COMPARATIVE MIGRATION STUDIES
www.comparativemigrationstudies.org
Published by: Amsterdam University Press

Traditions of Nationhood or Political *Conjuncture*?

Debating Citizenship in Canada and Germany

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CMS 2 (1):29–56
DOI: 10.5117/CMS2014.1.WINT

Abstract

If migration studies in the 1990s were marked by the predominance of the "national models" approach, the early 2000s have seen an increasing rebuttal to this approach. This paper contributes to the debate by examining the politics of citizenship in Germany and Canada, two countries that are usually located at opposing poles of the "national models of immigration and citizenship continuum". The paper combines inductive process tracing and discourse analysis to examine some of the most controversial citizenship legislation in both countries: *Optionspflicht* [the duty to choose] in Germany and the "first generation limitation" in Canada. Overall, the analysis presented agrees with recent critiques of the national models approach in migration studies. However, and in contrast to the latter, it maintains that national trajectories – rather than models – provide a cognitive matrix into which policy changes and their justifications need to be inserted.

Keywords: Germany, Canada, citizenship, integration, national models, ethnic/civic nation, dual citizenship

1. Introduction[1]

The beginning of the 21st century has witnessed a tremendous shift in the area of comparative migration studies. In the 1990s, it became commonplace in comparative approaches to categorize Western immigrant-receiving societies into different models of nationhood and citizenship. Scholars tended to design their studies in a way that either provided evidence in

favour of the existing models or, increasingly, used empirical data to argue that the proffered conceptual models might exist in some laws and policies but not in others, and even less so in migrants' lived experiences.

In the early 2000s, the adequacy and usefulness of the "national models" approach in comparative migration studies has become increasingly challenged. Some scholars reject the national models perspective and its underlying assumption of path-dependency, because they maintain that we are currently observing a convergence of European policies pertaining to immigration and citizenship; others raise doubts about the epistemological and methodological value of comparing national models, arguing that this approach often misguides scholars by becoming a self-fulfilling prophecy. Concurring with this view, still others have started to develop fine-grained citizenship and immigrant integration indicators *en lieu* of national models.

In this paper, I contribute to this new scholarship in comparative migration studies by examining recent changes in citizenship legislation in Germany and Canada. These countries' policies play important roles in the recent immigration and citizenship debates as they are usually portrayed as occupying opposing poles of the national models of immigration and citizenship continuum (Brubaker, 1989; Bauder, 2011). Constructed as the prototype of the notorious "ethnic nation", Germany is said to be in need of "learning from Canada" in matters of immigrant integration (Bendel & Kreienbrink, 2008; Berlin Institut für Bevölkerung und Entwicklung, 2012). Canada, by contrast, is widely celebrated – and celebrates itself – as a "multicultural nation" and "world leader" in diversity management (Kymlicka, 2003).

Recently, however, both countries have – and, in the case of Canada still is – engaged in major overhauls of their citizenship and immigration policies. Germany's 1999 citizenship reform played a major role in calling into question the national models approach and its underlying assumption of path-dependency. In Canada, multiculturalism remains untouched in law and in practices "on the ground" (Banting & Kymlicka, 2014), but has been considerably scaled back in policy and discourse since the coming to power of the federal Conservatives in 2006. In fact, as Abu-Laban (2014) argues, in order to woo "ethnic voters" the Conservatives have refrained from attacking multiculturalism directly, but diminish its scope through changes to related policies, including immigration and citizenship. Canada has also been actively looking to Europe for inspiration in its ongoing citizenship reform. In this context, it has been claimed that there is increasingly convergence between German and Canadian integration and citizenship policies (Triadafilopoulos, 2012).

These developments raise questions about the nature of ongoing changes pertaining to citizenship legislation in Germany and Canada: are they generic and characterized by increasing convergence or are they primarily determined by specific traditions of nationhood? What are the political solutions proposed, and how (dis)similar are interpretations of "good citizenship" in both countries?

Dual citizenship constitutes an intriguing case in this respect, since the provisions in both countries remain diametrically opposed: Canada tolerates dual citizenship, Germany does not. In this paper, I focus on two specific dimensions of dual citizenship law and their surrounding debates: *Optionspflicht* [the duty to choose] in Germany and the "first generation limitation" in Canada[2]. As I demonstrate below, these two provisions are arguably the most controversial dimensions within these countries' respective citizenship laws. Furthermore, how these provisions have come into being and how they are debated in the political arena reveal both some particularistic, nation-specific concerns, as well as some general ideological (party-) differences.

In the remainder of this paper, I first review the national models theory in comparative migration studies and its most salient critiques. I then briefly outline the methodology used here. In the main sections of this paper, I discuss the German and Canadian cases, which leads me to identify the salience of the two debates described above and to an analysis of the respective parliamentary discourses. In the conclusion, I show how comparing these two cases contributes to the ongoing debate about national models and explain what both countries could learn from each other.

2. Theoretical Perspectives

If the distinction between different types of nationhood can be traced back to the writings of Friedrich Meinecke, Hans Kohn, and Louis Dumont, its importance for contemporary debates on immigrant integration and citizenship was reinstated by Rogers Brubaker (1992, p. 1), who, in 1992, argued that "France and Germany have been constructing, elaborating, and furnishing to other states distinctive, even antagonistic models of nationhood and self-understanding". According to Brubaker, today's politics of immigration and citizenship are still (path-)dependent upon these countries' deeply seated styles of national self-understanding.

Although Brubaker did not use the term "model" systematically (Finotelli & Michalowski, 2012, p. 233) in the wake of his groundbreaking work it

became common to distinguish between two if not three distinct ideal types of nationhood, citizenship, and immigrant integration. First, Germany with its long-standing tradition of blood-based citizenship (*jus sanguinis*) came to be known as both the prototype of the "ethnic nation" and the "exclusionary model" of citizenship as it excluded long-term permanent residents and their children (born on German soil, but not of German descent) from naturalization. Second, France, where the acquisition of citizenship by birth on national territory (*jus soli*) is common, was increasingly depicted as the closest possible incarnation of the ideal type of the "civic nation" and/or the "republican model" of citizenship due to its emphasis on immigrant assimilation. While the ethnic/civic dichotomy was the most widely discussed framework in the study of the ways states deal with ethnic and cultural diversity, a number of scholars have added a third "model", namely that of the "pluralistic-civic nation", which encourages multiculturalism, that is the maintenance and public expression of ethnic group identities in addition to a shared national identity (Castles, 1995). The countries that have come to stand for this type of citizenship tradition are Canada and Australia, and to a lesser extent the Netherlands and Sweden.

In the first decade of the new century, the utility of these ideal types for comparative migration research has come under intense scrutiny. Interestingly, it was policy and not primarily academic contemplation that kicked-started an entirely new wave of scholarship and debate. On the one hand, in 2000, Germany introduced conditional citizenship rights based upon birth on its national territory (*jus soli*) and non-discretionary naturalization. It thereby invited debate about the extent in which it had left its previously assumed path of perpetuating a citizenship regime based on the model of ethnic nationhood. On the other hand, scholars observed the emergence of a retreat from multicultural policies (Joppke, 2007) in the late 1990s in the Netherlands, which then spread throughout Europe in the years after the terrorist attacks in New York and Washington on 11 September 2001 (for a critical appraisal, see Banting & Kymlicka, 2014). Both developments sparked the need to reconsider the existence of nationally specific and fairly path-dependent models of dealing with immigrant integration and citizenship. Even with respect to the United States and Canada, past scholarship may have overestimated these countries' pluralist traditions of nation-building (Bloemraad, forthcoming).

Overall, we can differentiate between three critiques of the national models perspective and their respective bodies of literature. First, the underlying path dependency of national models approach has come under attack by scholars who argue there is a weakening with respect to national

distinctiveness. If, as the concept of path dependency predicts, the choices and institutional arrangements of the past determine political responses of the present, convergence of radically different national models is precluded. This, however, is exactly what scholars observe in the early 2000s: "Western European states' policies on immigrant integration are increasingly converging" (Joppke, 2007, p. 1; for critical perspectives on the "convergence" thesis, see Jacobs & Rea, 2007; Michalowski, 2011; Mouritsen, 2012). If this observation is correct, national models alone no longer provide sufficient explanation.

Searching for alternative explanations of said convergences, scholars have pointed to the impact of a globally shared normative context (Triadafilopoulos, 2012), as well as to a global flow of knowledge and "best practices" (for an example of "best practices" being spread, see Entzinger, 2004). It has also been argued that the influence of party politics and ideologies on shaping political responses should not be underestimated (Gerdes & Faist, 2006; Triadafilopoulos, 2012). From this perspective, political *conjuncture* rather than persistent traditions of nationhood seem to be the determining factor in shaping contemporary politics of citizenship.

A second set of scholars critiques the epistemological and methodological value of using a national models approach for the comparative study of immigrant integration and citizenship (Duyvendak & Scholten, 2011; Finotelli & Michalowski, 2012). They are particularly concerned by the fact that scholars often mistakenly take ideal types at face value, and shape their analyses in a way that either confirms or contradicts the national model (see contributions to a forum debate in Council for European Studies, 2010).

Third, and as a consequence of the two aforementioned critiques, scholars are developing alternatives to the national models approach. In recent years, we have seen a number of cross-country analyses involving fine-grained citizenship and immigrant integration indicators (Howard, 2009; Goodman, 2010; Helbling & Vink, 2013, forthcoming). These studies go beyond comparing national ideologies and citizenship acquisition rules in law and in practice; rather they also take into consideration requirements such as legal residence, language skills, and citizenship tests. Although the results of the present study speak mostly to the first two critiques of the national models approach, they will also shed some light on the use of citizenship and integration indicators.

3. Methodology

German and Canadian policies have played important roles in the recent immigration and citizenship debates. While they are usually situated at opposing poles with respect to immigration and citizenship policies, as well as discourses (Bauder, 2011), it has recently been claimed that their national imaginaries and citizenship policies have become characterized by increasing convergence (Triadafilopoulos, 2012).

In order to probe the extent that traditions of nationhood have an effect on current citizenship debates, two methodological approaches are used. For each country, applying inductive process tracing (Beach & Pedersen, 2013) as a first step, the most salient challenges pertaining to citizenship legislation are detected and situated within the overall political context. Process tracing aims to identify causal effects; specifically, I am interested in how and why some of the most controversial citizenship legislations were implemented.

In a second step, the revival of doubts over *Optionsregelung*[3] in the German *Bundestag* (Lower House of the German Parliament) and *Bundesrat* (Upper House of the German Parliament) in the summer of 2013, and the debates over the "first generation limitation" in the Canadian Parliament in the spring of 2008, will be examined. The transcripts of the relevant debates were collected from the respective government websites. For Germany, three documents were chosen, namely transcripts of one debate in the *Bundestag* (on 5 June) and of two debates in the *Bundesrat* (on 7 June and 5 July). For Canada, six documents have been identified, namely transcripts of debates in the House of Commons (three meetings of the Standing Committee on Citizenship and Immigration in February 2008) and the Senate (one senate meeting and two meetings of the Standing Senate Committee on Social Affairs, Science and Technology)[4].

All documents were analysed by using inductive conventional qualitative content analysis (Hsieh & Shannon, 2005) to identify the most important themes brought forth in the debate. The coding scheme included country-specific themes, such as "*Optionsregelung* discriminates against Turks" or "First generation limitation risks causing statelessness", as well as shared themes like "multiple citizenship is/should be a normality in the 21st century". The analysis will show that some country-specific themes translate into similar concerns in the other country; compare for example the following themes: "*Optionsregelung* avoids legal problems related to dual citizenship" and "first generation limitation avoids legal problems".

4. Germany

4.1 Coming to terms with dual citizenship

Hotly debated at the time of its implementation on 1 January, 2000, *Optionsregelung* reappeared on the political agenda in June 2013, when media began to report statistics showing that "every three days a German youth turns into a foreigner" (MiGAZIN, 2013).

Optionsregelung, officially known as §29 of the German Citizenship Act (*Staatsangehörigkeitsgesetz*, StAG), stipulates that upon adulthood (between the ages of 18 and 23), individuals who acquired citizenship through the newly introduced principle of *jus soli* must choose between their German citizenship and the citizenship handed down to them through *jus sanguinis* by their non-German parents. Failure to provide evidence of the revocation of the citizenship obtained through *jus sanguinis* results in the loss of German citizenship.

In fact, *Optionspflicht* was retroactively extended to all children who were born on German soil by non-national parents since 1990. Thus, 2013 was the first year when the first young Germans (approximately 3400 individuals in 2013) holding dual citizenship were turning 23 years of age. As the first generation affected by *Optionspflicht*, they are forced to renounce their second citizenship or they are told, upon their 23rd birthday, that they are no longer German citizens. As a consequence of this stipulation, Germany lost 68 citizens through automatic citizenship revocation in the first five months of 2013 alone (MiGAZIN, 2013). In November 2013, this number had increased to 176 (anonymous, 2013). The political debates triggered by these losses are examined further below. I first situate this particular stipulation pertaining to dual citizenship within the wider legal and political context of the German citizenship law.

Germany owes its notorious reputation of being an "ethnic nation" in part to a centralized citizenship law, the 1913 *Reichs- und Staatsangehörigkeitsgesetz* (RuStAG). The RuStAG made the principle of descent (*jus sanguinis*) the only basis of citizenship (Brubaker, 1992, pp. 165-167). This afforded refugees and displaced persons of German background (*Auslandsdeutsche*) settlement rights. According to the same logic, migrant workers from Italy, the former Yugoslavia, Greece and Turkey that arrived in the Federal Republic between 1955 and 1973 remained "foreigners". After the demise of the German Democratic Republic (GDR) in 1989, the RuStAG allowed *Übersiedler* (Germans from the GDR) and large numbers of *Aussiedler* (resettlers of German background) from Eastern Europe and the

former Soviet Union to receive German citizenship automatically, while long-term "foreigners" of non-German background could only be included as "denizens" (Hammar, 1989).

In 1998, a new coalition government of Social Democrats (SPD) and the Green Party (Bündnis 90/Die Grünen) acknowledged that Germany had become a *de facto* "country of immigration" and proposed a reform of the citizenship law in which citizenship would be granted to children born in Germany through the introduction of *jus soli,* and dual citizenship would be tolerated for those wishing to naturalize (Howard, 2008). The government's proposal was vehemently rejected by the opposition of Christian Democrats (CDU/CSU) who maintained that dual citizenship would privilege migrants over Germans, lead to a dramatic increase of immigration, and undermine the *Ausländers'* loyalty to Germany, thereby hindering their successful integration. The party's resistance was channelled through a signature campaign against dual citizenship coinciding with the provincial election in the *Land* Hesse in February 1999. This tactic proved to be successful: it helped the Christian Democrats to win the *Land* election and subsequently the majority in the *Bundesrat* (Klärner, 2000). The bill that finally emerged out of subsequent negotiations was passed by the *Bundestag* on 7 May 1999, cleared by the *Bundesrat* on 21 May 1999, and became law on 1 January 2000.

Despite having been watered-down from the original proposition, the German Citizenship Act (*Staatsangehörigkeitsgesetz*, StAG) represented "a seismic shift in German citizenship law and a firm change of direction away from its previous ethno-cultural emphasis" (Green, 2000, p. 114; see also Gerdes & Faist, 2006; Howard, 2012, p. 40; Palmowski, 2008, p. 560; Heckmann, 2003, p. 45). First, the new law introduced the territorial principle (*jus soli*) to the existing German citizenship law based on descent (*jus sanguinis*)[5]. Second, it reduced the mandatory residence requirement for naturalization from 15 to eight years. Third, despite maintaining Germany's long tradition of rejecting dual citizenship, the Act introduces some exceptions to this rule, covering recognized refugees, individuals over 60 years of age, and nationals of certain EU member-states. It also provides for dual citizenship on a temporary basis: According to §29 StAG, children born on German soil are granted dual citizenship. However, as already mentioned, at the age of 23 they have to decide whether to remain Germans or take up the citizenship passed down by their parents (*Optionsregelgung*).

While there is no doubt that the 2000 Citizenship Act was a step in the right direction, many scholars also express reservations. In the words of Howard (2012, p. 39), "Germany's major 'liberalizing change' was also tempered by a significant 'restrictive backlash'". Clearly the most controversial

element of the new law is the stipulation that new citizens give up their previous citizenship (for details on the *Optionsregelung*, see Schönwälder & Triadafilopoulos, 2012; Worbs, Scholz, & Blicke, 2012).

In the following years, two sets of amendments were implemented that reinforced the Citizenship Act's assimilatory naturalization requirements and its dual standards regarding dual citizenship (Green, 2012, p. 177). The first amendment, the Residence Act (*Aufenthaltsgesetz*), is part of Germany's first ever Immigration Act (*Zuwanderungsgesetz*), which came into effect on 1 January 2005. The most important changes were the introduction of integration courses for immigrants and citizenship candidates (Winter & John, 2009), and a mandatory criminal background check (*Regelanfrage*) of all citizenship candidates by the Federal Office of the Protection of the Constitution (*Bundesverfassungsschutz*) to determine whether applicants constitute a threat to Germany's constitutional order (Bundesministerium des Inneren, 2008; Hailbronner, 2006, p. 241)[6].

The second amendment of the Citizenship Act came into effect in August 2007 as part of the transposition of 11 EU directives into German law (*Gesetz zur Umsetzung aufenthalts- und asylrechtlicher Richtlinien der Europäischen Union*). Among other things, the amended Citizenship Act introduced a mandatory federal citizenship test as a prerequisite of naturalization (Winter & John, 2009)[7], and permitted the toleration of dual citizenship for all citizens of EU member-states and Switzerland.

Overall, it seems adequate to say that the high hopes that were associated with the reform of Germany's citizenship law have only modestly been fulfilled. Specifically, there was a widespread expectation – even anxiety for some – that there was going to be a significant increase in naturalizations. In fact, the opposite has been the case. While there was a surge of 187,000 naturalizations in total in 2000, the year the new act came into effect, naturalization rates have since fallen even though the average residence period was on the rise (Green, 2012, p. 179). In 2012, for example, only 112,300 individuals naturalized (this amounts to a naturalization rate of 1.46 %; cf. Statistisches Bundesamt Deutschland, 2014).

Indeed, Germany is now facing a situation in which "long-term resident non-nationals are increasingly *choosing* not to naturalize" (Green, 2012, p. 180, emphasis in original). According to the Immigrant Citizens Survey, the main reasons for this "choice" are, in decreasing order: the required renunciation of previous citizenship, the perception of little difference between holding German citizenship and residency status in the country, no plans to settle indefinitely in Germany, and perceptions that the naturalization procedure is too difficult (Huddleston & Dag Tjaden, 2012, p. 76;

see also Weinmann, Becher, & Babka von Gostomski, 2012)[8]. Furthermore, as mentioned above, since 1 January 2013, Germany is also losing citizens through automatic revocations of citizenship.

4.2 Debating *Optionspflicht*

In spring 2013, the opposition parties in the German *Bundestag* introduced motions proposing the abolishment of *Optionspflicht* (Bündnis 90/Die Grünen), the acceptance of dual citizenship (SPD), and the facilitation of naturalization (Die Linke). These were voted down by the then governing coalition of Christian Democrats (CDU/CSU) and Liberals (FDP) (Deutscher Bundestag, 2013). The debate continued in the German *Bundesrat* where seven of the 16 German *Länder* introduced a bill on the abrogation of *Optionsregelung* (Deutscher Bundesrat, 2013a). After having been further discussed in the respective committees, the proposition of the bill was accepted in the *Bundesrat* in July, where the majority of *Länder* was governed by the SPD alone or in coalition with the Green Party and/or the Left Party. It was then forwarded to the *Bundestag* (Deutscher Bundesrat, 2013b).

Taken together, the debate in both Houses was dominated by six themes clearly split along party lines: the opposition parties (SPD, Bündnis90/Die Grünen, and Die Linke) argued in favour of dual citizenship and the abrogation of *Optionsregelung*, while the governing coalition of Liberals (FDP)[9] and Christian Democrats (CDU/CSU) insisted upon the status quo. Let us take a look first at how members of the opposition parties framed the issue[10]. A reoccurring theme views *Optionsregelung* as discriminatory, and this specifically against Germans of Turkish origin. *Optionsregelung* is portrayed as an example of "targeted discrimination against migrants, especially against Turkish citizens in Germany" (Sevim Dağdelen, Die Linke, Deutscher Bundestag, 2013, p. 30597)[11]. This is because 18.5 percent of Germany's almost 16 million *Menschen mit Migrationshintergrund* (persons with a migratory background) are of Turkish origin (bpb, 2010). By contrast, citizens of European Union member states are exempt from the requirement to renounce their previous citizenship:

> Currently, 300,000 young Germans are subjected to *Optionszwang*, whereby they have to decide between one citizenship or the other. Seventy percent of them have Turkish roots. This demonstrates that *Optionszwang* is being deliberately applied one-sidedly (Renate Künast, Bündnis 90/Die Grünen, Deutscher Bundestag, 2013, p. 30597).

The opposition has repeatedly argued against the logic of turning German-born citizens into foreigners. "We turn people, of whom the majority is even born here and therefore are born Germans, into foreigners in their own country. This is absurd" (Renate Künast, Bündnis 90/Die Grünen, Deutscher Bundestag, 2013, p. 30597). According to the opposition parties, dual citizenship does not hinder integration but rather promotes it. The view taken here is that citizenship acquisition is a starting point for the integration process and not its end; the integration of newcomers is said to be likely more successful when they are part of the citizenry.

> Integration is more successful when one possesses the citizenship of the respective country. Why do we want to force people to cut their familiar social and cultural roots in order to receive German citizenship? There are no rational reasons for this requirement. Rather, [we are dealing with] a totally antiquated law that needs to be eliminated (Guntram Schneider, SPD, Minister of Labour, Integration and Social Affairs in Nordrhein-Westfalen, Deutscher Bundesrat, 2013a, p. 305)

The second part of the latter quote above speaks to one of the weaker themes that can be found in the opposition parties' discourse, namely the representation of dual or even multiple citizenship as a normal state of affairs in the 21st century (Bilkay Öney, SPD, Minister of Integration in Baden-Württemberg, Deutscher Bundesrat, 2013a, pp. 301-302).

In the examined debates, the government and members of the ruling parties vehemently oppose these positions. They maintain that the toleration of dual citizenship would lower immigrants' efforts to integrate and "devaluate German citizenship" ("deutsche Staatsbürgerschaft verramschen", Ole Schröder, Christian Democrats, Parliamentary Secretary of State at the Ministry of the Interior, Deutscher Bundestag, 2013, p. 30592). The most important themes used by the Christian Democrats and Liberal Party are "only single citizenship promotes integration" and "*Optionsregelung* avoids legal problems related to dual citizenship". Specifically, dual or multiple citizenship is framed as entailing a conflict of loyalty – split between the "home country" and the country of settlement. Secondly, dual or multiple citizenship is viewed as causing legal ambiguities. Both dimensions are present in the citation below:

> Multiple citizenship entails conflicts of loyalty. Many times, this kind of cherry-picking leads to great dilemmas, for instance in the penal law and the right to vote. It cannot be possible that a person is allowed to vote for

> the national parliament in two countries [...] or to collect social benefits [...] in two countries. Concrete cases of conflict also exist with regards to the purchase of property or with respect to inheritance law, [as well as] diplomatic protection (Stephan Mayer (Altötting), CDU/CSU, Deutscher Bundestag, 2013, p. 30607).

If dual citizenship is perceived as causing conflicts of loyalty and identity, only single citizenship is viewed as being a guarantor for successful integration:

> The persons concerned, who have a German passport, do not decide against their social and cultural origin, [...], but rather for a future in Germany. They can continue to practice their mother tongue, to keep in touch with their family, and they can always visit their parents' country of origin. The introduction of *Optionsmodell* does not change this. Cultural and societal diversity is not dependent on multiple citizenship (Ole Schröder, CDU, Parlamentary Secretary of State at the Ministry of the Interior, Deutscher Bundestag, 2013, p. 30593).

Despite Christian Democrats' strong positions against dual citizenship for young German's "with a migratory background", the outcomes of the federal election may have introduced change: the new coalition contract signed by the Christian Democrats (CDU/CSU) and Social Democrats in November 2013 stipulates the abolition of *Optionspflicht*: "Immigrants shall become citizens. Those born and raised in German shall keep their German passport and shall not be forced to choose [between one citizenship or the other]" (Bundesregierung Deutschland, 2013, pp. 9-10). However, for everyone else, the general intolerance of dual citizenship remains unchanged (Bundesregierung Deutschland, 2013, p. 74).

5. Canada

5.1 Circumventing "citizens of convenience"

In January 2006, after 13 years of Liberal rule, the Conservative Party of Canada was voted into office, first as a minority government (in 2006 and 2008) and then as a majority government in 2011. The shift from a Liberal to Conservative government coincided with the defeat of the separatist Parti Québécois by the Quebec Liberals in 2003 and other crucial events,

such as the Lebanon war in 2006, the subsequent evacuation of Canadian expatriates, and the implementation of the Western Hemisphere Travel Initiative in 2007, which stipulates that Canadians and Americans provide passports, rather than drivers' licences or birth certificates, when crossing their shared border.

These events were crucial. The fear of Québécois separatism was partly to blame for the fact that citizenship reform had been kept on hold for more than 20 years (Garcea, 2006; Winter, 2013). Once this obstacle was removed, the other two events became catalysts for a series of citizenship reforms, beginning in 2007 and having yet to end. The first legal change pertains to an amendment to the Canadian Citizenship Act, which was passed by Parliament in the spring of 2008 and took effect on 17 April 2009.

The amendment contains two clauses, one of which had been a long time in the making and highly publicized in official discourses, the government's website, and the media. The so-called "repatriation clause" was intended to bring Canada's citizenship law in line with its 1982 Constitution, and specifically its Charter of Rights and Freedoms. It rectifies a number of odd and even discriminatory provisions of the 1947 Citizenship Act (e.g. citizenship determination based on wedlock, distinction between foreign-born and native-born in cases of citizenship revocation) that had already been addressed in Canada's Citizenship Act of 1977, but not retroactively.

The second clause is commonly known as the "first generation limitation". It implements a post-2009 citizenship category for the first generation of Canadians born abroad stipulating that they can no longer pass citizenship on to their children if the latter are also born abroad. In other words, it restricts the inheritance of Canadian citizenship to the first generation of children born abroad to Canadian citizens. This is a significant departure from Canada's previous citizenship law, under which Canadians could pass on their citizenship to future generations born abroad, on the condition that those foreign-born Canadians affirm their desire for Canadian citizenship by their early 20s.

While not introduced as a circumscription of dual citizenship, the "first generation limitation" is effectively linked to dual citizenship: Canada is a signatory of the 1961 United Nations Convention on the Reduction of Statelessness, and in cases where individuals born abroad to Canadians in the second generation became stateless (e.g. both parents are Canadians and the child is born in a country that does not provide for *jus soli*), special provisions will come into play (see also Brouwer, 2012).

Compared to its sister clause, the "first generation limitation" came as a surprise to many observers. It was hardly debated in Parliament and

received little public attention by either the government or the media. The few debates in Parliament between the proposition of the bill in December 2007 and its acceptance in April 2008 are examined further below. I first situate this particular clause within the wider legal and political context of the Canadian citizenship law.

Independent Canadian citizenship was first introduced in 1947. The first Citizenship Act altered the status of the Canadian people from British subjects to Canadian citizens and introduced formal criteria – in addition to *jus sanguinis* and *jus soli* – of how one could become a naturalized Canadian. It also instituted formal citizenship hearings and citizenship ceremonies. Dual citizenship was not tolerated.

If the first two decades of Canadian citizenship were characterized by a strong nationalization of citizenship, driven by the desire to become distinct from Britain, they were followed by two decades of de-ethnicization (Winter, 2013). It is the second phase of Canada's citizenship regime between the mid-1960s and mid-1980s to which Canada owes much of its international reputation as a "world leader" in immigration, diversity accommodation, and multiculturalism. In 1967, the Canadian federal government implemented a supposedly "race blind" immigration policy. In 1971, Prime Minister Pierre Trudeau declared that "multiculturalism within a bilingual framework" not only constituted an official state policy, but was also the essence of Canadian identity (House of Commons, 1971, p. 8545). Multiculturalism was recognized in the Canadian Charter of Rights and Freedoms in 1982; it became law through the 1988 Multiculturalism Act.

The Citizenship Act of 1977 can be seen as a corollary of the aforementioned policies. Reducing the residence requirement for citizenship candidates from five to three years, entirely removing all special treatment of British nationals in the citizenship application, and, most importantly, allowing dual citizenship, the 1977 Citizenship Act modernized Canada's citizenship regime and complemented its new pluralist approach to immigration, integration, and national identity transformation. As Nyers (2010, p. 52) puts it, "With the passage of the 1977 legislation, Canadian citizenship was redesigned to allow for multiple allegiances and forms of belonging". Canadian citizenship had become, almost literally, "multicultural".

In 1995, the format of the Canadian citizenship test was changed from an oral citizenship hearing to a "pencil and paper" standardized multiple-choice test[12]. A multiple choice exam taken simultaneously by a large number of citizenship candidates presented itself as a low-cost alternative to time-consuming individual interviews with citizenship judges.

The 11 September 2001 terrorist attacks and subsequent American-led global "war on terror" prompted a number of policy initiatives in the security realm[13]. Canadian citizenship legislation, however, remained unchanged, and this during a time when Germany and other European countries were heavily invested in reshaping their citizenship policies. Hence, in the early 2000s, citizenship acquisition continued to be seen as part of immigrants' integration process (and not as its "first price", cf. Paquet, 2012). Canada's exceptionally high naturalization rates of over 75% (OECD, 2012, p. 134) were viewed as a sign of successful settlement and integration policies (Bloemraad, 2006). Dual citizenship was interpreted in both neoliberal and multicultural terms, namely as fostering the prospects of business opportunities by Canadian transnational entrepreneurs.

The amendment to the Citizenship Act passed in 2008 was the first major citizenship reform in 30 years, with the first requests for change having been brought up under Progressive Conservative Prime Minister Brian Mulroney in 1987 and pursued unsuccessfully under Jean Chrétien's Liberal government in the subsequent years (Garcea, 2006). It remains the only major legal reform to citizenship to date. While there has been an unprecedented number of policy and legal changes in the areas of immigration and refugee protection (Alboim & Cohl, 2012), as well as significant modification to Canada's citizenship rules, the vast majority of the latter are located at the policy level or have taken effect only through bureaucratic changes (Winter, 2014a).

5.2 Debating the "first generation limitation"

The two clauses to amend the Canadian Citizenship Act passed on 17 April 2008 gain their meaning from very different political contexts. The "repatriation clause" had been in the making for a long time. When certain stipulations of Canada's first Citizenship Act were addressed in 1977, but not retroactively, Canadian officials were soon confronted with so-called "Lost Canadians". Lost Canadians is the shorthand for individuals who lost or never gained Canadian citizenship due to what is now seen as discriminatory stipulations of the 1947 Citizenship Act based on gender, marital status, place of birth, and non-toleration of dual citizenship. In order to bring Canadian citizenship law in line with the Charter of Rights and Freedoms, these injustices needed to be addressed in policy and not only through the courts (Anderson, 2006). Hence, the long-term aim for citizenship reform that had been stalled by national unity considerations for over 20 years.

In addition, many of these Lost Canadians lived or live in the United States and/or considered themselves to be dual American-Canadian citi-

zens. When the Western Hemisphere Travel Initiative came into effect in January 2007 it required Canadians and Americans to provide passports when crossing their shared border. When applying for a Canadian passport many individuals were surprised to learn they were not entitled to hold Canadian citizenship due to the aforementioned stipulations in the 1947 Citizenship Act. The "repatriation clause" helps these individuals to gain or regain Canadian citizenship regardless of dual citizenship considerations (Winter, 2014b).

In marked contrast, the "first generation limitation" does not address a long-standing concern in Canadian policy. Rather, it is widely seen as a swift political move in response to public outcry in the wake of the 2006 Israel–Hezbollah war in Lebanon. Attempting to protect their citizens trapped in a foreign country, many states spent considerable resources evacuating their stranded citizens. Approximately 15,000 Canadians (which is only a fraction of the 40,000 estimated Canadians residing or visiting Lebanon at the time) were evacuated to Canada on ships, chartered commercial flights and Canadian Forces aircraft at a total estimated cost of CAD 85 million.

After the evacuation, it was alleged that many of the evacuees were dual citizens of Canada and Lebanon and that many had never lived in or even visited Canada. In the course of the public debate, the term "citizens of convenience" was coined. The term suggests that immigrants and their children obtain and maintain Canadian citizenship without having meaningful ties to Canada (Worthington, 2006). They use Canada as a "hotel" where they can check in and out when it suits them in order to ensure access to social benefits, economic opportunities, and a safe place in times of war or economic recession (Kent, 2008).

Contrary to the German debates on abrogating *Optionspflicht*, the Canadian debates are dominated by the positions put forth by the Conservative government. The most important theme relates to the "first generation limitation" ensuring that Canadian citizens have "a real connection to this country" (The Hon. Diane Finley, P.C., M.P., Minister of Citizenship and Immigration, Standing Senate Committee on Social Affairs, 2008)

The position argued is that Canadian citizens should genuinely identify with Canada and that the "legacy of Canadian citizenship should not continue to be passed on through endless generations living abroad" (Wilbert J. Keon, Conservative, Senate, 2008), since it would produce "Canadian citizens without any knowledge of our country, its history, and its values" (Wilbert J. Keon, Conservative, Senate, 2008). Hence, the clause is presented as key to "protecting citizenship for the future" (Wilbert J. Keon, Conservative, Senate, 2008). Although two different types of citizens are at stake

here – those born within the country in the case of *Optionsregelung* and those born in the second generation outside the country in the case of "first generation limitation" – the "integration" argument from the German context translates easily into the "real connection" theme in the Canadian context.

Furthermore, Conservative MPs hold that legal ambiguities can be avoided by introducing the first generation limitation. While this reasoning resembles the position of the members of Germany's then-governing parties on not tolerating dual citizenship, it is far less frequently used in the Canadian context. This is understandable since dual citizenship itself continues to be an option for Canadians – at least for the time being.

The most important concern of Canada's opposition parties is that the new legislation, if passed, might lead to statelessness, which, as mentioned above, is to be avoided not merely for humanitarian reasons, but also in order to respect Canada's international obligations. The evidence brought forth suggests that many Canadians, and specifically those of the political class, feel concerned by the new law since they – or someone they know – live(s) fairly international lives[14]. In addition, it is also argued that it might be unfair to deny Canadians born abroad in the first generation to pass on their citizenship. The scenario cited most often is that of a child born "by accident" outside of Canada in the second generation to a family that previously lived in Canada and/or returns to Canada soon after the birth of the child:

> Suppose, for example, a Canadian couple are spending a few years working abroad and give birth outside Canada to a baby. Let's call her Anna. It [sic] could actually be a soldier. She is a Canadian citizen through her parents. The family returns to Canada when Anna is six months old and she grows up in Canada. [...] As a young adult, she chooses to study abroad and finds herself pregnant. If she gives birth to her child outside Canada, the child is not a Canadian citizen under the terms of Bill C-37 (Hon. Andrew Telegdi, Liberal, Standing Committee on Citizenship and Immigration, 2008a).

Cases of children "accidentally" and "unfairly" losing Canadian citizenship are also at the sources of another theme, which describes the first generation limitation as potentially creating "a whole slew of new Lost Canadians" (Hon. Jim Karygiannis, Liberal, Scarborough – Agincourt, Standing Committee on Citizenship and Immigration, 2008b). Members of the opposition parties maintain that some individuals who are denied Canadian citizenship for being born in the second generation abroad may

actually have or eventually develop a genuine connection to Canada. This is likely to happen when they or their parents continue to embrace and practice Canadian values and traditions.

Finally, as in the German debates, one of the least frequent arguments brought forth in favour of dual or multiple citizenship is that it has become "a normality" in the 21st century (e.g. Donald Galloway, Standing Senate Committee on Social Affairs, 2008).

In February 2014, the Canadian government introduced a new citizenship bill. If passed, this reform will ease the provisions of citizenship revocation for some dual citizens, namely those convicted of terrorism. Some observers also predict the some kind of "two-tier citizenship" for Canadian dual citizens who "have limited connection to Canada" (Morse, 2014).

6. Conclusion

What can specific provisions of citizenship law, such as *Optionspflicht* and the "first generation limitation", as well as the way they are publically debated, teach us about the usefulness of "national models" in comparative migration studies? I first summarize the results for each case individually and then draw lessons from the comparison.

Germany, which has been marked by a long-standing quest for national unity – at the time of Herder and Fichte as well as after the Second World War – continues to struggle with the toleration of what is seen, by some, as split allegiance, namely dual citizenship. Thus, Germany has chosen to impose loyalty through exclusivity: as a rule, dual citizenship will not be tolerated. Many of its long-term permanent residents, who are eligible for citizenship, are therefore "choosing" not to naturalize. Even worse, in the case of *Optionspflichtigen* the law may force German-born youth to decide against maintaining German citizenship and to become legal foreigners in their own country.

The dominant theme in favour of *Optionspflicht* is about "loyalty and integration", which – as the comparison with Canada shows – is not unique to countries emerging from the tradition of "ethnic nationhood". Rather, it seems to be a staple of citizenship politics and, in the German case, a political strategy aimed at Germans of Turkish background – the second most important theme brought forth in the debate. While this discriminatory position is certainly rooted in ethno-religious stereotypes, the latter are nourished more by the contemporary climate of Islamophobia than romanticist traditions of nationhood. It is interesting to note that dual

citizenship for EU citizens has come to be tolerated without much political uproar (Green, 2012, p. 177) and that similar ethno-religious stereotypes can also be traced in the Canadian debate on dual citizenship (Nyers, 2010).

The current debate about *Optionspflicht* clearly runs along party lines, with all political actors seeming to be more responsive to party constituencies than to ancient ideas about what it means to be German. Furthermore, the new coalition contract signed by the governing parties of Christian Democrats (CDU/CSU) and Social Democrats in November 2013 stipulates the abolition of *Optionspflicht*; it remains thus to be seen if and when this SPD election promise is to be fulfilled within the next four years.

The conundrum that Canada faces at the beginning of the 21st century is the following: Canada has a history of turning the multiple origins of its citizens into the "glue" of its national unity, climaxing, in the 1990s, in the consolidation of a multicultural national ethos (Winter, 2011). Having rigorously pursued this path, arguably a little too naively, it is now struggling to contain the diversity of its (dual) citizens, to reduce the liability of the state for its citizens abroad, and to instil national loyalty and commitment in its citizenry.

In fact, Canadian authorities are not only worried that too many immigrants are taking up Canadian citizenship for the wrong reasons (Winter, 2014a), but also that members of its highly mobile citizenry might produce "off shore" Canadians in the second, third and subsequent generations who no longer have any "meaningful connection" with their country of (second or third) citizenship. Hence, while the permission of dual citizenship remains unchanged since 1977, the "first generation limitation" stipulates that Canadians born in the second generation abroad to parents who are also born abroad are barred from holding Canadian citizenship (Winter, 2014b).

Interestingly, in the Canadian context, the themes used in the German debate, namely "loyalty and integration", translate into a concern about citizens having "a real connection to the country", essentially meaning the same thing: a "thick" neo-communitarian understanding of citizenship (Etzioni, 2007), offering rights and privileges in exchange of patriotism, shared cultural values (rather than merely principles; Pélabay, 2011), and a commitment to citizenship duties. As in the German case, we can see that the dual citizenship of some categories of citizens seems to be a concern to the governing Conservatives more so than it is to the opposition parties. Granting dual citizenship to Lost Canadians living in the United States, for example, was not considered problematic (Winter, 2014b). However, and contrary to the German debate about *Optionsregelung*, in the Canadian case there was no substantial opposition against the implementation of

the "first generation limitation" when the law was adopted unanimously by the House of Commons in February 2008.

Furthermore, although the Canadian citizenship debate is ongoing – a new bill is currently under review – the governing Conservatives do not attack dual citizenship directly. This is not because they are buying into Canada's tradition of multicultural nationhood (Abu-Laban, 2014), but rather because their electoral success is dependent upon the support of immigrant voters, many of whom have come to cherish the possibility of dual citizenship[15]. As a consequence of party ideological and electoral considerations, we are therefore more likely to see "small-scale" attacks on dual citizenship in the near future, such as the proposed bill to revoke Canadian citizenship of dual nationals committing treason, "acts of war", and terrorism (Winter, 2014a), as well as the recent proposition to restrict consular services to "citizens of convenience" (Morse, 2014). The political strategy at work here is to avoid alienating large numbers of so-called "honest" immigrant voters, while also pleasing the Conservative Party's traditional white, evangelical, social-conservative constituency. This attempt to square the circle has little to do with "multicultural" traditions of nationhood.

In sum, the analysis conducted in this paper leads me to share the widespread scepticism vis-à-vis the utility and adequacy of the national models approach in comparative migration studies. Taking ideal types at face value and associating the abstract model too closely with any particular country leads to flawed analyses. As seen here, the contemporary debates in Germany and Canada seem to be more driven by political *conjuncture* – be it party ideology, electoral considerations, or the global fear about all things (rightly or wrongly) associated with Islam – than with ancient traditions of nationhood.

Specifically, the analysis suggests that when it comes to considerations of "good citizenship" both countries struggle with very similar challenges and share concerns across party lines, namely how to build a egalitarian and cohesive society in times of globalization. Rather than arriving at these challenges and concerns from opposing directions – as the distinct national models approach would predict – it seems more accurate to say that both countries are travelling in the same direction, but do so at different speeds and, due to different historic starting points and conditions, are currently located at different locations along the way.

In this sense, the impact of national traditions and imaginaries on contemporary politics of citizenship should not be fully discarded. However, it may be better to replace the term "traditions" of nationhood with that of "trajectories". As Mouritsen (2012, p. 89) puts it, "reactions to crises (i.e.

perceived deficiencies of citizenship) are significantly shaped [...] by what has gone before, and political actors do the shaping in ways that reflect the shifting balances of left and right" (2012, p. 89). Political actors in Germany and Canada share common concerns about legislating "good citizenship" in times of globalization, but their responses vary because of their countries' respective trajectories and contemporary circumstances. These trajectories, while not path-dependent in a deterministic sense, provide a cognitive and discursive matrix into which policy changes and their justifications need to be inserted. Hence, while citizenship indicators allow for fairly accurate snapshots and country comparisons, the specific meanings and inherent challenges of generic concepts and instruments that spread as "best practices" from country to country can only be understood in relation to the national trajectories from which they emerged or into which they were injected.

What then can both countries learn from each other? What can we learn from both countries? In both cases, policy makers are aiming to infuse citizenship with meaning by restricting its availability. In the Canadian provisions, the place of one's birth is being used as a proxy for one's attachment to Canada; only those born within the country (or who have undergone naturalization) are granted the privilege to have Canadian children, even if the latter are (also) born outside the country. In the German case, loyalty is being measured by one's decision to renounce formal ties to other countries, by the proxy of having only German citizenship. Both provisions are out of touch with a world where people become more mobile *and* more globally connected. In this world, it is increasingly likely that people who are born abroad will have a connection to their parents' birth country. Chances are also great that they will marry someone holding a different citizenship and that their children will develop loyalty for both countries.

In both countries it is also not dual citizenship *per se* that poses a problem, nor the place of birth[16]. As the analysis has shown, there are double standards at work that need to be eliminated. Citizens' emotional attachment, loyalty, and commitment to a given country need to grow organically; they cannot be imposed though bureaucratic means. While proxies may facilitate the bureaucratic management of citizenship, they can only approximate, but never adequately assess, these admittedly desirable characteristics. That is why nation-building remains a multi-facetted and ongoing task specifically at times of globalization.

Notes

1. I gladly acknowledge the helpful comments by two anonymous reviewers, the research assistance provided by Annkathrin Diehl and Shawn Jackson, and funding received from the Social Sciences and Humanities Research Council of Canada. The usual disclaimer applies: I am solely responsible for all remaining errors of fact or interpretation.
2. Strictly speaking, the "first generation limitation" is not a dual citizenship provision as it prevents all Canadian citizens born abroad from passing on Canadian citizenship to their offspring if equally born outside Canada. In practice, however, there are provisions in place to assure that this measure is not producing stateless persons.
3. The words *Optionspflicht* [the duty to choose] and *Optionsregelung* [the regulation requiring a choice] refer to the same legal provision; they will be used interchangeably. Members of the German opposition also refer to this provision as *Optionszwang* [the obligation to choose].
4. Documents were chosen based on relevance. The quantitative difference in documents is justified since the German documents were longer and richer in qualitative content.
5. Children born in Germany of non-German parents are to be granted German citizenship from birth, on the condition that one parent: a) had been legally resident for a period of eight years, and b) held either an unlimited resident permit (*unbefristete Aufenthaltserlaubnis*) for at least three years, or a residence entitlement (*Aufenthaltsberechtigung*) (Green, 2000, p. 113).
6. Interpreting the new naturalization provisions at their discretion, in 2006, the conservative-governed *Länder* Baden-Württemberg and Hesse introduced highly controversial provincial citizenship exams to "test" a candidate's "internal dispositions" and loyalty to the constitution (Palmowski, 2008, p. 559; van Oers, 2010).
7. While the integration courses and German language instruction have been welcomed by immigrants (Will, 2012, p. 12), the content and questions of the citizenship test have triggered much controversy (Michalowski, 2011; Orgad, 2009; for different positions, see Goodman, 2010; van Oers, 2010).
8. The notion of "choice" has to be treated carefully here as the individual cannot choose freely as he or she may wish. Rather, the possibilities for choice are embedded within the surrounding legal stipulations. Thanks to one of the anonymous reviewers for alerting me to this issue.
9. The FDP changed its position in the subsequent election campaign.
10. Themes are here discussed in order of quantitative strength within the debate, beginning with the most powerful.
11. All translations are mine.
12. Before 1996, citizenship applicants met initially with a citizenship officer and were then scheduled for a hearing or a personal interview with a citizenship judge.
13. Examples are the Anti-terrorism Act, technologically enhanced permanent resident cards, and the Smart Border declaration.
14. It is important to note that the members of the diplomatic corps and of the armed forces are exempt from the "first generation limitation". Furthermore, the law contains provisions to avoid statelessness, such as by allowing (the parents of) individuals born abroad in the second generation to apply for Canadian citizenship on the condition that they have returned to Canada and resided there legally for at least three years.
15. Exact numbers of how many Canadians possess dual or multiple citizenship do not exist. In the 2006 Canadian census, 870,255 of 31 million respondents reported dual citizenship (Statistics Canada, 2011).

16. And this even for the second generation born abroad, as shown by the new provision for Lost Canadians who can pass on Canadian citizenship to their offspring retroactively, even if the latter are the second generation born abroad (Winter, 2014b).

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2014 Winter / Amsterdam University Press.
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