



WHAT DOES IT MEAN TO BE A GERMAN? A LOOK AT CHANGES IN THE FEDERAL REPUBLIC OF GERMANY'S CITIZENSHIP LAWS

Jau-Yon Chen, Ph.D.

Howard University, Washington D.C., United States of America

Abstract

Germany, once one of Europe's most homogenous countries, has become one of the most diverse since the 2000s. The question of "What does it mean to be a German?" has been a topic of intense discussion and debate among all sectors of German society. Hence, how does this nation, which once prides itself on its racial and cultural homogeneity, adapt to the dramatic changes in demographic composition along with concepts of citizenship? This paper will explore the dynamics behind the conceptual shift of German citizenship, from *Ius Sanguinis* (citizenship by ancestral heritage) to *Ius Domicilii* (naturalization after meeting citizenship requirements) by addressing the following topics: conceptual framework of German citizenship, Germany's immigration history, difficulties of procuring German nationality, and changes in this country's citizenship law, especially under Gerhard Schoeder's government. Finally, the paper concludes by answering the question of what it means to be a German in present-day Germany.

Keywords: Germany, Citizenship, Immigration, National Identity, and European Union.

Introduction

What is a German? What does it mean to be a German? These two questions are the current main topics of discussion and debate among politicians, scholars, and the general public in Germany. Like all Western industrialization nations, the Federal Republic of Germany (FRG) has become a multiracial and a multicultural country. However, it did not recognize itself as such until 1998. Until the late nineties, a large number of non-European Union immigrants and their descendents have been politically and even socially excluded from the mainstream German society due to the difficulties of becoming a naturalized German citizen. To better integrate these immigrants and to address the changes in the notion of national identity after reunification in 1990, a series of changes have been made to the country's original citizenship law that dates back to 1913. In spite of the restrictive immigration policies and the difficulties of procuring German citizenship for non-ethnic Germans, Germany has already become a racially and an ethnically diverse nation like the United States since the 1960s.

This paper will examine the forces behind the changes in the FRG's strict citizenship laws since 1990 as well as look at the factors that have transformed Germany from a homogenous to one of the most heterogeneous European nations. The paper is divided into six sections. The first provides a conceptual framework behind Germany's citizenship laws, the second gives a brief historical background on immigration to Germany, the third discusses the legal obstacles of becoming a naturalized German citizen, the fourth looks at the economic, political, and social factors that make naturalization difficult, the fifth examines the forces that have led to changes in the citizenship laws, and finally, the concluding section talks about the current trend towards multiculturalism and the new definition of being a German.

II. Conceptual Framework of German Citizenship

Traditionally, the legal along with the social and cultural definitions of a German have always been 'someone born to ethnic German parents anywhere in the world' (Mattox, Oliver, and Tucker 1999: 165). This definition is based on the folk/ethnic model of citizenship, which uses the principle of *Ius Sanguinis* (citizenship by ancestral heritage) as the main criteria for defining and for granting nationality. Lamentably, under this model, immigrants and members of non-dominant ethnic groups are usually excluded from citizenship and from political membership as well (Baldwin-Edwards and Schain 1994: 11). Technically, in Germany, "a person could be born, work, and die on German soil without ever becoming a German citizen" (Gokturk, Gramling, and Kaes 2007: 3).

On the other hand, an *Aussiedler* (an ethnic German from abroad) is automatically entitled to German citizenship if he or she could somehow prove German ancestry. However, in addition to *Ius Sanguinis*, German citizenship could also be acquired through *Ius Domicilii*, which is naturalization under certain conditions after residing in the country for a certain period of time (Kurthen 1995: 930). The *Ius Sanguinis* and the *Ius Domicilii* principles behind Germany's citizenship laws reflect two types of naturalization: entitled and discretionary. Entitled naturalization applies to ethnic Germans, children adopted by German parents, and foreign spouses of German citizens while the discretionary one applies to immigrants (Kurthen 1995: 931).

III. Background on Immigration to Germany

As declared by the Christian Social Union (CSU), one of Germany's major conservative parties, in 2004: 'Germany is not a classical country of immigration, and because of its history, geography, and economic conditions, it cannot be one' (Gokturk, Gramling, and Kaes 2007: 4). This declaration explains the country's application of the folk/ethnic model as the principle for its citizenship laws. In general, this model is used by countries without prior colonial histories or by those that do not utilize the republican and multicultural approaches of granting citizenship by birthplace (Baldwin-Edwards and Schain 1994: 12). With the exceptions of mass internal and external migrations throughout the present day

national territories of Germany, Eastern Europe, and the former Soviet Union due to territorial expansions by various empires, the two World Wars, and the Soviet occupation of the former Eastern Bloc; non-European immigration to Germany is a relatively new phenomenon compared to traditional countries of immigration like Canada or Australia (Gokturk, Gramling, and Kaes 2007: 5-9). The pattern of non-European immigration to Germany started after World War Two with generous asylum policies to amend for its wrongdoings during the Second World War and with the recruitment of thousands of guest workers, known as *Gastarbeiters*, from countries within and outside of Europe to fulfill the labor shortages for its booming economy during the 1950s. Under the *Gastarbeiter* policy, guest workers were allowed to stay in Germany for between one to three years and then return to their home countries afterwards as stipulated in the bilateral labor agreements (Kurthen 1995: 922-924).

However, many recruited guest workers did not return to their countries of origin after their contracts had ended. Instead, millions of them ended-up staying and became Germany's permanent residents. Contrary to government expectations, mandatory departure after the labor contracts had come to an end were never strictly enforced as businesses ignored the repatriation policies. In the long-run, it was costly for companies to re-hire and re-train workers after the ephemeral guest worker agreements had ended. Additionally, German labor unions also wanted long-term contracts for foreign workers to avoid the creation of a two-tiered labor system. Most of all, the long work hours and the arduous labor performed by guest workers for lower wages and less benefits had allowed German workers to enjoy shorter work weeks and longer vacations. Consequently, these circumstances had turned the *Gastarbeiters* into unexpected permanent residents (Mattox, Oliver, and Tucker 1999: 166; Gokturk, Gramling, and Kaes 2007: 10). Between 1960 and 1973, approximately eighteen to nineteen million guest workers came to Germany, and around four to five million of them had stayed (Kurthen 1995: 922).

According to Germany's 2005 micro census, approximately fifteen out of the country's eighty-two million inhabitants were of non-ethnic German origin. This figure also includes 6.76 million non-German nationals (Gokturk, Gramling, and Kaes 2007: 5). Within the immigrant population, about sixty percent of them have lived in Germany for ten or more years and around twenty-five percent have resided for twenty or more years (Mattox, Oliver, and Tucker 1999: 170). Despite having a sizeable immigrant population, Germany has one of the lowest naturalization rates within the European Union. For example, approximately 900,000 Turkish residents were eligible to apply for Germany's 'discretionary' citizenship. However, less than one percent (8,166 out of 900,000) had applied for German citizenship between 1973 and 1986 (Gokturk, Gramling, and Kaes 2007: 157). This rate is also reflected in a 1991 data comparing naturalization rates in Western Europe. Germany had the lowest at 0.5% in comparison to France at 2.7% and Sweden at 5.6% (Baldwin-Edwards and Schain 1994: 193).

IV. Legal Obstacles to Becoming a German Citizen

Germany's low naturalization rate illustrates the strict criteria and the rigorous processes that non-ethnic German applicants need to go through in order to procure a German passport. According to Section 8 of the 1913 Empire and State-Citizenship Law (still used by the Federal Republic of Germany when it was established in 1949):

a foreigner who has settled in a federal state can be naturalized by the federal state per application when he is legally competent according to the laws of his previous homeland or would be according to German laws, has lived a morally upright life, has found his own dwelling or residence in the area of his settlement, and is able to care for himself and his family according to the circumstances prevalent in his chosen area (Gokturk, Gramling, and Kaes 2007: 154).

Additionally, Section 8 also stipulates that "prior to naturalization, requirements two to four (living a moral life, having adequate housing, and being able to support oneself) must be discussed by the community of the area of settlement" (Ibid 2007: 154). Furthermore, there are no nationwide, standardized naturalization procedures even until the mid-2000s as decisions to grant citizenship are determined by individual states rather than by the federal government. Therefore, applicants often have to face arbitrary and ambiguous procedures in their application process. The underlying purpose of not having standardized naturalization procedures is not to artificially increase the number of German citizens since after all, Germany is not 'a country of immigration' (Ibid 2007:151 and 158).

In addition to the stringent criteria and the arbitrary procedures, Germany's prohibition of dual citizenship is the main reason why many immigrants who are eligible for German citizenship are hesitant to apply. It is mandatory for applicants to relinquish their previous nationality in order to successfully complete the naturalization process. Besides emotional and cultural ties to their home countries, immigrants are reluctant to renounce their given nationalities because they do not want to lose their legal rights or face problems when they visit their countries of origin. Furthermore, the widespread xenophobia along with the reluctance of Germans to accept non-ethnic German immigrants as their fellow compatriots is another key factor in many immigrants' decision of not applying for citizenship as they feel that becoming German citizens will not mitigate the racial discrimination that they encounter on a daily basis (Ibid 2007: 157; Baldwin-Edwards and Schain 1994: 194).

Since 1990, the German Parliament has continuously reformed the country's 1913 German Citizenship Act to reflect the demographic changes within German society. For instance, the Reformed Alien Law passed on July 7th, 1990 and enacted on January 1st, 1991 reduced the naturalization fee from three thousand to sixty US Dollars (Kurthen 1995: 933). Further changes were made to the German Citizenship Act in 1999. The changes to this act, which took place in 2000 include: temporary dual citizenship for children of immigrants born in Germany until they have reached the age of twenty-three, reducing the legal residency requirement from fifteen to eight years, making naturalization procedures more coherent and adding the *Ius Soli* (citizenship by birthplace) principle to grant automatic citizenship to those who were born in Germany and have at least one parent who have legally resided in Germany for eight or more years. These changes symbolize the end of the guest-worker ideology towards non-ethnic German immigrants. It also simultaneously closed the contentious debate on whether Germany is a nation of immigrants or not by establishing an Independent Commission on Immigration (Rotte 2000: 381-382; Gokturk, Gramling, and Kaes 2007: 152-153). But, these reforms have not changed the fundamental principles underlying the 1913 Citizenship Act because the overall naturalization

process still remains cumbersome as applicants need to pass a German language proficiency test, submit twenty-two separate documents ranging from diplomas to parents' marriage certificates, and endure waiting periods of one or more years for the approval of required documents (Catterall 1993; Montgomery 1999).

V. Other Factors: Political, Economic, and Social

Besides the tedious bureaucratic procedures, there are also other political, economic, and social factors that make naturalization difficult for non-ethnic Germans. Politically, the two main conservative political parties: the Christian Democratic Union (CDU) and the Christian Social Union (CSU) along with right-wing parties like the Republic have opposed easing the naturalization procedures in order to undermine the liberal parties' [the Social Democratic Party (SPD) and the Green Party] efforts to recruit naturalized citizens as their electorates. Additionally, the right-wing parties have even played on and increased the German public's xenophobic fears to advance their political agendas (Baldwin-Edwards and Schain 1994: 52 and 56).

Economically, immigrants are seen as competitors for jobs and social services while asylum seekers are viewed as welfare cheaters, especially after German reunification. Unemployment rates were and still are high in the former East Germany and the more affluent West Germany had to bear an onerous financial burden of rebuilding the country's eastern part. Also, there are some native Germans who are reluctant to share welfare benefits with immigrants (Clark and Legge 1997: 902; Baldwin-Edwards and Schain 1994: 61; Kurthen 1995: 924). Moreover, there are financial costs involved (about 235 million euros per year) for the federal government to establish integration programs that offer language and cultural courses to facilitate the social assimilation of non-EU immigrants into German society, which is a first necessary step to becoming a German citizen (Gokturk, Gramling, and Kaes 2007: 190).

Socially, there are still a sizeable number of Germans that believe Germany is for Germans only and are not willing to accept naturalized non-ethnic Germans as fellow citizens. This mentality is echoed by the right-wing parties: the Republic and the German People's Party, which promulgated that "Germany is and must remain an 'ethnic German state'" (Mattox, Oliver, and Tucker 1999: 168). According to Clark and Legge's study, ethnocentrism, in the forms of overt or averse racism, rather than economic self-interest is the main reason for native Germans not wanting immigrants to have the same civil and social rights (Clark and Legge 1997: 913). Emotionally, many Germans are not willing to accept the fact that their country has become a nation of immigrants like the United States or New Zealand (Kurthen 1995: 923-924).

Furthermore, some were scared that the presence of non-European, especially Muslim immigrants would undermine the country's ethnic and religious uniformity and threaten Germany's national unity and democratic values. They feel that even if Muslim immigrants have become permanent residents and naturalized citizens; they could never fully assimilate into German society as their religion is hostile to Europe's Judeo-Christian foundations (Baldwin-Edwards and Schain 1994: 129). Many native Germans also feel uncomfortable with more non-ethnic German immigrants becoming naturalized as "new citizens-up to three million of them-will bring their relatives from Turkey, Poland and Hungary, submerging Germany in a new wave of immigrants" ("What is a German?"). These sentiments are furthered illustrated in the following comments about non-EU immigrants by two native Germans. Michael Meier, a mechanic residing in a Berlin neighborhood with a large Turkish immigrant population said that 'If I think of someone as a foreigner, then they should stay a foreigner' (Montgomery 1999), and his friend, Helmut Jansen further added 'A Turk or an Albanian will always remain a Turk or an Albanian' (Ibid 1999).

However, in addition to the unwillingness of some native Germans to accept immigrants as German nationals, there are also some Muslim immigrants who are not willing to assimilate into the German society either. For instance, some Muslim communities have isolated themselves from the mainstream German society by forming their own ethnic schools, associations, chain stores, and marriage agencies (Wingen 1995: 715). Irina Wiessner, the author of a news article titled "Conservative and Manipulated" points out that there is a large number of first generation Turkish immigrants who could not accept the German lifestyle or cultural values as they find the idea that a daughter of their German neighbors wanting to move out from her parents' house even though she is attending school in the same city repulsive. But, Wiessner also adds that besides the unwillingness of some Turkish immigrants to become acquainted with their German neighbors, the Germans themselves "are not much better; ignorance and disinterest persist on both sides" (Gokturk, Gramling, and Kaes 2007: 161). Therefore, successful social integration is a two-way street, which requires efforts from both sides: the immigrants and the native Germans. The immigrants must be willing to accept and even adopt mainstream German cultural values as well as make efforts to become well-acquainted with their German neighbors while the native Germans must be ready to accept Muslim immigrants as their fellow citizens with equal civil and political rights. Both sides must become active supporters of the integration process (Wingen 1995: 716).

Although the 1990 Alien Law gives permanent legal residents access to social services (unemployment, health care, retirement pensions) as well as guarantees their legal rights; at the same time, it also excludes them from political rights like voting, holding civil service positions, and joining the police or the arm forces, which are rights reserved for citizens (Kurthen 1995: 930-931). In addition to not having the political rights mentioned above, a majority of legal immigrants also face various forms of legal and social discrimination, which goes hand in hand with their lack of citizenship.

Article Three of Germany's Basic Law states that "No one may be prejudiced or favored because of his sex, his parentage, his race, his language, his homeland and origin, his faith or his religious or political opinions" (Mattox, Oliver, and Tucker 1999: 172). However, some legal experts have pointed out that this article along with other laws which prohibit discrimination only address state discrimination and not discrimination by third parties such as corporations, organizations or individuals. Lamentably, Article Three and other anti-discrimination laws do not address discrimination against non-German citizens. Since the majority of those being discriminated against do not have German citizenship, it is difficult for them to prove discrimination due to race or ethnicity and not legal status. Additionally, many non-white immigrants had also faced xenophobic violence from right-wing extremist groups because of their limited civil and political rights as permanent residents (Ibid 1999: 172).

Unfortunately, by the end of the 1990s, there were only laws that explicitly prohibit and punish hate crimes against foreigners as these acts tarnish Germany's national image. However, anti-discrimination laws had not been legislated and executed to ban various forms of overt and covert racial discrimination. Therefore, it is still common for non-white immigrants to encounter discrimination on an everyday basis. For instance, hearing racist epithets on the streets and suffering police brutality without much legal recourse, being denied housing or having to pay higher insurance rates than German nationals, and facing difficulties in landing good-paying jobs despite having good qualifications as employers will typically choose a native German over an immigrant if both applicants are equally qualified. In some cases, immigrants are even blamed for social problems that they are not responsible for, such as an increase in crime or high unemployment rates (Ibid 1999: 172 and 174). Sadly, since non-naturalized immigrants cannot vote, they could not exert pressures on politicians to legislate more laws proscribing racial and religious discrimination as well as imposing harsher penalties and longer prison terms for perpetrators of xenophobic hate crimes.

VI. Factors Underlying Citizenship Law Reforms

When Gerhard Schroder's Social Democratic (SPD) and Green Party coalition government came to power in 1998, they officially acknowledged that Germany has become a country of immigration. Besides reforms to the German Citizenship Act carried out by Schroder's coalition government in 1999, there were also several key factors that had generated pressures for changes in Germany's citizenship laws and naturalization procedures since 1990. The first was the politicians and some parts of the German public coming to terms with reality around the 1980s that millions of guest workers along with their families were permanently settling in Germany because the repatriation policies stipulated in the *Gastarbeiter* (guest worker) agreements did not work as originally planned. The second was German reunification in 1990, which had challenged as well as changed the country's concept of national identity. After the reunification, West Germans had realized that the guest workers and other immigrants who had become permanent residents were more socially and culturally integrated than the East Germans. They also realized that the Turkish and the various non-European immigrants had created fewer economic, political, and social problems for the German government compared to their fellow East Germans compatriots (Baldwin-Edwards and Schain 1994: 128 and 127).

The third was and is the forces of European integration and the European Union's enlargement. Since the implementation of the Schengen Agreement in 1995, there has been an emphasis on greater uniformity among EU member states on topics of citizenship and immigration. The increasing EU consensus on issues of immigration, asylum seeking, and employment has affected Germany's policies toward foreigners who are EU nationals as the European Union laws mandate equal treatment of EU citizens by all member states in economic and in social lives. With the convergence of immigration and citizenship policies among member states, Germany's immigration and citizenship laws have undergone scrutiny. Meanwhile, this country has faced pressures from other member states to reform its immigration and citizenship laws because the policies of each member states toward non-EU nationals affect the entire union as a whole. As of 1999, the European Commission has already adopted a report to advocate the conferral of same political rights and freedoms to non-EU legal immigrants as to EU nationals. The Commission has also called for member states to expedite the process of granting full citizenship to legal immigrants. Additionally, the EU Committee that oversees the European Social Charter has repeatedly charged Germany for the violation of this charter with respect to the family reunification of non-EU migrants. In addition to expanding rights such as being eligible to vote in the local elections of another member nation after residing there for six or more months to all European Union nationals; the Maastricht Treaty, ratified by all EU members in 1992, also lists the 'conditions of residence by nationals of third countries on the territories of member states, which includes: family reunion and access to employment, as matters of common interest (Mattox, Oliver, and Tucker 1999: 177-180; Gokturk, Gramling, and Kaes 2007: 5).

Even though the European Union laws and principles have limited impact on the issue of immigration and citizenship in Germany since they primarily apply to EU citizens and their family members, and thus far, non-EU nationals residing within the union are not automatically entitled to the same legal and social rights granted to EU nationals; these policies did raise an important issue. They raised the questions of why Germany confers automatic citizenship to ethnic Germans who are foreign nationals and grants political rights to EU foreigners rather than to non-EU immigrants and their descendants who were born and raised in Germany. The Maastricht Treaty of giving EU nationals local voting rights in all member states also exposes a serious flaw in the political systems of countries like Germany, Austria, and Switzerland that employ an ethnic/folk model as the basis for granting citizenship. In Germany's case, a quarter of the population did not and still may not have voting rights in local elections because they are neither German nor European Union citizens (Mattox, Oliver, and Tucker 1999: 177-180).

In addition to the forces of EU integration, the need for immigrants to sustain Germany's economy and welfare system is one of the most important factors underlying the various citizenship law reforms. Since the 1970s, immigrants have played vital roles as cheap laborers and taxpayers to support the country's welfare and pension systems. According to a 1999 data compiled by the Rheinland-Westfalen Institute for Economic Research in Essen, non-EU workers have contributed approximately ninety billion Deutsche Marks (DM) to Germany's gross national product as well as constituted a large labor force in certain industries such as agriculture, service, and manufacturing. They have paid an annual amount of fifty-seven billion DMs in taxes and social security contributions while receiving only sixteen billion Deutsche Marks in direct social services. The high percentage of non-EU nationals in Germany's work force has improved the demographic balance between the pension system payers and receivers. Moreover, like all the industrialized nations, Germany has a steady, but a low birth rate of 1.37 children per women since the 1950s. Its low birth rate along with an aging population presents a major challenge for its social welfare and pension systems. Some recent estimates have calculated that the country will need as many as 200,000 immigrants per year to sustain the welfare system and to fulfill labor demands in the service sector economy, from janitorial to domestic services, since most German nationals are not willing to work low-paid, low-skilled, and labor intensive blue-collar jobs (Gokturk, Gramling, and Kaes 2007: 16; Mattox, Oliver, and Tucker 1999: 176).

VII. Conclusion

To further facilitate the integration and naturalization processes for non-EU permanent residents, Schroder's coalition government passed the country's first comprehensive immigration law in June 2004. This law, known as the Immigration Act of 2005, came into effect on January 1st, 2005. The 2005 Immigration Act is the first German legislation to extend the option of naturalization to the country's legal residents with work permits. Above all, it also stipulates that the German federal government will finance integration courses and programs for legal immigrants to help them become more accustomed to life in Germany. As stated in Section 43 of this Act, "the integration of foreigners who are living legally and permanently in the Federal Republic into economic, cultural, and societal life will be promoted. Integration efforts on the part of foreigners will be supported by an offering of integration courses, (which will) include instruction in the language, legal order, culture, and history of Germany" (Gokturk, Gramling, and Kaes 2007: 190-191).

Despite facilitating the naturalization process for legal immigrants, it is still a cumbersome procedure that requires a large amount of paperwork and a substantial waiting period for the approval of the submitted documents. Although Schroder had also proposed the acceptance of dual citizenship as one of the reforms to the German Citizenship Act, he had to drop it after the conservative Christian Democratic Union (CDU) party had successfully collected more than one million signatures on its petition to oppose dual citizenship in February 1999. Moreover, in spite of its comprehensiveness, the 2005 Immigration Act, unfortunately, does not address the issue of undocumented migration, which also presents a major challenge for the country (Ibid 2007: 4 and 153; Mattox, Oliver, and Tucker 1999: 168).

After being elected back in September 2005, Chancellor Angela Merkel's center-right coalition government has proposed a standardization of the naturalization requirements and procedures throughout all the federal states by including a citizenship test with one hundred specific questions on Germany's history, geography, and politics; such as: the physicist that revolutionized the medical diagnosis in 1895 or the convention which gathered at Saint Paul's Church in Frankfurt in 1848 (Bernstein 2006). Despite calls for tougher naturalization requirements, the trends of immigration and of Germany becoming a multicultural society like the United States cannot be reversed.

Throughout the decades since the founding of the Federal Republic of Germany, non-European immigrants who had come to the country either as guest workers, asylum seekers or foreign students have already re-defined the meaning of "what is a German" with their prolonged presence in the country. Today, being a German no longer means having German ancestry, being a Catholic or a Protestant, or even possessing the physical traits of fair skin, blond hair, and blue eyes. Rather, a German is someone who identifies with and is loyal to the FRG, shares common social values with fellow ethnic German citizens, and contributes to the country's economic, political, and social well-being. This new definition of citizenship is illustrated in the examples of Shermine Sharivar, a German of Iranian origin, who was crowned as the 2004 Miss Germany; and the Preussen Park, also known as the Thai Park in Berlin, where park regulations are posted in three languages: German, English, and Thai (Gokturk, Gramling, and Kaes 2007: 17).

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