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A Bridge or Barrier to Incorporation? Germany's 1999 Citizenship Reform in Critical Perspective

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Abstract: This article probes the consequences of Germany's 1999 citizenship reform as it pertains to the incorporation of immigrants. We maintain that the law's principled rejection of dual citizenship and related stipulation that children born into German nationality via the law's revolutionary *jus soli* provision choose between their German citizenship or that of their non-German parents between the ages of eighteen and twenty-three is unfair, potentially unconstitutional, and likely unworkable in administrative terms. We also argue that the decline in naturalization rates in Germany since 2000 is due to a combination of legal, administrative, and symbolic barriers in the law, as well as a lack of incentives for naturalization for immigrants from European Union member states and other rich industrialized countries. We believe that progress in the area of incorporation will require a shift in outlooks on the part of German political elites, such that immigrants are seen as potential members of a diverse community of free and equal citizens rather

than untrustworthy and threatening outsiders.

Keywords: citizenship; immigration; naturalization; immigrant integration

Germany's 1999 citizenship reform marked an important moment in the history of the Federal Republic. The legislation formally acknowledged Germany's transformation as a consequence of postwar migration, while also marking a significant break with the past through the introduction of *jus soli*, the principle by which citizenship is conferred to individuals born on a state's territory. According to its proponents, the reform would satisfy two longstanding objectives by both granting the children of immigrants born in Germany citizenship at birth and facilitating the integration of settled immigrants by liberalizing naturalization requirements. Advocates also emphasized the wider-ranging importance of the legislation. According to the leader of the Free Democrats (FDP), Guido Westerwelle, the new citizenship law would check the emergence of "social rifts." Similarly, Interior Minister Otto Schily described the new citizenship law as a "bridge ... that will allow us to incorporate [migrants] into our society."¹

This article explores the degree to which the 1999 citizenship reform has satisfied these expectations. We argue that the reform has fallen short of its objectives, both in terms of improving the status of children born in Germany of immigrant parents and facilitating the incorporation of settled immigrants into the German citizenry. These shortcomings in the law's results reflect the

inadequacy of its content: politically driven compromises that were necessary to pass the law have proven costly in terms of its performance.² In particular, the so-called *Optionsmodell* has qualified the integrative effects of *jus soli*. Furthermore, material and symbolic barriers, partly reinforced by ongoing conflicts about the scope and pre-conditions of immigrant incorporation, have resulted in significant shortcomings in regards to rates of naturalization. In the final analysis, the 1999 citizenship reform marks an important but still only partial step toward the incorporation of immigrants in Germany, a point made clear when one considers the slow pace of immigrants' political integration in the Federal Republic. Improving the integrative function of Germany's citizenship regime will require further changes to both policy and official attitudes toward immigrants.

Birthright Membership within Limits: The *Optionsmodell* and *Jus Soli*

One of the most troubling aspects of Germany's pre-reform citizenship law (the 1913 *Reichs- und Staatsangehörigkeitsgesetz*, RuStAG) was its near total reliance on *jus sanguinis*, the principle of descent. The absence of *jus soli* in Germany's nationality code gave rise to a vast cohort of second- and third-generation foreigners: children born in Germany but effectively (though not *de jure*) shut out of German nationality.³ Domestic and international critics of German citizenship policy thus targeted the law of descent in their demands for reform, pointing out both its inadequacy and unfairness in a society transformed by immigration.⁴ The intro-

duction of conditional *jus soli* in the 1999 *Staatsangehörigkeitsgesetz* (StAG) thus represented an important breakthrough in the annals of German nationality law.

There is no gainsaying the importance of the law in terms of changing patterns of citizenship attribution in the Federal Republic. The number of children born as foreigners in Germany has fallen dramatically since the implementation of the citizenship reform in January 2000. In 2006, for example, some 29,000 children were born in Germany with a non-German citizenship, while 39,000 children were born as German citizens of parents who were foreigners.⁵ While too many children of immigrants are still born without German citizenship, the fact that some 30,000-40,000 per year acquire their German nationality at birth marks an important achievement.⁶

That being said, the so-called *Optionsmodell* of the citizenship law (as set out in Section 29) limits the inclusionary thrust of its *jus soli* component. According to this clause, which was agreed to by the Social Democrats (SPD) to win the support of the opposition FDP and thus assure the passage of the Citizenship Act in 1999, children who acquire German citizenship through the principle of *jus soli* must declare whether they wish to retain their German citizenship or that of their non-German parents between the ages of eighteen and twenty-three. Failure to meet this requirement leads to the revocation of their German citizenship. Hence, children born and raised as German citizens must decide whether to retain this status by effectively rejecting their parents' nationality.

Like many political compromises, the *Optionsmodell* is inconsistent, joining as it does two incompatible principles: *jus soli* and

the formal rejection of dual citizenship.⁷ While this weakness was largely ignored through the early part of the 2000s, the coming of age of children born between 1990 and 2000 who fell under the terms of a transitional clause in the law has brought it sharply into focus. In 2008, 3,316 members of this cohort turned eighteen and will have until their twenty-third birthday to decide between their German citizenship and that of their parents. They will be joined by thousands more in the years to come. In 2018, some 40,000 young men and women born after the law took effect in 2000 will join the queue. This process will repeat itself in subsequent years, so that in a relatively short period of time hundreds of thousands of young men and women will be required to decide on whether to retain their German citizenship or that of their non-German parents.⁸

While research on the consequences of the *Optionsmodell* is unavailable, it is reasonable to assume that the message it sends to young German citizens of immigrant descent is less than encouraging. Unlike children born of German citizens, they alone are compelled to demonstrate their commitment to Germany through a conscious choice. Furthermore, the demand is not equally shared, as only children whose parents are both non-German are subject to it; the children of German/non-German couples need not declare their choice—their allegiance is assumed and their ability to manage the demands of dual citizenship, whatever they may be, is unquestioned. Similarly, children born of Swiss nationals and European Union (EU) citizens are exempted from the *Optionspflicht*.⁹

Given all this, there is widespread agreement that the *Op-*

tionsmodell is flawed. In her written opinion to the Bundestag's Interior Affairs Committee, jurist Astrid Wallrabenstein notes that the distinction the law draws between citizens whose dual citizenship is based on *jus soli* and those of binational (German/non-German) marriages runs counter to Article 3, subsection 3 of the Basic Law: "No person shall be favored or disfavored because of sex, parentage, race, language, homeland and origin, faith, or religious or political opinions." Wallrabenstein goes on to note that the *Optionsmodell* should in no way be used "as a kind of extended naturalization [procedure]." Citizenship granted via *jus soli* must be "genuine" citizenship and not simply "an entitlement" to the real thing.¹⁰

Wallrabenstein also notes that the *Optionsmodell* may contravene Article 6 of the Basic Law, concerning "marriage and the family," pointing out that under the terms of the law, several "absurd" outcomes are possible. For example, one or both parents of a child whose German citizenship came through *jus soli* may naturalize and thus become German nationals themselves. Indeed, they could even retain their former citizenship, if granted an exception under the rules for naturalization (here it is worth noting that around 50 percent of naturalizations allow dual citizenship). In the meantime, the couple's son or daughter would be forced to choose between his or her German or foreign nationality upon reaching the age of majority. Thus, the son or daughter may end up as an ex-German citizen, while his or her parents remain nationals of Germany and their former country.¹¹

Although Wallrabenstein is not alone in seeing possible con-

stitutional challenges to the *Optionsmodell*,¹² there is by no means a consensus among constitutional experts on this question. In his submission to the same Bundestag committee, Kay Hailbronner maintains the *Optionsmodell* does not raise any fundamental constitutional objections.¹³ Hailbronner, however, notes that the demand that citizens choose between their German and foreign nationality does raise a number of difficult administrative and legal questions. In particular, Hailbronner draws our attention to the fact that the *Optionspflicht* runs counter to the many opportunities created for the toleration of dual citizenship in Section 12. These difficulties extend into the area of EU law and policy. Going a step further, Enikő Horváth and Ruth Rubio-Marín point out that the “with- drawal of German nationality from certain young Germans would result in a loss of Union citizenship and its attendant rights for those whose other nationality is that of a third country.”¹⁴ This loss of EU citizenship may provide the grounds for a legal challenge to the *Optionsmodell* at the European level.

In spite of such constitutional and practical challenges, political actors differ fundamentally on what to do about the *Optionsmodell*. Whereas members of left-of-center parties (The Left, the Greens, the SPD) and migrant rights organizations believe it should be replaced with a more consistent and fair approach to dual citizenship, politicians on the right believe that the problem lies with the acceptance of *jus soli*.

In the absence of any other checks on the integration of children born in Germany of foreign parents, the *Optionsmodell* represents a weak but indispensable means of protecting the interests of German society.¹⁵ This strong Left-Right split is a carryover from the debates of the 1980s and 90s. In 1999, the SPD had supported a more consistent *jus soli* model, while the Christian Democratic Union (CDU) had opposed the reform altogether, arguing that citizenship should only be bestowed after migrants had fully integrated – regardless of whether they were born in Germany. The *Optionsmodell*, championed by the liberal FDP, was embraced by the SPD to win the support of the FDP in the Bundesrat and thus pass a modified version of their citizenship reform.¹⁶

The current CDU/CSU-FDP government has refrained from reopening the controversy. The Conservatives have quietly accepted the reformed citizenship law, as shown by the fact that neither their 2005 nor their 2009 election manifestos called for its abolition. But, the CDU/CSU-FDP government has also demonstrated that it is unwilling to reform the *Optionsmodell*, declaring instead that it will continue to monitor its implementation.¹⁷ Indeed, Integration Minister Maria Böhmer (CDU) defended the regulation, arguing that it provided an opportunity for young immigrants to express their attachment to Germany.¹⁸

Thus, ten years after the introduction of the new citizenship law, the future of the *Optionsmodell* is uncertain. Given the large number of children affected by the regulation, it is likely that political conflicts provoked by its creation of different statuses and standards of belonging and membership will intensify. Whether the

courts or legislatures will resolve these debates remains to be seen.

Naturalization: Opting for Inequality?

The years since the implementation of the citizenship reform have witnessed record numbers of naturalizations. Altogether 1,332,646 foreigners were naturalized between 2000 and 2009.¹⁹ Yet the role of the new law in this regard is ambiguous. Naturalization rates were already on the rise in the 1990s, albeit from a very low level of about 20,000 naturalizations in 1990. This was due to a number of factors, including the satisfaction of the existing residency requirement by a larger cohort of former guest workers, change in the orientations of immigrants away from their former home countries and more resolutely toward Germany, and the liberalization of naturalization procedures in the early 1990s. Under the terms of the 1993 “asylum compromise,” young immigrants received a right to naturalization after eight years of legal residence and no longer had to satisfy tests of assimilation, in the form of language and cultural requirements, in order to be granted citizenship. First-generation immigrants were also granted as-of-right naturalization after fifteen years of legal residence.²⁰ Surveys revealed increases in immigrants’ declared intentions to naturalize between 1994 and 1998; among Turks, close to half declared an interest in acquiring German citizenship during this period.²¹

Framers of the 1999 reform intended to go several steps further in signaling the German state’s interest in extending an invitation to foreign residents to naturalize.

They did so, in part, by reducing the residency requirement from fifteen to eight years. The decision appeared to bear fruit immediately, as naturalizations jumped to a historic high of 186,688 in 2000. Since then, however, numbers have fallen almost continuously, reaching a disappointing low of 94,470 in 2008, out of a foreign population of 6.73 million, of whom some 4 million are estimated to fulfill the residence requirement for naturalization.²²

We believe Germany's woefully low naturalization rate is due to a combination of material/procedural impediments and less tangible but perhaps even more important symbolic cues addressed to immigrants by members of the host society. Arguably, these barriers have outweighed the incentives which might otherwise encourage immigrants to naturalize, and denied others naturalization against their will.

What are the incentives? German state authorities emphasize political rights, including active and passive voting rights, and security of residence.²³ Additionally, they point to enhanced mobility rights and free access to the civil service and all professions. Access to the welfare state is not dependent on German citizenship, although in some cases dependence on benefits may endanger residence rights. The advantages achieved through the acquisition of German citizenship differ according to the previous status of the respective individuals. Generally speaking, EU citizens gain less than third country nationals. Precise information on the actual motivations of those who naturalize is limited. No systematic surveys of the newly naturalized have been conducted. The available evidence from surveys and qualitative studies

points at legal equality as the main motive for naturalization, including security of residence, freedom of travel, and political rights.²⁴

Discussions regarding the motivations and barriers to naturalization in Germany mostly center on the Turkish population. Indeed, those of Turkish citizenship are the largest single group among Germany's foreign population. In 2010, Turks accounted for approximately one quarter of Germany's foreign population. Among the newly naturalized, those with former Turkish citizenship are regularly the largest national group and, in 2007 and 2008, they accounted for about one quarter of all naturalizations. In relative terms, naturalization rates among the Turks are high;²⁵ however, their overall numbers have declined and continue to fall.

There is widespread agreement that for Turks, in particular, the requirement that immigrants give up their former citizenship when naturalizing constitutes a significant barrier.²⁶ This is especially true for the immigrants of the guest worker generation. Indeed, the SPD-Green government had intended to include a liberal toleration of multiple nationality in its citizenship bill to encourage the naturalization of former guest workers, but was forced to back down on this point after opponents of the reform catalyzed a sharply populist reaction against the *Doppelpass*.²⁷ Moreover, a loophole in the previous citizenship law, which allowed Turkish nationals to renounce their former citizenship for the purposes of naturalization in Germany and have it reinstated after they succeeded, was plugged by the 1999 reform.²⁸ Consequently, the naturalization rate for Turkish nationals has been disappointingly low since the intro-

duction of the 1999 reform.

Explanations highlighting the role of Germany's official rejection of dual citizenship are less convincing for immigrants from other countries. As a result of various exceptions and exemptions, dual nationality is now tolerated in about half of all naturalizations (though only for 16 to 18 per- cent of Turks).²⁹ As noted above, citizens of EU states have a right to retain their original citizenship,³⁰ as do Swiss citizens. Furthermore, the prohibition against multiple nationality may be waived for naturalization applicants over the age of sixty, recognized refugees, and individuals whose state of nationality does not allow them to revoke their nationality, or only concedes to this demand under "particularly difficult conditions including considerable (financial) disadvantage."³¹

Nevertheless, EU citizens and citizens of highly industrialized, politically allied states (such as the United States) naturalize at very low rates. In 2006, for example, 1,561 Italians became German citizens, as did 1,674 Greeks. More than two thirds only made this decision after they had lived in Germany for more than twenty years.³² Here it is worth noting that more than 500,000 Italians and almost 300,000 Greeks live in Germany, and that Italians and Greeks are among the five most numerous foreign nationalities in Germany. Taken together citizens of EU member states account for approximately a third of Germany's foreign population; hence, barring a sharp change from past practice, a significant proportion of long-term resident immigrants lacking fully equal rights will endure in Germany. In the case of immigrants from EU member states, low naturalization rates are primarily due to the relatively

small gains to be had from acquiring German citizenship.³³ For these “elite” migrants, post-national citizenship would appear to be a comfortable alternative to membership in the nation-state.

Conversely, naturalization rates have been relatively high for immigrants from other countries since the passage of the 1999 reform. Naturalization rates for immigrants from the former Yugoslavia doubled in 2000. For immigrants from Afghanistan, Lebanon, and Sri Lanka, figures were also clearly higher in 2000 than in previous years. Between 2000 and 2007, 66,500 Iranians became German citizens, a considerable share of the 116,000 Iranian citizens registered in Germany as of December 1999.³⁴ Here, the reduced residence requirement and the toleration of dual citizenship obviously cleared the way. Furthermore, immigrants whose country of origin suggests that they may have arrived as refugees have tended to opt for German citizenship at greater rates than others. It is plausible that the experience of persecution or civil war has weakened their former national loyalties. Refugees also make the decision to naturalize sooner than immigrants from guest worker countries. Given the insecurity of status experienced by refugees, an unquestioned right to live in Germany likely counts as an incentive for naturalization.³⁵

But even among groups largely made up of refugees, large shares remain foreign citizens. According to government estimates only 9, 10 and 14 percent respectively of Iranians, Iraqis, and Afghans entitled to apply in fact became German citizens in 2009.³⁶ In some cases falling naturalization rates are likely due to residence requirements. Many of today’s immigrants only entered Germany in

the 1990s. If civil war refugees or asylum seekers were not granted a stable residence status, they may not meet the conditions necessary to apply for citizenship. Thus, in 2008, of the 74,500 Iraqis living in Germany only about 17,700 were seen as eligible for naturalization.³⁷ Of this group, 24 percent naturalized.

Based on current legal status and first settlement in Germany, the government estimates that 4.3 million of Germany's 6.73 million foreigners could apply for German citizenship.³⁸ Altogether neither residence nor the denial of dual citizenship sufficiently explains why naturalization rates remain low. Low motivation plays a considerable part, as pointed out for non-German EU citizens who account for about one third of Germany's foreign population. But in order to further explain this situation, it is worth noting that the 1999 reform (with later amendments) maintained and even added several potentially exclusionary requirements, including:

- The demand that foreigners formally acknowledge the liberal-democratic character of German society, as set out in the German Basic Law.³⁹
- The capacity to provide a basic standard of living for oneself and one's dependents without recourse to state provided social assistance.
- The ability to demonstrate sufficient knowledge of the German language and (since 2008) Germany's political, legal and broader social order.

While the requirement that naturalization applicants accept the fundamental values set out in the Basic Law seems sensible enough, the clause has allowed officials to reject applications of members or activists of organizations they perceive as hostile to the constitution. Thus a member of The Left party, Jannine Menger-Hamilton, was denied naturalization because officials decided that the “programmatically-ideological orientation of [the] party [was] incompatible with the liberal-democratic basic order supported by the ... Basic Law. In particular, the party’s programmatic commitment to de-privatize companies and establish a democratic economic order [was] conceived as extremist”⁴⁰; this despite the fact that The Left is a member of governing coalitions in several Länder. Similar objections have been raised against immigrants belonging to other groups, including German Socialist Workers Youth and Milli Görüs.

The introduction of obligatory German language tests and a citizenship exam since 1 September 2008 have also raised concerns among critics of German citizenship policy. While defenders of the citizenship exam correctly point out that the overwhelming majority of those tested pass, others point out that the very prospect of taking the exam has a chilling effect, dissuading otherwise qualified applicants from applying for citizenship.⁴¹ Sarah Wallace Goodman maintains that the tests thus perpetuate an exclusionary model of citizenship.⁴² Similarly, Liav Orgad argues that the tests advance an illiberal, assimilatory approach to the regulation of membership at odds with Germany’s civic republican identity.⁴³

Perhaps most importantly, high rates of unemployment and welfare dependency among immigrants has meant that a significant share of the foreign population, possibly some 1.5 to 2 million persons, is rendered ineligible for naturalization according to the terms of the law, which excludes those dependent on longer-term unemployment benefits and social welfare.⁴⁴ In 2007, the range of those falling into this category was extended, as previously exempted young foreigners aged eighteen to twenty-three were also made subject to the income requirements.⁴⁵

Since denied applications for naturalization are not recorded, we lack the data to illustrate the precise effects of these provisions. There are also no figures on how the authorities use their discretion in deciding the fate of applicants on welfare that may request an exemption to the rule based on the claim that they are not responsible for their social situation.⁴⁶ But there are indications that the income requirements have significant effects. Based on survey data of the GSOEP for the 1990s, Janina Söhn found that foreigners with low incomes and recipients of benefits were equally, if not more, interested in German citizenship as those with higher incomes.⁴ For the naturalized Germans, however, it is sometimes observed that their social position is in fact higher than that of the average foreigner.⁴⁸ While this is often interpreted as an expression of a greater willingness on the part of more educated immigrants to assimilate, the composition of the naturalized may well be a result of the German state's selective naturalization policy.

Further, it is reasonable to assume that these provisions in the law act as deterrents.

Christian Dornis reports that potential applicants are regularly invited to an informal talk during which officials evaluate their chances before they submit an official application.⁴⁹ Upon learning of the requirements, potential applicants may well opt to save the not insignificant naturalization fee of EURO 255⁵⁰ concluding, rightly or wrongly, that their acceptance of social assistance makes them ineligible for German citizenship. Taken together, income requirements in the StAG may serve to select future citizens according to social class, compounding economically disadvantaged individuals' exclusion by hindering their access to political rights.

In addition to the material and administrative barriers noted above, discursive constructions of immigrants as threatening or otherwise unworthy of membership act as symbolic obstacles to their integration. It is worth remembering that the CDU and CSU strongly opposed the liberalization of Germany's citizenship law in 1999. Although the CDU in particular has in the past decade accepted the fact of past immigration and pushed for an intensified integration policy, immigration and the rights of immigrant residents remain contentious issues. Conservatives insist that naturalization should follow integration, often understood as cultural assimilation, and that high hurdles are thus appropriate. While conservative politicians have refrained from officially demanding a repeal of the citizenship reform, expressions of contempt towards potential new citizens are frequent.

Thus, after the 2005 election and the formation of a Grand Coalition with the Social Democrats, regional governments lead by the CDU introduced citizenship tests with questions clearly aimed at Muslims, in order to test their “genuine” acceptance of liberal democratic norms. In 2010 another debate erupted in which immigrants from Muslim countries were branded as unwilling and unable to integrate and fully accept “German” values.⁵¹ Again, the message sent to Muslim immigrants was negative; they could not be trusted.

Furthermore, discussions of highly-skilled immigration are often framed by a general argument suggesting that there are different sorts of immigrants, and those that had come to Germany in the past were a burden on the welfare state. Casting a whole group of people, in this case the guest workers whose efforts helped propel the *Wirtschaftswunder*, as a liability is surely no way to welcome them into a community of citizens. The continuing tendency to paint immigrants as threats to social cohesion due to their unwillingness or inability to adapt to German norms can only serve to “brighten” boundaries distinguishing “us” and “not us.”⁵²

Unfortunately, we lack the kinds of data that might allow us to confirm unequivocally the effects of these debates on the immigrant and minority population. The available evidence does, however, suggest that they are reasonable. Survey data from the GSOEP show declining intentions to naturalize after 2000. While almost 30 percent declared positive intentions in 2000, the respective share was down to 20.1 percent in 2006. Even assuming they could keep their former nationality, only 56 percent of Turkish respondents in 2002 said they would definitely or probably become German citi-

zens in the next two years.⁵³ Even assuming they could keep their former nationality, only 56 percent of Turkish respondents in 2002 said they would definitely or probably become German citizens in the next two years.⁵³ Furthermore, a study by the Bertelsmann Foundation reported that 21 percent of immigrants, and 31 percent of those with a Turkish background, agreed that they are often seen as outsiders.⁵⁴ At the same time, however, other survey evidence suggests that immigrants show a surprisingly high degree of confidence in the core institutions of German society.⁵⁵ A recent study of Muslims in Germany found no evidence of their withdrawal from interethnic contact, with only 10.6 percent of those surveyed expressing little or no attachment to Germany.⁵⁶ These results give lie to the oft-repeated claims that immigrants generally, and Turkish/Muslim immigrants in particular, are retreating into “parallel societies” animated by illiberal worldviews.

Taken together, these data tell a mixed story. On the one hand, immigrants in Germany have established important connections with their adopted country. On the other, such feelings of attachment appear to have fallen short of what is needed to encourage immigrants to take the further step of cementing their ties to the Federal Republic by becoming German citizens. This at least is true for those who voluntarily refrain from applying for German citizenship. For this group it is reasonable to conclude that the costs of naturalization, as measured in money, time, and stress, outweigh the benefits of citizenship. Furthermore, naturalization does not always follow a purely rational evaluation of costs and benefits. Emotional attachments to the new country also play a part. It stands to

reason that a Germany that repeatedly tells its immigrants that they are a burden on the welfare state and a threat to liberal values does not encourage the strengthening of such affective bonds. In sum, a combination of symbolic and material barriers, as well as low incentives for citizens of EU member states and other rich industrialized countries, have combined to keep naturalization rates relatively low.

Citizenship and Political Integration

We do not know what effects the new citizenship law has had on those who did opt to naturalize. As the effects of the law have not been systematically evaluated, there are no surveys that would provide the relevant data.⁵⁷ While the Microcensus includes information on the current social position of naturalized Germans, we cannot track the degree to which their acquisition of citizenship has affected their social trajectories. Good data on naturalized citizens' attitudes or rates of political participation are also scarce.

On the other hand, we can study how institutions and actors in the host society have responded to changes in citizenship policy and, in so doing, gain some insight into how changes in law have affected processes of incorporation. Political institutions are particularly useful in this regard. The cohort of potential voters with a "migration background," i.e., immigrants or the descendents of immigrants, has grown significantly over the last twenty years. On the occasion of the last federal election (held in September 2009), the Federal Election Commissioner estimated that some 5.6 million eligible voters fell into this category. This is close to 9 percent of a total electorate of 62 million voters.

Of this group, 2.39 million are categorized as naturalized former foreigners and 2.6 million as ethnic German immigrants.⁵⁸ A further 600,000 were born as Germans of at least one German parent.

This increase in the category of voters with a migration background has presented new challenges to political actors: How are these voters to be incorporated into political life? How might they be encouraged to participate? How might their support be elicited? The major political parties have responded to these challenges hesitantly.⁵⁹ To date, none of the parliamentary parties has a clearly defined strategy regarding immigrant voters, party members, and representatives. While Germany's political parties have expressed a desire to represent the population in its diversity, they have been slow to introduce measures aimed at reaching out to citizens with a migration background.

That being said, there are clear differences among the parties. The Left party, in particular, has noticeable numbers of immigrants on its candidate lists and clearly sees the immigrant electorate as a potential source of votes. It may well be that the votes of newly enfranchised immigrants, many of them trade unionists and possibly disappointed former Social Democrats, have contributed to the electoral successes of this relatively new party in some West German regions. The Green Party already had immigrants among its parliamentarians and representatives in the 1990s. According to party politicians, this was not the result of strategic calculations but mainly evidence of the ambitions of young Germans of immigrant background who encountered a relatively favorable environment in a relatively new and consistently pro-immigrant party.

The Social Democrats have only recently begun to support immigrant politicians' career aspirations and to compete for the immigrant vote. A decade ago, the SPD did not even have seated deputies with an immigration background in Berlin's state parliament. Now, Social Democratic factions on city councils increasingly include people of Turkish or other immigrant backgrounds. In election campaigns, the SPD has used the Turkish language media to reach potential supporters and has had election materials, such as leaflets, translated into Turkish and Russian.

While doubtlessly important and encouraging, these efforts remain limited and unsystematic. Several municipal councils in large German cities are still entirely made up of non-immigrant representatives. And the CDU and FDP, the parties currently in power at the federal level, still have few candidates with a migration background in elections and very few representatives in parliaments and city councils.⁶⁰ Altogether, immigrant representation ranges around 2 to 4 percent in German parliaments at different levels.

Conclusion

Further progress regarding political incorporation, and incorporation more generally, will require a more sustained commitment on the part of the German state to encourage and facilitate the naturalization of foreigners. This, in turn, will necessitate a more basic shift in outlooks, such that immigrants and citizens of immigrant descent are not seen as untrustworthy and threatening outsiders, but as valued members of a diverse community of free and equal citizens.

The obvious place to start in sending such signals of inclusion is with the young men and women who have already acquired their German citizenship by birth, and have been raised and socialized in the Federal Republic. Demanding that they validate their integration by compelling them to select their German citizenship over that of their parents is unfair and counterproductive. Not only does it threaten to create an administrative, legal and political quagmire, it also runs the risk of alienating hundreds of thousands of productive citizens needed to help meet the challenges of the twenty-first century. The message that ought to be sent to all citizens of immigrant descent, whether by birth or naturalization, as well as to legal residents who qualify for citizenship, is that they are valued members of German society whose entry into the sphere of national membership is desired. Moving in this direction may help restore some of the promise of the 1999 citizenship reform.

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Notes

1. Deutscher Bundestag, *Stenographische Berichte*, 40. Sitzung, 7 May (Berlin, 1999), 2292 and 3417.
2. On the political process leading up to the passage and implementation of the 1999 citizenship reform see Marc Morjé Howard's article in this volume and his *The Politics of Citizenship in Europe* (New York, 2009), chapter 6; Jürgen Gerdes, Thomas Faist, and Beate Rieple, "'We Are All Republicans Now': The Politics of Dual Citizenship in Germany," in *Dual Citizenship in Europe: From Nationhood to Social Integration*, ed., T. Faist (Aldershot, 2007); Simon Green, "Between Ideology and Pragmatism: The Politics of Dual Nationality in Germany," *International Migration Review* 39, no. 4 (2005): 921-952; Christian Joppke, "Mobilization of Culture and the Reform of Citizenship Law: Germany and the United States," in *Challenging Immigration and Ethnic Relation Politics: Comparative European Perspectives*, ed., R. Koopmans and P. Statham (Oxford, 2000); Andreas Klärner, *Aufstand der Ressentiments: Einwanderungsdiskurs, völkischer Nationalismus und die Kampagne der CDU/CSU gegen die doppelte Staatsbürgerschaft* (Cologne, 2000); Triadafilos Triadafilopoulos, *Becoming Multicultural: Immigration and the Politics of Membership in Canada and Germany* (Vancouver, 2012), chapter 5.
3. Naturalization was possible but dependent on long-term residence in Germany and adjustment to its culture and lifestyle. See Eli Nathans, *The Politics of Citizenship in Germany. Ethnicity, Utility and Nationalism* (Oxford, 2004), 245-246.

4. James Ingram and Triadafilos Triadafilopoulos, "Rights, Norms, and Politics: The Case of German Citizenship Reform," *Social Research* 77, no. 1 (2010): 353-382.
5. Additionally about 80,000 children of mixed German/non-German parentage were born in 2006. Statistisches Bundesamt, *Geburten in Deutschland* (Wiesbaden, 2007), 12-13.
6. See figures in Die Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration, 8. *Bericht der Beauftragten der Bundesregierung für Migration, Flüchtlinge und Integration über die Lage der Ausländerinnen und Ausländer in Deutschland* (Berlin, 2010), 588.
7. Gerdes, Faist and Rieple (see note 2).
8. Susanne Worbs, "Die Einbürgerung von Ausländern in Deutschland" (aus der Reihe "Integrationsreport", Teil 3), BAMF Working Paper 17 (Nuremberg, 2008): 27-28. It is estimated that 385,541 young Germans will be affected by the law up to the year 2026. See the figures in Die Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration (see note 6), 588.
9. Eniko Horváth and Ruth Rubio-Marín, "'Alles oder Nichts'? The Outer Boundaries of the German Citizenship Debate," *International Journal of Constitutional Law* 8, no. 1 (2010): 72-93, here 81.
10. Astrid Wallrabenstein, Stellungnahme im Rahmen der Anhörung des Innenausschusses des Deutschen Bundestages. Innenausschuss, A-Drs. 16 (4) 311 B (2007).
11. *Ibid.*
12. Reinhard Marx, Stellungnahme zu den Gesetzentwürfen des

- Bundesrates. Innenausschuss, A-Drs. 16(4)311 A (2007).
13. Kay Hailbronner, "Stellungnahme zu den Gesetzentwürfen des Bundesrates. Innenausschuss," A-Drs. 16(4)311 G (2007). Horváth and Rubio-Marín (see note 9), 81-82.
 14. See the speech by Reinhard Grindel (CDU) in *Plenarprotokoll Deutscher Bundestag*, 16/230 (2 July 2009): 25768-70.
 15. Gerdes, Faist and Rieple (see note 2); Triadafilopoulos (see note 2).
 16. *Koalitionsvertrag zwischen CDU, CSU und FDP* (Berlin, 2009): 77.
 17. Presse- und Informationsamt der Bundesregierung, Press Release No. 279 (24 June 2009).
 18. Statistisches Bundesamt, *Einbürgerungen 2009*. Bevölkerung und Erwerbstätigkeit. Fachserie 1 2.1 (Wiesbaden, 2010).
 19. As we note below, some of the requirements waived under the 1993 amendment to the RuStAG were reintroduced in modified form in the 1999 reform; see Ulrike Davy, "Einbürgerung in Deutschland—Blinde Flecken in einem Rechtsstaat," *Die Verwaltung* 41 (2008): 31-62.
 20. Janina Söhn, *Die Entscheidung zur Einbürgerung. Die Bedeutung von Staatsbürgerschaft für AusländerInnen in der Bundesrepublik Deutschland - Analysen zu den 1990er Jahren* (Saarbrücken, 2008), 81-83, 86.
 21. Worbs (see note 8), 28. In 2009 and 2010 naturalization figures rose again but at 101,600 in 2010 remained low.
 22. See for example, einbuengerung.rlp.de/Vorteile; www.hamburg.de/Vorteile; accessed on 30 January 2012.

23. Ausländerbeauftragte des Landes Niedersachsen, *Einbürgerungsabsichten. Ergebnisse einer repräsentativen Umfrage zu Einbürgerungshemmnissen in Bremen, Hamburg und Niedersachsen* (Hannover, 2001); Faruk Sen, Martina Sauer and Dirk Halm, *Intergeneratives Verhalten und (Selbst-)Ethnisierung von türkischen Zuwanderern*. Gutachten für die Unabhängige Kommission "Zuwanderung" (Essen, 2001), 102-109; Tanja Wunderlich, *Die neuen Deutschen: subjektive Dimensionen des Einbürgerungsprozesses* (Stuttgart, 2005), 113-125; Kathrin Prümm, *Einbürgerung als Option. Die Bedeutung des Wechsels der Staatsangehörigkeit für Migranten türkischer Herkunft in Deutschland* (Münster, 2004), 124, 278-89.
24. See Claudia Diehl and Michael Blohm, "Rights or Identity? Naturalisation Processes among 'Labour Migrants' in Germany," *International Migration Review* 37, no. 1 (2003): 133-162, for an argument emphasizing the relatively high naturalisation rates among Turks.
25. "Nur wenige Türken wollen deutschen Pass," *Der Tagesspiegel*, 11 July 2007; Dietrich Thränhardt, *Einbürgerung. Rahmenbedingungen, Motive und Perspektiven des Erwerbs der deutschen Staatsangehörigkeit* (Bonn, 2008), 12.
26. Alice Holmes Cooper, "Party Sponsored Protest and the Movement Society: The CDU/CSU Mobilizes Against Citizenship Law Reform," *German Politics* 11, no. 2 (2002): 88-104.
27. Green (see note 2).
28. Die Beauftragte der Bundesregierung für Migration, Flücht-

linge und Integration (see note 6), Table 15.

29. § 12 Abs. 2 StAG, regulations were changed in 2007. In 2004, the Federal Administrative Court had decided that EU foreigners could, on a reciprocal basis, retain their original nationality upon naturalization in Germany. Reciprocity is no longer required.
30. Horváth and Rubio-Marín (see note 9), 79; *Vorläufige Anwendungshinweise des Bundesministeriums des Innern vom 19. Oktober 2007 zum Staatsangehörigkeitsgesetz in der Fassung des Gesetzes zur Umsetzung aufenthalts- und asylrechtlicher Richtlinien der Europäischen Union vom 19. August 2007* (BGBl. I S. 1970): 37-41.
31. Statistisches Bundesamt, *Bevölkerung und Erwerbstätigkeit. Einbürgerungen 2007* (Wiesbaden, 2009).
32. Apart from that, access to some protected occupations may become easier with naturalization, although officially EU citizens already enjoy full equality in the labor market. Residence can be an issue for EU citizens who receive longer-term prison sentences and can be expelled.
33. Worbs (see note 8), 47.
34. Germany increasingly revokes refugee status arguing, for example, that a civil war is over and former refugees can now return "home."
35. Statistisches Bundesamt, Press Release 225, 29 June 2010.
36. The Statistisches Bundesamt calculates a naturalization quota based on the number of those with a legal status and fulfilling the residence requirement. According to its statistics, the 4,229 Iraqis who in 2008 acquired German citizenship represented 23.8 per- cent of those eligible, Press Release 223, 12 June 2009.

37. Deutscher Bundestag. Drucksache 16/13558, *Antwort der Bundesregierung auf die Große Anfrage der Fraktion Die Linke: Staatsangehörigkeitsrecht und Einbürgerungspraxis als Maßstab der Integrationspolitik* (Berlin, 2009), 12-13. Yet, as this estimate ignores periods that do not count towards the minimum residence requirement, e.g., as tolerated refugees, actual numbers of those who could claim German citizenship may be lower.
38. This phrase is often meant to refer to a particular interpretation of the constitution. It was commonly used to justify the exclusion of left-wingers from the civil service in the 1970s and 1980s.
39. Anuscheh Farahat, "Germany: Denial of Naturalisation on Grounds of Ideological Orientation," European Union Democracy Observatory on Citizenship (EUDO) 2010, available at <http://eudo-citizenship.eu/citizenship-news/257-germany-denial-of-naturalisation-on-grounds-of-ideological-orientation>; accessed 30 January 2012. Menger-Hamilton's naturalization application was approved in March 2010, 867 days after it was submitted. See "Links und deutsch geht doch," *taz.de*, 18 March 2010; available at <http://www.taz.de/1/politik/deutschland/artikel/1/links-und-deutsch-geht-doch/>; accessed 30 January 2012.
40. Deutscher Bundestag (see note 38), 53 ; Falk Lämmermann, "Einbürgerung—Aktuelle Entwicklungen und Perspektiven," *Zeitschrift für Ausländerrecht und Ausländerpolitik* 9 (2009): 289-296. On the contents of the test see Ines Michalowski, "Citizenship Tests in Five Countries—An Expression of Political Liberalism?" *WZB Discussion Paper* (Berlin, 2009), and Ricky

van Oers, "Citizenship Tests in the Netherlands, Germany and the UK," in *A Re-definition of Belonging? Language and Integration Tests in Europe*, eds., R. van Oers, E. Ersbøll, and D. Kostakopoulou (The Hague, 2010).

41. Sarah Wallace Goodman, "Integration Requirements for Integration's sake? Identifying, Categorising and Comparing Civic Integration Policies," *Journal of Ethnic and Migration Studies* 36, no. 5 (2010): 753-72, here 762.
42. Liav Orgad, "Illiberal Liberalism: Cultural Restrictions on Migration and Access to Citizenship in Europe," *The American Journal of Comparative Law* 58 (2010): 53-106, here 70.
43. In 2007, the unemployment rate among foreigners was 20 percent or 560,000. In 2007, 1.53 million foreigners received so-called *Mindestsicherungsleistungen*, i.e., social welfare or asylum seeker benefits. See Die Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration, *Integration in Deutschland. Erster Integrationsindikatorenbericht* (Berlin, 2009), 76, 89. Both groups overlap, so that we do not have the exact number of the individuals concerned.
44. Gesetz zur Umsetzung aufenthalts- und asylrechtlicher Richtlinien der Europäischen Union vom 19 August 2007 (BGBL. I S. 1970). For discussion see Davy (see note 20).
45. The federal government has no knowledge on the actual practice, see Deutscher Bundestag (see note 38): 38. The German federal structure allows a considerable variation in the implementation of federal laws, responsibility over which lies with the Länder. Experts disagree on the extent to which differences in naturalization rates across Länder are due to relatively more

liberal or more restrictive practices or the result of differences in the composition of the immigrant populations. See Thränhardt (see note 26), 21-26; Christian Dornis, "Einbürgerung in Deutschland: Eine vergleichende Untersuchung zur Verwaltungspraxis in verschiedenen Regionen," *Demographie aktuell* no. 15 (Berlin, 1999).

46. Söhn (see note 21), 96-7, 111.
47. Wolfgang Seifert, "Eingebürgerte als 'neue' Zuwanderungsgruppe am Beispiel von NRW" in *Neue Zuwanderungsgruppen in Deutschland. Materialien zur Bevölkerungswissenschaft*, Vol. 118, ed., F. Swiaczny and S. Haug (Wiesbaden, 2006). Kurt Salentin and Frank Wilkening, "Ausländer, Eingebürgerte und das Problem einer realistischen Zuwanderer-Integrationsbilanz," *Kölner Zeitschrift für Soziologie und Sozialpsychologie* 55, no. 2 (2003): 278-298.
48. Dornis (see note 46), 22.
49. The fee was a more affordable EURO 55 under the terms of the circa 1993 RuStAG.
50. The debate was spurred by the publication of Thilo Sarrazin's *Deutschland schafft sich ab. Wie wir unser Land aufs Spiel setzen* (Munich, 2010) and dominated the German press in October 2010.
51. Aristide R. Zolberg and Litt Woon Long, "Why Islam is Like Spanish: Cultural Incorporation in Europe and the United States," *Politics and Society* 27, no. 1 (1999): 5-38.
52. See Worbs (see note 8), 29, 34.
53. ["i]ch werde von vielen als Fremder betrachtet". *Zuwanderer in Deutschland. Ergebnisse einer repräsentativen Befragung*

von Menschen mit Migrationshintergrund, durchgeführt durch das Institut für Demoskopie Allensbach im Auftrag der Bertelsmann Stiftung (Gütersloh, 2009): 45. Ibid., 35.

54. BAMF (Bundesamt für Migration und Flüchtlinge), *Muslimisches Leben in Deutschland*. Im Auftrag der Deutschen Islam Konferenz (Nuremberg, 2009), 275-6, 298, 391. In another study (*Zuwanderer in Deutschland* [see note 54], 43-4) among immigrants 18 percent agreed with the statement "Ich fühle mich Deutschland nicht besonders verbunden." These groups may include short-term residents.
55. But see attempts to evaluate effects e.g. by Max Steinhardt, "Does Citizenship Matter? The Economic Impact of Naturalizations in Germany," *HWWI Research Paper* (Hamburg, 2008), 3-13.
56. Der Bundeswahlleiter, "5,6 Millionen Wahlberechtigte mit Migrationshintergrund," Press Release No. 59, 11 September 2009 (Wiesbaden, 2009). Estimates of immigrant voters are based on Microcensus figures. It is highly probable that in the Microcensus a significant number of ethnic Germans are counted as naturalized foreigners. For example, this latter group includes 163,000 former Poles who were naturalized before 1990. At that time, very few Poles, apart from those recognized as ethnic German, could have met the naturalization requirements.
57. See for example Karen Schönwälder, "Einwanderer in Räten und Parlamenten," *Aus Politik und Zeitgeschichte*, no. 46-47 (2010): 29-35. Karen Schönwälder, "Cautious Steps. Minority Representation in Germany", in *Immigrant Politics: Race and Representation in Western Europe*, eds. Terry Givens

and Rahsaan Maxwell (Boulder, 2012).

58. A study of the situation in the seventy-seven large cities of Germany, conducted by the Max Planck Institute for the Study of Religious and Ethnic Diversity, found twenty-seven conservative councilors with a migration background among a total of 1,477, and eight among the 350 liberals. See Karen Schönwälder, Cihan Sinanoglu, Daniel Volkert, *Vielfalt sucht Rat. Ratsmitglieder mit Migrationshintergrund in deutschen Großstädten* (Berlin, 2011).