ESSAY PLAN 2.0

CHRONOGICAL ORDER:

* RuStAG of 1913- basis of citizenship – Nationality Law of 1913
* Continuities to unification
* They way denial of immigration failed to relate to the reality of Gastarbeiter programmes/ consequences.
* Cross- party moves to broaden citizenship **after unification**
* Moves by the right to limit dual citizenship in the late 1990s (Bucerius) (Fahrmeier) **Schroder**
* Assessment of the extent to which the citizenship law of 2000 (subsequent of 2005) have actually acknowledged Germany’s dependence on migration. (Howard, 2008)

1. **–Basis of citizenship (the causes and consequences of Germany’s New Citizenship Law)**

* German Nationality Law of 1913- purpose was to supplement, rather than replace, the citizenship of the individual states within the federation.
* Solidified by constitution of 1919.
* Principle of this policy was that German citizenship refers to ‘**community of descent’**. No regard for birthplace and resident. Firmly engrained in German Law for the next eight decades.
* Blood- based definition of citizenship easily manipulated by Nazi regime for its genocidal purposes, after collapse of Weimar Republic.
* Upon coming to power, Nazi regime abolished regional citizenship, and created a unitary state. Also cancelled naturalisations, revoked G citizenship of those viewed **as ‘having violated a duty of loyalty to the German Empire/ Nation’.** Withdrew citizenship rights of G Jews. P.42
* Policy summed up in point 4 of Nazi party programme, concretised in Reichburgergesetz of 1935**: ‘Only Volk- comrades can be citizens. And only person of German blood, irrespective of confession, can be Volk- comrades. No Jew can be a Volk- comrade.’ P.42. –** tool for racial hierarchy/ mass murder.

1. **– continuities to unification (Causes and consequences of Germany’s New citizenship Law)**

* Rise of FRG in post war period was so quick, one might have expected a new citizenship policy law to replace the 1913 Law, which the Nazis had abused.
* Yet old Law remained in effect for two practical/ pol reasons:
* 1. Hundreds and thousands of ‘ethnic Germans’ were scattered around E Europe (Aussiedler) were facing significant post- war recriminations, allowing them to return considered a basic and fundamental human rights issue.
* 2. E German citizens who managed to leave comm East Germany (Ubersiedler), voluntarily/ expulsion, automatically granted W German citizenship upon arrival in FRG.
* This policy helped put **pressure** on the E German regime (contributed to unification after E Germans escaped to West via Hungary in spring 89).
* Both policies encapsulated in **1953 Federal Expellee Law of the FRG**- ‘right of return’ for all ethnic Germans and their descendants.
* **Asylum seeker policy.**

1. **Denial of immigration failed to relate to reality of Gastarbeiter programmes. (CAUSES AND CONSEQUENCES)**

* **Domestic factors contributed to increasing PRESSURE on policy makers-** demographic situation in G society was fundamentally changed by nearly 2 decades of ‘guest worker’ programmes. 50-73, millions of men cycled from Italy, Greece, Portugal, Turkey and Yugoslavia in and out of Germany.
* at the peak in 73 there were about 14 million guest workers, 11 mill of whom left their home countries when the oil crises led to the end of the guest worker model.
* 3 mill, mainly from Turkey stayed behind and with the support from G and international courts they brought their families and then had kids in Germany.
* Result, G transformed from a society of 700,000 in 1960 to one of 7.3 million foreigners today- 9% of total population. (reference?) p.44

1. **4- broaden citizenship after unification. (CAUSES AND CONSEQUENCES)**

* After unification 90/ collapse of Soviet Block 91- reasons for maintaining such a broad interpretation became outdated and impractical.
* 1. Most obviously, disappearance of GDR meant all East Germans became citizens of FRG on 3rd October 90.
* 2. Grounds of 1st reason became difficult to justify. As collapse of communism allowed/ encouraged those from East Europe to claim G lineage, despite ever more remote ancestry and attachments to Germany.
* Accommodating over 2 mill Aussiedler between 88- 96 who could hardly if at all speak German and who found it difficult to integrate**- was arduous for a German state that was already overburdened by high costs of unification.**
* In order to stem the tide of mass immigration of ‘ethnic Germans’- state imposed several stop- gap measures intended to reduce number of ‘Aussiedler’ eg. Applying from abroad, passing a language test, filling out lengthy questionnaire.
* In 92, state restricted no. of Aussiedler to 220,000 per year + curtailing their language and financial assistance upon arrival.
* Simultaneously, authorities tinkering with jus sanguinis component of the citizenship policy- people had some G ancestry but little connection to Germany- justification for denying jus soli became more tenuous and indefensible, as it was clear Germany had become the permanent home for more foreign residents whose families, kids etc. were growing up in Germany.
* Difficult to justify morally and economically fact that German- Born Turks, who spoke German, studied and worked in Germany weren’t granted citizenship, yet ‘ethnic Germans’ with no knowledge of language/ culture were granted automatic citizenship.
* Essentially, claim that Germany was ‘not a country of immigration’ is false- recent demographic realities where proportion of foreign residents is between 15- 30% in major cities.
* Justification of 1913 citizenship law in post war FR seemed acceptable in context of Cold War, is now considered anachronistic/ offensive in post- unification period.
* Domestic and international PRESSURES for liberalisation (CAUSES AND CONSEQUENCES)
* Germany experienced significant domestic/ international pressures to liberalise its citizenship policy- particularly in Germany where there was a high number of long- term foreign residents and Germany under scrutiny due to connotations to its Nazi past. Resulted in factors that pushed G in a liberalising direction.
* Stigma of 1913 law was synonymous with Nazi rule and genocide, which stood out in comparison to other European countries like France, which had more inclusive policies for integrating immigrants.
* International bodies eg. Council of Europe, European Court of Justice, European Court of Human Rights began to play an increasingly important pol, moral and judicial role in Europe- sense that G law stood out as antiquated, inhuman and in need of modernisation.
* **Economic motive for greater acceptance-** Anil writes ‘Liberalising citizenship regulation was also seen as a way to improve Germany’s image in order to attract highly skilled workers… compared to traditional immigrant- receiving countries, Germany’s exclusive citizenship policy was a disadvantage in the highly competitive international labour market for skilled workers’. (reference p.44)
* The economic need for more (particularly high skilled) labour drove many businesses to push for a more liberalising citizenship policy. Also the case for other restrictive countries eg (Austria, Denmark, Italy), so while perhaps necessary, need for labour not sufficient to account for Germany’s change.
* **Post- war German politics, serves as a legacy of the Nazi past-**
* **P.49/50- SPD and Greens won 1998 election under Schroder.**
* The 1998 national elections would bring about a huge impetus for change, as the elections were won by the SPD and Greens, forming a coalition government lead by Chancellor Gerhard Schroder.
* Upon immediately taking office, Schroder pushed forward with a plan to make a fundamental change to the citizenship law.
* ‘jus soli’- for foreign children born in Germany, ease naturalisation rights, (controversially) allow for dual citizenship.
* Despite the controversy surrounding his proposal, Schroder did not shy away: (53, p.49) Nov 1998 Bundestag speech.
* (Regarding speech)- The statements expressed by Schroder were undoubtedly ambitious and would be movement in a direction of a radical departure from former policies.
* Zooming out, the policies aims were to ultimately bring about the possibility of moving Germany in a direction that not only accepts diversity but in fact embraces it, rather than having a social climate that categorizes people based on their race or lineage.
* Furthermore, the concept of having dual citizenship is seemingly watered down and appears less farfetched when compared to other European countries, where this right already exists.
* Showing much optimism, the leaders of both the SPD and Green were confident that they be able to bring reform to the former citizenship law.
* Despite the determination shown by both parties, what could not be predicted was how the issue of citizenship would soon not only be confided to elite discussion, but would also be made an issue of public concern, in which their opinion and mobilisation would eventually become a decisive factor for the argument against the liberalisation of the citizenship law.
* The liberalisation of the law carried out in the 80’s and 90’s was intentionally not brought to the public, as the politicians of various parties feared the anti- immigrant sentiment could heighten and potentially favour those of the radical right which could ultimately threaten Germany’s international reputation and political stability. Although the sentiment indicated in Schroder’s public Bundestag speech expressed a bold and ambitious vision of the future, the fact that it was made in the aftermath of a bitter election would ultimately be damaging to any possibility of his proposal.

1. **Moves by right to limit dual citizenship in the late 90’s/ CDU and FDP want to stop the initial SPD- Green proposal in 1999.**

**Politics of restrictive backlash**

* The debate regarding the citizenship law was no longer kept internal within the Bundestag once Schroder made his proposal public. This would be potentially detrimental for those in favour of liberalising the citizenship laws, as many German’s held anti- immigrant views, particularly in regard to dual citizenship.
* Murray, Der Spiegel 1980s (59, p.50)
* Before 1998, centre- right parties avoided exploitation of anti- foreigner sentiment fearing the stir up of right-wing extremism (Germany’s reputation abroad). However, after witnessing the political direction in which the SPD- Green’s were leading, they decided to rouse up these latent tendencies once they realised it was out of their control.
* For several months, the CDU/CSU were very publicly vocal with how they felt regarding the SPD- Green party and Schroder’s proposal, arguing that **‘foreigners will have a huge advantage over Germans’** and that ‘**Germany will be transformed into a land of immigration, a land of unlimited immigration’** (60, p.51).
* When the citizenship reform bill was formally introduced in 13 January 1999, it seemed like all the public condemnations that the CDU/CSU made in the previous months did have an effect on Schroder and his party as he stated**: ‘I stress: I do not want dual citizenship, but I will accept it in order to serve the goal of integration’ (61, p.51).**
* Summarise, CDU/CSU argued that by allowing dual citizenship, immigrants would thus have divided loyalties, which would ultimately not encourage their integration into German society.
* February 99 regional elections to state parliament in Hessen, region surrounding Frankfurt.
* CDU/ CSU strategic move: **‘rather than fighting the government in parliament, where they were a minority in both houses, they took the debate to the streets’ (**64, p.51)
* Wolfgang Schäuble, the then CDU party chairman reached a compromise within the CDU/ CSU opposition, endorsed signature campaign against dual citizenship.
* Focus the petition campaign on the upcoming Landtag elections in Hessen, has traditionally been a Social Democratic stronghold. The success of the campaign would mean that the CDU would be able to take over the majority of seats in the Bundesrat and thus be able to veto any legislation that has been approved by the government. With this, it would be clear that to the SPD- Green party that the people also shared their views in regard to the dual citizenship policy.
* Public opinion survey- more Germans opposed to dual citizenship policy, 57% in Dec 98 to 63% in Jan 99.
* All the campaigning and public mobilisation eventually led to the defeat of the SPD- Green government, meaning that the government was no longer eligible to pass its own proposal.
* The SPD were left demoralised by the defeat in Hessen, leading to an almost immediate dropping of their plans for reform and instead opting for a much watered- down compromise with the FDP, who were open to liberalising citizenship but were opposed to the policy of dual citizenship.
* SPD- Greens left with the dilemma of abandoning the hopes of their initial proposal or maintain some eligibility as a party by compromising with the FDP.

1. **Extent to which the citizenship law of 2000 acknowledges Germany dependence on migration.**

* **The German Nationality act of 2000 (CAUSES AND CONSEQEUNCES)**
* Following decades of negotiations, two dramatic pol swings, entry of SPD, Green gov in Sep 98, backlash of CDU campaign in 99- all in less than 5 months.
* Issue of citizenship became more public than both sides were comfortable with, therefore retreated to the confines of elite- level negotiations in order to reach a compromise for both sides.
* **Result was the German Nationality Act of 2000-** proposed in 99 by SPD- Green, supported by FDP, tolerated by CDU/CSU. Approved in May 99 and was in effect on 1 Jan 2000 with little announcement or discussion.
* Resulted in 3 main changes from the earlier law, which was amended in 93:
* 1. Reduction of residency requirement from 15 to 8 years, only applies to people who have a valid residence permit, employment, no criminal convictions and are willing to give up their prior citizenship.
* Liberalisation of residency requirement complemented by the incorporation of a new loyalty oath I support of ‘free and democratic order of the Constitution’.
* Also added a language requirement although not standardised on a national level, administered by region.
* 2. IMPORTANTLY. Article 4 contains jus soli principle. Children born in Germany automatically get citizenship if one of the parents has had a legal residence permit.
* In practice, rules out many foreigners as such a permit is difficult to obtain, require steady paid employment and a lack of dependence on the welfare state.
* Also, the G version of ‘jus soli’ does not include ‘double jus soli’ which exists in countries like France, Belgium, Spain- means third gen child of a sec gen German person would receive automatic citizenship, regardless of residence permit.
* Given how many sec/third gen immigrants there are, restriction effectively prevents acquisition of approximately 60% of the children born in Germany since law was implemented. (reference? 76)
* 3. INNOVATIVE. The ‘option model’ and dual citizenship. Children who get citizenship through ‘jus soli’ are able to hold dual citizenship until 18 but then must choose one or the other before becoming 18 years old.
* Model is essentially same as what the FDP and CDU’s ‘junge Wilden’ did in the mid 90’s with some modifications. Although not really taking affect at the time, would become part of the SPD- Green government’s compromise law.
* Similar objective/ feature of the new Citizenship law is the prevention of dual citizenship, which was the main objective of Schroder’s original model.
* Green: ‘If the introduction of jus soli constitutes the main innovation of the new law, it is the steadfast desire to avoid dual citizenship which lies at the heart of Germany’s citizenship policy’ (reference, 79, p.53)
* Arguable that the new law does move in a liberalising direction in regard to dual citizenship. With the option model providing a temporary reprieve for children who get citizenship via jus soli.
* However, how the German courts will enforce this ‘option’ still unsure if and when the law gets challenged by people who are refusing to give up one or the other citizenship.
* Also, in practice according to a report from the Commissioner for Foreigners of the federal gov, 44.6% of naturalised citizens in 2000 kept their citizenship. 90% of people who originally came from countries like Iran and Afghanistan, 29% Turks. (reference, 83, p.54)
* Figure was particularly high for Turkish Germans due to a loophole which has since been closed- allowed people to renounce their Turkish citizenship upon acquiring German citizenship but then immediately reacquire their Turkish passports (reference ,84).
* In 2003 only 14% of German- Turks were able to keep their Turkish citizenship as well.
* With an estimated number of over 2 million who have dual citizenship, one could infer that the dual citizenship model concept is widespread among the immigrant community.
* But a closer look at these figures seem to dispute these claims. The majority are either children or bi- national parents or ethnic Germans who have come elsewhere from Europe (87,88)
* children and bi- national parents automatically obtain dual citizenship through ‘jus sanguinis’ polices of both countries, which is very difficult for the state to be aware of, let alone regulate.
* Ethnic Germans having to not renounce their citizenship when they acquire a German passport due to Germany’s selective policy which is stated in the new law despite not receiving much attention.
* Green: sees the distinction between the law’s acceptance of dual citizenship for ethnic Germans/ opposition to dual citizenship for non- ethnic Germans as a ‘blatant hypocrisy’ which is a demonstration of Germany’s ‘ethnocultural identity’, despite the interpreted liberalisation which has been brought on by the introduction of the new law. (89)
* Green: ‘those who have gained dual nationality as a result of naturalisation, either as a long- term resident non- national or as the spouse of a German citizen, constitute a clear minority of cases. Yet despite their small number, it is this category that has been by far the most politically controversial’. (90).
* Although the dual citizenship policy may appeal as being liberalised in both policy and in practice, it essentially applies explicit restriction in regard to dual citizenship for immigrants- both adults and children who acquire G citizenship via jus soli.
* The new law arguably falls short in terms of it having a more liberalised direction, particularly when compared to other European countries who hold no restrictions regarding dual citizenship.
* However, overall the new law does show considerable liberalisation of the former 1913 law ands its amendments in 1990 and 1993. Through reduced residency requirement+ ‘jus soli’ to facilitate process in which foreigners can obtain German citizenship.
* Representative of a change having formerly been using jus sanguinis. Yet the prohibition of dual citizenship makes the liberalisation only partial, still remains to be seen whether Germany will truly be direct and clear with their definition of who can be German.

**Effects of the New Law. P.55**

* The question of citizenship has disappeared from public debate since the implementation of the new compromise law.
* Little analysis has been done to formulate the extent to which the new law has made any significant reform (goal of the SPD -Greens).
* Perhaps to early to see the effects, informed speculation is warranted in order to determine the shape of German society in the future, as how the country chooses to deal with its citizenship issues will be very telling as to shape of German society in the future.
* Debatable that the law is ‘new’, in actuality just an amendment of the former 1913 law regarding citizenship. Gov intentionally avoiding any relation to the ‘1913 law’ due to the stigma that comes attached with it.
* **Will the 2000 law lead to a significant increase in foreigners obtaining German citizenship?**
* Figure 1: p.55
* **Green: ‘while the incremental liberalisation of German citizenship during the 1990s is undeniable, the changes introduced have old had a comparatively modest impact’. (91, p.56)**
* if current trend is maintained- new law not changing current situation. CDU and FDP will have successfully stopped the initial proposal of SPD-Green in 1999.
* **Why do so few eligible foreigners in Germany become German citizens?**
* Complicated answer that involves both within the fine print of the naturalization law and its additional unwritten effects.
* 1. German welfare benefits are so generous that they are already satisfied. Although, Sweden’s welfare also v generous but has a higher naturalisation rate.
* 2. 225 euro processing fee to apply, although this is quite reasonable.
* **LIKELY REASON? –** Foreigners do not want to renounce their original citizenship. It is fair to assume that immigrants from countries, such as Turkey fear that they will lose things like their inheritance, property and burial rights in their home country if they choose to give up their citizenship. Many view this as not a good enough reason to, as many already feel ostracised from their families already and the giving up of their citizenship would cement this. Patriotic and cultural sentiments also an important factor- particularly in countries like Turkey, where citizenship holds a heavy alignment with blood lines.
* **Final reason? –** General perception that Germany is not hospitable towards immigrants. Although numerically, empirical data indicative of vast migration, plus due to large number of foreigners who were able to capitalise on the asylum programme in the 1990s who still remain to live their today, fair to say many immigrants would much prefer to live somewhere else, due to the stigma attached to Germany by its racist and exclusionary past left from the Nazi regime. Additionally, the general perception that non- natives are not welcome (94, p.56).
* **Eg. SPD- Green ‘Green Card’ programme-** aimed to attract highly- skilled labour in order to fill jobs in the high- tech field that German’s themselves were unable to fill. Result was a mixed success, unable to reach its target of 20, 000 workers. (95, p.56).
* Tellingly, even when Germany shows that it has economic demand, it still does not seem to appeal as a place of residence, due to the stigma surrounding the country.
* **2 possible interpretations – pessimistic:** in regard to the integration of foreigners to Germany. The failure to implement Schroder’s dual citizenship plan, coincided with the compromise law of 2005 can be considered as a lost opportunity for foreign integration. Momentum needed along with political courage needed, like Schroder displayed on behalf of Germany’s foreign population, which may take decades.
* Ultimately, until a significant number of foreigners choose to acquire German citizenship and thus completely integrate within German society, otherwise they may foreseeably remain segregated from society as third- class residents who may potentially be subject to discrimination, whilst German lineage will remain as the primordial right to citizenship, which is an outdated, backwards means of dealing with these issues in the modern world.
* Accomplish little in the short- medium term.
* **Optimistic:** emphasised by SPD- Greens. Although they recognise the Hessen elections were a disaster, they are adamant in highlighting the positive repercussions of the compromise law.
* Within this optimistic view, it is important to consider that that perhaps dual citizenship was either a farfetched or politically naïve goal.
* Although it may be considered as only a partial liberalisation of the former 1913 law, it is a forward step in making it easier for foreigners to attain German citizenship.
* Although it may take decades to build up momentum, arguably the process of further integration seems ultimately inevitable, as they have in reality, already become an integral part of society.
* the presence of foreigners being very well- educated and ultimately a vital facet to the country’s technological industry and its future social security system is being recognised.
* Additionally, although it may be difficult to predict, children of foreigners are eligible for acquiring German citizenship through jus soli when they turn 18 but this is more of a long-term possibility to the future integration of immigrants that is entirely up to them.
* Too early to infer which interpretation will be the outcome. Many other factors too consider/ things may change.

**Conclusion? -** Marc Morjé Howard, ‘Germany’s citizenship policy in comparative perspective’, *German Politics and Society*, 30:1 (2012), 39-51.