationskurse/InhaltUndAblauf/inhaltundablauf-node.html? nnn=true)). By

learning the language and becoming accustomed to German history and political knowledge through courses directed at this specifically, it is assumed that immigrants will have easier access to jobs and higher education, thus becoming socially and politically integrated.

Integration courses are open for anyone to attend, however only those who are entitled to attend because they fall under the purview of the Immigration Act have access to public funding; including German repatriates, and foreigners living in Germany without even basic language skills. Otherwise, the course costs depend on the financial status of the participant usually no more than 1 Euro per hour of instruction. For example, if an individual is a third country national and speaks little to no German “An integration course consists of 645 hours. Therefore the whole course will cost you 645 euros. You do not have to pay this amount all at once. You will pay 100 euros at the beginning of each of the first six modules and 45 euros at the beginning of the seventh module” ([http://www.integration-in-deutschland.de/cln\\_092/nn\\_672066/SubSites/Integration/EN/02\\_Zuwanderer/Integrationskurse/Teilnahme/LangAufentDrittAusl/4\\_kosten-inhalt.html](http://www.integration-in-deutschland.de/cln_092/nn_672066/SubSites/Integration/EN/02_Zuwanderer/Integrationskurse/Teilnahme/LangAufentDrittAusl/4_kosten-inhalt.html)).

Participants can skip or repeat parts of the courses and are required to pass an examination at the end of each course

([http://www.bmi.bund.de/cln\\_028/nn\\_148248/Internet/Content/Themen/Integration/Daten.html](http://www.bmi.bund.de/cln_028/nn_148248/Internet/Content/Themen/Integration/Daten.html)). “The BAMF (Federal office for Migration and refugees) has

various duties implementing the *Integrationskursverordnung*, which cover functions

concerning the execution as well as the coordination of the courses. 22 regional external offices assist the central BAMF office in Nuernberg in fulfilling this purpose”

([http://www.bmi.bund.de/cln\\_028/nn\\_148248/Internet/Content/Themen/Integration.html](http://www.bmi.bund.de/cln_028/nn_148248/Internet/Content/Themen/Integration.html)). Course providers include: municipalities, labour offices, alien

departments and migration advisory desks/services

([http://www.bmi.bund.de/cln\\_028/nn\\_148248/Internet/Content/Themen/Integration.html](http://www.bmi.bund.de/cln_028/nn_148248/Internet/Content/Themen/Integration.html)). The task of integrating millions of immigrants is a national project

carried out by German Laender with varying levels of success as will be discussed further below.

Integration policies were enacted with the goal of encouraging newly arrived foreign residents as well as those who have lived in Germany for years, to learn the German language and law. While these goals have seemingly encountered little or no opposition, these only apply to long-term or permanent immigrants, not the short-term, temporary residents invited as guest workers predominantly from a Turkish background dating back to the 1950s. Because of this, prior to reforms in the 1990s the prevailing policy was non-integration “with the goal of promoting return” of these immigrants to their home country (MPG report, 2005: 17). So, while some immigrants had integrated into society quite well and belong to the middle class, others, specifically ethnic Turks and Muslims suffered social segregation leading to problems such as unemployment, low literacy rates, and an under-representation of immigrant children in higher education (MPG, 2005). Though changes to residence status for children of immigrants born in Germany are part of the new Nationality Act and integration courses are available and obligatory, this is a temporary solution that still does not allow for dual citizenship as a rule. Because children born to foreign parents must choose a citizenship before the age of 24 integration policies have become even more important because this decision arguable depends on the success of integration programs. Consequently, integration policies directed at Turkish youth are given more importance than ever. Again, failure to choose a nationality results in the revocation of German citizenship,

again creating a large population of non-citizen inhabitants with residence rights that are vague at best.

The new Nationality Act changed the laws on residency and naturalization practices as well as an attempt at clarifying citizenship guidelines through integration policies. However, the new Nationality Act still remains vague on certain immigration policies. For example, labor immigration policies are still restrictive against recruiting more foreign labor for certain sectors, but there are several loopholes depending on the skill level of the individual, and a labor market test (MPG, 2005). The labor market test is designed to assess whether the introduction of foreign nationals into the labor market will disrupt it negatively or if it would keep other privileged workers out of the market (MPG, 2005). According to the Migration Policy Group report on German immigration debates published in 2005, the debate on integration developed because of a large population with a foreign background.

“There are ethnic Germans with immediate access to German citizenship, but also a large foreign population without German citizenship, but with secure residence rights. Short-term pendular migration is substantial, and there is also a substantial minority of long-term residents without secure residence rights, namely de facto refugees and humanitarian entrants. The integration debate concerns only the immigrants already residing in the country or entering in the future with a regular residence status. The main political objective with respect to ‘tolerated persons’ is their return” (p. 16)

Non-integration policies following the logic of encouraging foreign nationals to return to their foreign country prior to the 1999 reforms were generally labor restrictions, making it difficult for immigrants to get jobs, which studies have shown prevents immigrants from integrating socially into the host society (MPG, 2005). With the passing of the new Nationality Act in 1999, came changes to labor immigration policies, however, these changes still prohibited work permits for

“cases where tolerated foreign nationals are responsible for creating obstacles for their expulsion i.e. deliberate hiding of identity or destroying passport” (MPG, 2005: 17). Creating obstacles for laborers seeking legal residency status and pursuing naturalization inhibits integration on behalf of the foreign population. Furthermore, labor immigration is discouraged due to high unemployment rates in Germany, even for highly skilled workers. “[T]he Federal Ministry of the Interior underlines: “The ban on recruiting foreign labor remains in effect for unskilled, semi-skilled and even skilled workers”” (MPG, 2005: 10). While labor immigration may be discouraged on the grounds of already high unemployment rates, this makes the argument for integration policies that much stronger. The Federal Office for Migration and Refugees states that “[t]he aims of the integration projects are: to increase the skills of immigrants, to support the active participation of immigrants in social and political life, to improve the mutual acceptance of immigrants and locals and to prevent criminality, violence and addiction” ([http://www.integration-in-deutschland.de/nn\\_434460/SubSites/Integration/EN/03\\_Akteure/Integrationsprojekte/Zielgruppen/zielgruppen-node.html?\\_nnn=true](http://www.integration-in-deutschland.de/nn_434460/SubSites/Integration/EN/03_Akteure/Integrationsprojekte/Zielgruppen/zielgruppen-node.html?_nnn=true)). Arguably, if foreign nationals who already reside in Germany learn the German language they would be more likely to find gainful employment, contributing to industry and the economy and have an easier time integrating socially.

The ethnic Turkish population is especially targeted in integration policies because it is the largest ethnic minority group in Germany, totaling over 26% of all foreigners in Germany, and also because the overwhelming majority of this minority group is Muslim, compared to the mostly Christian ethnic German population (<http://www.auswaertiges-amt.de/diplo/en/Laenderinformationen/01-Laender/Turkei.html>). Targeting a specific religious or ethnic group can be tricky, but as ethnic Turks are the largest group, arguably, it is necessary. Certain private companies have taken on the challenge of integrating Islam into German civil society, making labor, education, and social integration easier and more accessible. The Robert Bosch Stiftung is a foundation created in the early 20<sup>th</sup> century by renowned philanthropist and entrepreneur Robert Bosch, which continues the work

he set out to do today. “The main focus is on local initiatives for successful integration, since living together takes place in people’s immediate living environment: in communities, associations, schools, job training, professional life and leisure activities” (<http://www.bosch-stiftung.de/content/language2/html/10768.asp>).

With generous support from the Robert Bosch Stiftung, individuals competed in a competition called “Besser Integriert” which is aimed at integrating Turkish youth through 26 different projects. The projects’ aims ranged from improving communication between immigrant and non-immigrant children and their teachers at primary school, to helping young girls and women in communicating with their families when it came to sports and leisure activities (<http://www.bosch-stiftung.de/content/language2/html/10768.asp>). “ ‘Working in the jury [members are primarily of Turkish descent, decide on which projects to support], we recognized that this competition has provided an instructive impression of the problems faced by people of Turkish descent with regard to successful integration” (RBS Jury member).

The MigrationEducation.Org organization is another private organization determined to make integration of young Muslims in Germany more successful. The group attributes social uncertainty among young Muslims to inter-generational and inter-cultural conflicts (Gaesmann, 2007). The group, along with the Robert Bosch Stiftung, argues that the most effective efforts at integration will require more schooling and vocational training, as well as “massive political efforts to battle poverty and to develop a sense of community and neighborhood. It will be necessary to boost investments in education, to improve the quality of day care centers and schools in deprived city quarters and to introduce early and intensive language training in day care centers of all kinds” (Gaesmann, 2007: 6). The work of the Migration Education Organization as well as foundation such as Robert Bosch Stiftung are imperative to successful integration of foreign immigrants and residents into the legal, social and economic communities of Germany.

While generally, it falls to the Federal Office for Migration and Refugees (BAMF) to oversee integration policies through private and public institutions, sometimes the German Laender take it upon themselves to implement integration policies. In 2006 controversy erupted in the German state of Baden-Württemberg because of a naturalization questionnaire. The questionnaire was for applicants for naturalization who were suspected of not truly committing themselves to German democratic principles. The so-called “conscience questionnaire” was an oral survey directed at Muslim minorities suspected of not truly accepting German societal principles. “Since January 2006, the municipal authorities have to use a naturalization questionnaire which encompasses 30 questions on the applicants’ political and personal attitudes. Officially, this questionnaire is only to be used if anti-constitutional tendencies are assumed however, according to a press release of the State Ministry of the Interior, it is ‘in general’ to be doubted that Muslims who verbally accept the constitutional principles are ‘really internally’ committed to them” (Raxen Bulletin). According to the Independent Race and Refugee News Network, individuals were “expected to answer up to thirty questions covering subjects such as religious freedom, equality of the sexes, homosexuality, promiscuity, freedom of expression and the concepts of honour and forced marriages. Questions asked include: 'Do you think a woman should obey her husband and that he can beat her if she is disobedient?'; 'What do you think of the fact that parents forcibly marry off their children?; Do you think such marriages are compatible with human dignity?'; 'Imagine that your adult son comes home and says he is homosexual and plans to live with another man. How do you react?'; 'Your daughter or sister comes home and says she has been sexually abused. What do you do as father/mother/brother/sister?'; 'What do you think if a man in Germany is married to two women at the same time?'" (<https://www.irr.org.uk/cgi-bin/news/open.pl?id=9952>). These kinds of questions are directed at those believed to have cultural values that would be incompatible with German cultural values such as religious tolerance.

According to *Quantara.de* a trilingual online magazine dedicated to encouraging dialogue between Islam and Western European Politics, Dr. Polat (2006) from the Hamburg Technical College writes:

“In this questionnaire, applicants are tested as to their religious tolerance as well as to their tolerance towards other ethnic groups and people with homosexual tendencies. In addition, they are asked to make clear their attitude to religiously motivated terrorism, to the issue of social and political equality and self-determination for women, as well as to possible culturally defined codes of honour, customs and traditions. The answers are noted down and given to the applicant to sign, so that the answers they have given can be referred to, if necessary, in future years. Following intense criticism on the part of Muslim organisations, as well as from political parties, it has been decided to modify the questionnaire, and to extend it to all immigrant groups. All the same, when the test was first introduced, it was justified as a response to what was seen as a purely “Muslim” problem. According to the interior minister of Baden-Württemberg, Heribert Rech, the questionnaire was needed because it could be assumed that, when Muslims stated their commitment to the German constitution, as all applicants for citizenship are required to do, the commitment did not match ‘their deepest convictions’” (p. 1).

If these applicants want to pass the “conscience test” it seems they must distance themselves from what the popular homogenizing misconception of Muslims is. This test was reportedly created to ascertain if the convictions of Muslim families (mostly Turkish) applying for German citizenship matched that of German democratic principles, because of an increase in domestic violence cases in Muslim families, particularly Turkish immigrant families, and reports of forced marriages of under-aged girls (Polat, 2006). The “conscience test” came out at a time of heightened fears of Islamic extremism within Western European countries,



following the 2004 bombing in Madrid and the 2005 bombing in London (Polat, 2006).

“Unsatisfactory achievement in schooling and vocational training, a high unemployment rate among the young and a lack of perspectives for the future, along with concentration in problem-ridden city quarters with high ethnic clustering, all present a hazard. This hazard is that Islamist organizations will exploit prevailing feelings of exclusion and marginalization in order to provide a new hope and an identity to disoriented youths without any perspectives for the future” (Gaesmann, 2007).

Responding to these heightened fears in a manner that homogenizes all believers of the Islamic faith as potential risks for national security, however, is counterproductive, often breeding resentment and reluctance to cooperate with immigration and naturalization processes.<sup>12</sup>

As an alternative to the controversial conscience tests, the mayor of Heidelberg flat out refused to introduce such a discriminating practice to the naturalization process. “Beate Weber (SPD), mayor of Heidelberg, has said that the city would not use the questionnaire because its requirement, to cast fundamental doubt on Muslim's loyalty to the German constitution, infringed the principle of equality enshrined therein” (<https://www.irr.org.uk/cgi-bin/news/open.pl?id=9952>). As previously discussed, the German naturalization test consists of questions that test the applicant's knowledge of German democratic principles. Testing the degree to which the applicant believes in or adheres to these principles is an arbitrary practice. Moreover, singling out Muslims for these questionnaires is undeniably discriminatory. An alternative could be to test the degree to which all citizens adhere to Democratic principles such as tolerance for homosexuality, and those that

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<sup>12</sup> In researching the “conscience test” questionnaire, I found excerpts from it in news publications, but the government of Baden-Württemberg has erased traces of the questionnaire from its public databases.

fail to reach a predetermined benchmark not only do not gain access to citizenship but lose their citizenship altogether. The more important issue that should be under discussion here is the democratic principle of 'freedom of speech'. It is in accordance with Democratic principles to hold a difference of opinion from other citizens, so the 'conscience tests' are effectively, albeit an offensive, opinion poll. Again, the naturalization test tests the applicant's knowledge of Democratic principles. Failure to demonstrate adequate knowledge of these principles results in not becoming a citizen; this seems reason enough for government officials to prohibit the use of 'conscience questionnaires'.

In late 2006 the practice of using these naturalization questionnaire was abolished, but not before making it clear, that oversight was necessary to assess German national integration policies. In 2007, the BAMF contracted a private company to assess the effectiveness of the integration courses.

#### *Ramboll Management Evaluation*

A recent evaluation of German integration policies by Ramboll Management<sup>13</sup> was commissioned by the BAMF in 2007 in order to ensure that these measures were consistent with EU policies on integration. Ramboll Management found that the integration courses were consistent with the stated goals of "providing support (through education) and demanding effort (the expectation that the participants reach the language level B1 in a foreseen time span and that they contribute to the financing of the course)"

([http://www.bmi.bund.de/cln\\_028/nn\\_148248/Internet/Content/Themen/Integration.html](http://www.bmi.bund.de/cln_028/nn_148248/Internet/Content/Themen/Integration.html)). Overall Ramboll Management found that the integration course was a well-organized resource available to applicants from the Federal State and is implemented successfully

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<sup>13</sup> Ramboll Management is a management consulting firm with services in international development, IT management and security, research and evaluation, data and survey analysis as well as a broad spectrum of assignments for the European Commission in specific European policy areas.

[http://www.bmi.bund.de/cln\\_028/nn\\_148248/Internet/Content/Themen/Integration.html](http://www.bmi.bund.de/cln_028/nn_148248/Internet/Content/Themen/Integration.html)).

Ramboll Management found that a large number of new immigrants signed up for courses since its introduction in 2005 but also large numbers of immigrants who had resided in Germany for years

[http://www.bmi.bund.de/cln\\_028/nn\\_148248/Internet/Content/Themen/Integration.html](http://www.bmi.bund.de/cln_028/nn_148248/Internet/Content/Themen/Integration.html)). Furthermore women account for over 60% of participants in the

integration courses, which the Federal Government considers a success. Specific programs for women have been implemented in order to successfully integrate them and their families which may account for the majority of participants being women. "There is a focus on subjects such as planning for the future, dealing with everyday situations, family, health, day-care for children and school. You will also have the opportunity to talk to other women and to make contacts (e.g. with authorities, institutions, clubs, schools, etc.). All projects for women are easy-access programmes. This means that you do not need any prior knowledge of the subject matter in order to attend" ([http://www.integration-in-deutschland.de/cln\\_092/nn\\_285372/SubSites/Integration/EN/02\\_Zuwanderer/Integrationsprojekte/integrationsprojekte-node.html?\\_nnn=true](http://www.integration-in-deutschland.de/cln_092/nn_285372/SubSites/Integration/EN/02_Zuwanderer/Integrationsprojekte/integrationsprojekte-node.html?_nnn=true)).

However, the evaluation found that immigrants who are on welfare were not motivated enough to sign up for courses, so Ramboll Management suggested obligatory attendance.

While in urban areas more classes were available that targeted specific groups such as women, youth or parents, this diversity in availability was not found in rural areas due to smaller numbers of registrants and educators. Ramboll Management suggested that this be improved in order to successfully reach more immigrants in rural areas

[http://www.bmi.bund.de/cln\\_028/nn\\_148248/Internet/Content/Themen/Integration.html](http://www.bmi.bund.de/cln_028/nn_148248/Internet/Content/Themen/Integration.html)).

While generally the evaluation was positive and found that the Federal Government was on the right track with its integration policies, it suggested seven fields of

improvement that would make the courses more effective. The fields of improvement included: implementing a compulsory final exam external to the institution teaching the course, providing a literacy course prior to language courses and making the language course system more flexible according to the needs of the participant, standardizing the orientation courses, increasing national coverage of course availability, creating course sustainability via embedding the courses with labor integration, and making some parts of the courses available online ([http://www.integration-in-deutschland.de/cln\\_092/nn\\_285618/SharedDocs/Anlagen/DE/Integration/Downloads/Integrationskurse/Kurstraeger/Sonstiges/abschlussbericht-evaluation,templateId=raw,property=publicationFile.pdf/abschlussbericht-evaluation.pdf](http://www.integration-in-deutschland.de/cln_092/nn_285618/SharedDocs/Anlagen/DE/Integration/Downloads/Integrationskurse/Kurstraeger/Sonstiges/abschlussbericht-evaluation,templateId=raw,property=publicationFile.pdf/abschlussbericht-evaluation.pdf)). Ramboll Management also included proposals for how to reduce the financial and administrative burden on the institutions responsible for these courses. Information on which elements and to what extent these recommendations have been implemented is not yet available.

### *Conclusions*

Faist (2007) argues that the CDU/CSU objections to dual nationality could be considered Republican based arguments citing the necessity of the individual's will; denying dual citizenship required the willingness of the individual to renounce his/her previous citizenship, which was tantamount to a loyalty oath to Germany (p. 58). In this regard, the position of the CDU/CSU was that it is the individual's responsibility to integrate, not the State's. According to this logic if one seeks naturalization, it is reasonable to expect that individual to comply with the requirements set forth by the State, such as successful completion of integration courses and renouncing former citizenships. The logic of CDU/CSU opposition to citizenship law reform was that granting naturalization without the requirement to renounce the former citizenship would discourage applicants from further societal integration. By requiring integration before naturalization, the CDU/CSU presumed that commitment to Germany and Democratic ideals would assure security and a benefit to the State. If naturalization occurs before integration, reform opponents

feared an increase in immigration in general, and a lack of commitment to the German State. “The opponents do not consider citizenship law as an appropriate instrument of integration. Rather, citizenship acquisition and political participation can be granted if social integration is brought to a close. Thus, the citizenship law has to contain reliable criteria, indicators of a comprehensive and successful social integration” (Faist, 2007: 64). In this model, citizenship comes only after one has proven adequate integration. In the German case, this equates to successful completion of the language courses to at least the B1 level, and general knowledge tests including German history, culture and politics. Additionally, in this construction of citizenship, where it is only granted after integration can be tested and proven, dual citizenship creates an ‘exit option’ essentially dissolving the incentive to integrate (Faist, 2007 & Green, 2004). The symbolic importance ascribed to terms like ‘loyalty’, ‘integration’, ‘value of citizenship’, and ‘national identity’ by the CDU/CSU petition campaign superseded the implications of slowing down reform (Green, 2004). Conversely, proponents for citizenship law reform (SPD/Greens) regard citizenship as the means by which individuals could enjoy “full legal and political inclusion” and as such “was viewed as both a moral question of equal and basic individual rights and a precondition of successful social integration” (Faist, 2007: 63). Moreover, they argued that naturalization – granting the legal status of citizenship – was a precondition for equality in order to maintain the basis of democracy (Faist, 2007). In this instance, terms like ‘loyalty’, ‘integration’, ‘value of citizenship’, and ‘national unity’ are enhanced by applying broader definitions of citizenship, to include the possibility for dual citizenship. The negotiations over citizenship law reform in the late 1990s revolved around whether to make the legal status of citizenship the reward or the catalyst for integration. The compromise that resulted in the 1999 Nationality law follows the logic that citizenship can only be achieved after successful integration is proven.

Faist (2007) argues that the compromise that resulted in the 1999 Nationality law is actually divorced from an ethno-cultural framework of citizenship and rather, is raised in a civic-republicanism model. He argues that because the discourse

objecting to citizenship law reforms was in the language of 'loyalty', 'national identity', 'citizenship virtue' and 'integration' the emphasis was on the duty of the individual to society. In this case, the duty towards society is the renunciation of previously held citizenships in order to prove loyalty to the State. "Immigrant integration and hence naturalization were viewed predominantly from the perspective of the state and centered on questions of loyalty and positive contributions of immigrants" (Faist, 2007: 68). I argue that the opposite is in fact true. The discourse surrounding the main issues addressed by the 1999 Nationality law, dual citizenship and immigrant integration only strengthen the ethno-cultural nature of restrictive citizenship laws.

The discourse surrounding these issues only strengthens the ethno-cultural nature of citizenship laws because it reifies the institutional practice of exclusion. "Not only did the three main political parties hammer out the asylum compromise among themselves, but the debates over *ius soli* between 1994 and 1998 took place almost entirely within the CDU/CSU parliamentary party" (Green, 2004: 107). Indeed, the petition campaign was initiated and carried out by the CDU/CSU, perpetuating the formalized context in which discourse over these issues took place. "It meant that there was no non-political constraint on the CDU/CSU's decision to use such an undoubtedly populist, and arguably high-risk, tactic in order to bring about policy change" (Green, 2004: 108). Moreover, integration policies and so-called conscience tests employed as part of the new Nationality law designed to ease naturalization processes actually exemplify the discriminatory nature of these laws. Integration policies directed at Turkish residents exploit cultural differences between the home and host countries, effectively distinguishing between desirable cultural practices (German) and undesirable cultural practices (Turkish). Conscience-tests, although abolished, demonstrate the danger of allowing the Laender to interpret the Nationality legislation requirements for adequate language skills as well as the best way to determine the constitutional loyalty of applicants. "Predictably, such criteria are interpreted more stringently by some states [including Baden-Wuerttemberg] than by others, but the net effect has been a very uneven pattern of implementation"

(Green, 2004: 107). Furthermore, the fact that exceptions to the 'no dual citizenship as a rule' exist for certain non-German residents (including EU citizens), but not for all, demonstrates this even further. If the Nationality law is to be non-discriminatory, than it should be applied equally to all individuals. The fact that EU law makes it easier for Germany to mark the distinction between EU citizens and third-country nationals, by requiring residency and political rights for all EU citizens no matter where they reside within the EU, makes it even more entrenched institutionally as it is then supported by a supranational governing body.

The new German Nationality law, while arguably less restrictive towards applicants for naturalization, reinforces institutionalized discrimination towards non-ethnic German residents. It does so because the discourse surrounding the issues were institutionalized and discriminatory in nature, and because the responsibility for enacting the new law remains with the State and her institutions which do nothing to change the inequitable access to citizenship.

Accepting that the State is sovereign, it is arguable that the State may therefore choose to define citizenship in a way that excludes a large portion of her society. However, Germany is not only a sovereign State, it is also a democratic state, and as such should be held responsible to ensure the implementation of democratic principles, including justice as fairness as a political conception. "Justice as fairness as a political conception for justice...draws upon basic intuitive ideas that are embedded in the political institutions of a constitutional democratic regime and the public traditions of their interpretation. Justice as fairness is a political conception because it starts from within a certain political tradition" (Rawls, 1985: 54). Because Germany is a democratic state we can begin with the principle that all persons are free. As such, John Rawls (1985) ascribes them with having at least two moral powers: one, the capacity for a sense of justice and two, the capacity to conceptualize 'good' (p. 60). The sense of justice refers to the ability to understand and act in the public conception of fair terms for social cooperation. The capacity to conceptualize 'good' refers to the ability to form, revise and pursue one's rational

advantage and in the case of social cooperation, the rational advantage for the public. For Germany, this means the praxis of justice as fairness as a political conception would first result in fair terms for ethnic Turks in accessing citizenship. Second, it would mean a revision of what is 'good' for social cooperation, including relaxing limits on dual citizenship. Democratic political principles such as justice as fairness ought to be encouraged, employed and institutionalized by the State in order to encourage citizens to adopt and adhere to the democratic values of the State.



## Chapter 5

### *Conclusions*

“This process [of increased immigration in Europe] exacerbates the conflict between the universalistic principles of constitutional democracies on the one hand and the particularistic claims of communities to preserve the integrity of their *habitual* ways of life on the other” (Juergen Habermans as quoted in Beiner, 2003: 22).

#### *Analysis of Results*

In this thesis I made the argument that German nationality laws have been restrictive excluding individuals on the grounds of an ethno-national self-understanding, and remain that way today. Although the new Nationality law of 1999 has eased some requirements for accessing citizenship, it still discriminates against Germany’s largest ethnic population on the basis of nationality. By examining this issue as a historical development against the backdrop of a large politically disengaged ethnic minority, I have demonstrated that the new citizenship legislation has only deepened the discriminatory nature of citizenship.

Given that citizenship laws in Germany have historically been discriminatory, the 1999 law could have been an opportunity for real reform. Instead, mired in the populist politics of conservative forces playing on ethno-cultural fears, the 1999 Citizenship law deepened the discriminatory nature of citizenship by institutionalizing stratification based on nationality. The petition campaign waged by the CDU/CSU emphasized the symbolic nature of loyalty, rather than the reality of exclusion. Instead of fostering a culture of civic virtue wherein citizens were encouraged to participate by the nature of being included as citizens, the new law created an obstacle course wherein the prize became the legal status of citizen. This demonstrates injustice in so far as that these hurdles do not apply to other Europeans. By placing third-country nationals on the periphery of citizenship, a hierarchy is structured on the basis of nationality. In Germany, because its largest ethnic minority population is made up of third-country nationals, citizenship

stratification is all the more evident. Over a quarter of its foreign population is thereby placed on the periphery of citizenship, and is done so on the basis of nationality. Thus, the 1999 citizenship law institutionalized discrimination based on nationality.

### *Summary of Chapters*

Chapter 1 introduced the issue of institutionalized discrimination in Germany, in particular as experienced by the large ethnic Turkish minority. I explained the situation of millions of ethnic Turks who reside in Germany with only some secure rights. As foreign residents they enjoy certain social rights, freedom of movement for labor purposes, but are denied political rights such as the right to vote. Not only are freedoms limited, but access to citizenship for millions of Turks is limited as well. Under the provisions of the new Nationality law residency requirements were shortened, but integration programs replaced lengthy requirements with citizenship depending on the successful completion of language and integration exams. Furthermore, dual citizenship is as a rule prohibited in Germany. However, this rule generally only applies to non-EU citizens seeking this privilege because EU citizens have no need to seek dual citizenship as they are guaranteed the same rights as Germans, both social and political. Therefore, this stratification of citizenship favors some foreign residents while discriminating against others.

Chapter 2 reviewed the historical developments of German citizenship laws from the early 19<sup>th</sup> century up until reforms in the 1990s following German reunification. German nationalism begins to take root in the revolutionary era of the late 1840s and in response to French nationalism and Napoleonic advances. Additionally, the Romantic Movement begins to identify German nationalism as organic historical and based on ethno-cultural roots. This results in citizenship laws in the early years of German unification under Prussian authority codifying Germans based on desirable attributes such as skilled labor and excluding undesirables such as Jews and Poles. By outlining the developments of nation-building projects in the late 1800s under Bismarck and their effects on citizenship codification, I provided

the historical roots for understanding citizenship law developments. I demonstrated the discriminatory nature of citizenship laws continuing from the early days of Germany up until the 1990s. Chapter 2 also discussed the main political parties' positions leading up to the new citizenship legislation in 1999 as an affirmation of the institutionalized discrimination illustrated by citizenship laws.

Chapter 3 reviewed Turkish immigration trends beginning in the 1950s, immigration demographics and then demographics of the current ethnic Turkish population in Germany. Highlighting the efforts of this one particular ethnic minority makes the case of discriminatory citizenship laws even more clear. German citizenship laws based on a community of descent and bloodlines excluded outsiders from becoming Germans. For the ethnic Turkish population that makes up over 7% of the total population and has resided in Germany for generation now, excluding them from German citizenship holds serious social and political implications. Chapter 3 affirmed the discriminatory nature of German Citizenship laws because of the way it overlooks the dynamics of the ethnic Turk population and its claims to equality under the law.

Chapter 4 described the events leading up to the passing of the new Nationality law. It explicates the differing party positions in the national legislature especially opposition to specific reforms such as easing residency requirements and dual citizenship. Chapter 4 explains how proposed reforms were too dramatically different for conservative parties in the Bundestag and how the eventual compromise between conservative and liberal parties resulted in the new Nationality law. Moreover, chapter 4 analyzes the implications of policies that stem from the new Nationality law including integration programs directed at Turks and Turkish youth. The fact that the discourse surrounding citizenship law reforms remained within the political parties in the national legislature establishes the institutionalized nature of these discriminatory policies.

### *Limitations of Research*

My research here followed the historical development of citizenship laws as well as the development of the Turkish population in Germany from labor migration to existing as a Diaspora. The most pressing limitation of my research is the language barrier between German and English. While I am conversationally fluent in German and can read and write basic German, German legalese is above my pay grade. Therefore, in doing my research, minutes from plenary sessions in the German Bundestag are difficult and time consuming for me to read. For a project of this size, some translation was necessary, but if I were to continue on with this research, it would require serious efforts on my part at fine-tuning my German language skills in order to translate even more documents. Moreover, documents and publications from German political parties require a level of understanding and background information that is above my level of comprehension. For this project I relied heavily on others' translations, which suffices for this research, but again, if I were to continue with this field of research, I would have to invest time and effort into my own translations.

Another limitation that I would point out as making this research more difficult is time that has elapsed since the passing of the 1999 citizenship law. This becomes a limitation, or an obstacle because then part of the project was to make the argument that this piece of legislation was still worth researching at all. I have attempted to make the argument that it is still valid research because some of the implications of this law have taken years to emerge. The implications of being forced to choose between two citizenships for Turkish youth is an under researched field. Being forced to choose between two citizenships leads to the possibility of psychological, cultural, and familial repercussions, not to mention effects on future living and employment opportunities. If an individual fails to make a choice by age 24 and his German citizenship is revoked, no policies exist to deal with this situation. Because little to no research has been conducted on the state of former citizens reduced to foreign residents, it limits the ability of my research to build a firm understanding of German-Turks today.

Nationality laws in Germany have historically been discriminatory, and the 1999 legislation is no different, as my research has demonstrated. However, I chose to focus on ethnic Turks for my research simply because they are the largest ethnic minority in Germany and as such provided me with the ability to highlight the hierarchical nature of the 1999 Nationality law. The structure of the 1999 legislation puts nationals and Europeans at the front of the receiving line, while leaving non-Europeans like ethnic Turks on the periphery. Given the historical development of the ethnic Turk population in Germany and the contributions this population has made to, above all, the German economy make the hierarchical structure unjust. Focusing my research on the way the 1999 Nationality law discriminates against ethnic Turks in Germany suffices for the size of this project, but also limits the research. All non-Europeans suffer the same discrimination, not only in Germany, but also all over the Union. For the size of this project, I simply could not give all the attention to the role of the EU, as I would have liked. However, this becomes an excellent topic for further research.

#### *Possibilities for Future Research*

The field of citizenship studies is full of research opportunities beyond what this thesis has done here. My research goal was to analyze the 1999 Nationality law to demonstrate how it further institutionalized discrimination against ethnic Turks. But future research could, for instance, focus on the transnational politics of Diasporas all over Europe. While some research does exist on transnational politics, analyzing those politics in the wake of the 1999 Nationality law could yield interesting results. European Union policies towards citizenship are a broad topic for further research that could include the various ways rights for long-term residents have emerged and their future trajectories. Additionally, my research provides context for a comparative study between citizenship in classic immigration countries, such as the U.S. and Europe in general or even Germany in particular. For my own research, I would continue the study of citizenship stratification as established by the European Union and Union member states' policies like Germany's. This could lead to a comparative analysis of Union member states'

policies towards third-country nationals. Citizenship stratification based on nationality is a field for further research that develops naturally from my research on Germany.

This topic of research holds special importance for me because of my own efforts at accessing German citizenship. Being born after 1975 and before 1990 to a German mother and an American father means that I am eligible to apply for dual citizenship in Germany. I have not lived in Germany since childhood and have not attended school in Germany, yet my claim to German citizenship puts me towards the front of the receiving line compared to third country nationals, such as ethnic Turks. Ethnic Turks living in Germany for generations, attending German schools, contributing to the German economy, but born to Turkish parents do not have the same claim to German citizenship that I do. In a democratic society, something is amiss with this situation. My research here has only added to my feeling of injustice and the need for further research toward affecting German and European citizenship policies.

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