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Balancing Citizenship Rights in an Age of Globalization

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At the same time that Canada has been legislating changes that made it harder to obtain citizenship and easier to lose, Germany moved the opposite way: a recent amendment to its citizenship law constitutes yet another step in leaving behind Germany's notorious tradition of constituting a nation based solely on the belief in shared descent and *ius sanguinis*.

On 3 July 2014, the German *Bundestag* voted in favour of the abrogation of the *Optionspflicht* (the duty to choose). The *Optionspflicht* was initially introduced as part of the new German Citizenship Act in 2000. It granted children of foreign parents who were born on German soil a restricted form of dual citizenship. This regulation was a major advancement on Germany's restrictive citizenship law. For the first time, the principle of territory (*ius soli*) was introduced; however, it was linked to two critical conditions: Firstly, one of the parents had to be living in Germany under a permanent

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residency status for at least eight years. Secondly, since there was strong opposition to unrestricted dual citizenship, before the age of 23, these children had to decide whether they wanted to keep their German citizenship or whether to take up the citizenship passed down to them by their parents. This need to choose only one nationality is understood as *Optionspflicht*.

With the acceptance of the new law, the German *Bundestag* abolished the *Optionspflicht* for the majority of people currently affected by this regulation and thus allowed them to hold dual citizenship indefinitely. For all others, the requirement to renounce their previous nationality upon the acquisition of German citizenship remains (Winter 2014b; Winter et al 2015b).

While this may be a far cry from the fairly liberal citizenship legislation in Canada, which has allowed dual citizenship since 1977, progressive reform of Germany's citizenship law gains its specific meaning from that country's tormented history of ethnic nationhood and blood-based citizenship. It is also a striking contrast to many other countries in the Western world that are currently implementing restrictive immigration and citizenship policies. Even Canada has adopted this restrictive trend. In order to avoid alleged citizenship fraud and to foster integration, Stephen Harper's Conservative government (2006-2015) introduced stricter naturalization criteria (Winter 2014a; Winter et al 2015a). The 2014 *Strengthening Canadian Citizenship Act* is particularly harsh for dual nationals whose Canadian citizenship can be revoked if they are found to be guilty of crimes such as terrorism, high treason, spying offences, or taking up arms against Canada (see Winter 2015). Even though the incoming Trudeau Liberals (since October 2015) have halted some of the ongoing citizenship revocations, they have not yet eased any of the new naturalization rules.

As such, it seems fair to say that Germany is on a progressive route towards opening up its citizenship regime. The steps may be small, but the direction is forward. Canada, by contrast, has been retracting more liberal provisions and is thereby restricting access to its citizenship. While searching to adjust its citizenship to the right course, what are the lessons for Canada to be drawn from the German experience? Four insights should be taken into account when debating and legislating citizenship reforms.

First, the German example underlines, once more, the democratic necessity of all inhabitants of a territory to be citizens of that state. There was a fear that under the provisions of *Optionspflicht* young Germans would simply "opt out" of German citizenship in order to maintain the nationality of their parents; this convinced the majority of German politicians to accept the principle of dual citizenship for those born in Germany. Democracies are neither legitimate nor functional on the basis of a two-tier system. Cohesive societies rely on shared trust and a minimum of social security for all members. Neither can be achieved if a growing number of permanent residents are excluded from political rights and do not feel they fully belong.

Second, the German *Optionspflicht* resembled asking a child which of his or her two parents he/she liked most. By abolishing this requirement, parliamentarians have come to accept that dual citizenship is not about split loyalties. Rather, it involves bridge-making: creating shared bonds and cultural translation. In the twenty-first century, people are more and more mobile. The fact that individuals speak more than one language, feel at home in more than one country or culture, and hold more than one passport is an asset, not a liability for their country of residence. It should not lead to their marginalization or render them suspicious and particularly vulnerable to ministerial discretion as under the 2014 *Strengthening Canadian Citizenship Act*, which, as explained above, introduced a sharp distinction between dual nationals and those holding only Canadian citizenship.

Third, the political developments in Germany also underline that loyalty cannot be legislated; it needs to be acquired. Requiring young Germans to renounce the nationality of (one of) their parents did not prove to be a guarantee of cultural integration and patriotism. On the contrary, it led to an individualist and instrumental interpretation of citizenship: which of the two citizenships provides me with the greater opportunities; how can I comply with (or circumvent) the rule while retaining the largest possible degree of freedom? Hence, renouncing German citizenship while maintaining permanent resident status presented itself as a viable option. How would Canadians feel if a large number of dual nationals drew this conclusion in protest against the current legislation?

Fourth, and finally, the debates around the pros and cons of the *Optionspflicht* in the German context also speak to another trend, namely that in Western immigrant-receiving societies, political parties that entertain discourses about national values and contemporary threats to identity are increasingly successful in attracting votes. This trend suggests that we need a better understanding of the identities and predicaments of the losers of neoliberalism and globalization, namely those who hold only one nationality, speak only one language – and maybe that not even very well, and have trouble retaining their jobs, mastering technology and “life-long learning,” and making ends meet. Put differently, the relationship between the national majority on the one hand and minority groups on the other needs rethinking. In an age of globalization and porous borders, the non-migratory majority may have some legitimate concerns not only about its ability to uphold certain cultural traditions, but also about the willingness of newcomers to try to “fit in.” While these concerns are often overstated, they must not be ignored, by either politicians or academic commentators.

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