Citizenship, Nationality and Immigration in Germany

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I. INTRODUCTION

Twenty-five years after the reunification of the country divided into two parts after the Second World War, Germany faces a number of challenges related to immigration, integration and asylum that preoccupy the political class and provoke mobilization in the streets. It is no longer possible to deny that migration and the resulting diversity of religions and cultural backgrounds are permanent facts of life for the country. The prospect of demographic decline, coupled with a still-growing economy, strengthens the labour-market case for immigration. In the area of citizenship, exclusionary patterns have been challenged and new discourses of nationality promise the possibility of belonging to "New Germans" that were previously excluded. In response to claims for equality and inclusion, some state actors seek to make space for pluralism within the country's federal-corporatist system. In 2015, Chancellor Angela Merkel's welcoming stance towards refugees distinguished Germany from less hospitable practices in neighbouring countries.[1]

Despite promising signals, the German case reveals numerous contradictions as well as both exclusionary and inclusionary tendencies. Advances towards equality as well as challenges to racism and normalized practices of discrimination are often half-hearted and distributed unevenly across levels of government and among regions. "Integration" is the preferred term for addressing challenges of diversity, but it is loosely defined and qualified by far-ranging expectations of desirable conduct, which are variously justified with reference to liberal perfectionism, constitutional patriotism or cultural sameness. Thus, being "integrated" frequently amounts to an expectation of assimilation into a tightly monitored system of normative and cultural belonging, burdening newcomers and "post-migrants" with the need to meet undefined, moving or unattainable targets.[2] While there is evidence of more expansive understandings of national identity, "New Germans" continue to encounter exclusions that are not just residual but deeply ingrained, widely held and rarely challenged.[3]

The circumstances of cultural diversity in Germany today reflect significant changes over a short period of time. In the early 1990s, the lasting impact of the labour migration that had facilitated post-1945 reconstruction was still scarcely acknowledged. The mantra that "Germany is not a country of immigration" (*Deutschland ist kein Einwanderungsland*) demonstrated historical denial and blindness to new constellations of religious and cultural diversity. Citizenship was often inaccessible to long-term residents and their children, and an Alien Act (*Ausländergesetz*) regulated the residency of non-citizens, including those who had been living in the country for decades. *Ausländerpolitik*—the combination of immigration, residency, citizenship and other policies concerned with the entry, presence and removal of "foreigners"—was still dominated by the paradigm of "return," and the belief that migrants and their descendants were temporary and would return to their countries of origin.[4]

More recently, symbolic shifts and material policy changes have complicated this picture. The principle of *jus soli* (birthright citizenship) was added to citizenship law, thereby enabling some persons born in Germany to immigrant parents to claim citizenship. The reform of German citizenship law (*Staatsangehörigkeitsrecht*) in 2000 moved partially away from the predominant principle of ethno-cultural exclusion, which envisaged that citizenship could be claimed only by descendants of German parents. It introduced the possibility of *jus soli*, although its effect was limited, not least due to continued restrictions on dual citizenship. In 2005, the Alien Act was replaced by an Immigration Act (*Zuwanderungsgesetz*), acknowledging that

people had moved to Germany with the intention to remain. Yet, even a 2015 law that made dual citizenship more widely available still retained the principle that children born of non-German parents would have to abandon parental citizenship (unless they could demonstrate special ties and commitment). Symbolically, then, the revision of exclusionary citizenship laws only represents a partial acceptance of claims by "New Germans" to belong to Germany.

As in other European countries, right-wing populist parties have been increasingly successful, and there have been significant street-based mobilizations against policies recognizing cultural diversity and they attract a combination of far-right and moderate participants. The Alternative for Germany (*Alternative für Deutschland*, AfD) Party and the extra-parliamentary PEGIDA (*Patriotische Europäer gegen die Islamisierung des Abendlandes*/Patriotic Europeans against the Islamisation of the Occident) movement combine hostility towards immigrants, Muslims, and cultural and political elites. The response to the arrival of refugees in 2015–16 revealed tensions at the highest political levels and significant potentials for popular contention. Numerous attacks on refugee reception centres have been repeatedly condemned, but public authorities have also been criticized for their inadequate preparation for reception of migrants and the lenient policing of far-right protest. The New Year's Eve 2016 incidents in Cologne have been widely debated, even if the link between the sexual assaults of women, the policies of Angela Merkel's government and the reception of refugees from Syria and Iraq are tenuous.[5] The reporting of the Cologne incidents has reinforced the perception that

new arrivals stand outside Germany's value-based consensus.

As this paper argues, parochial understandings of German citizenship and nationality have been challenged, but progress is neither seamless nor complete. There have been significant changes to law and policies, altering state objectives for governing diversity and reflecting a new willingness to accept, or at least acquiesce to, cultural diversity. Yet such changes do not erase legacies of exclusion and a desire to control or regulate "difference" that is deeply ingrained in political institutions. Moreover, the liberalization of German citizenship reinforces exclusions that are now predominantly justified with reference to constitutional values and liberal civilization.

With an interest in these contradictions, this paper examines: citizenship policies and the symbolic negotiation of national identity; changes to the German corporatist framework and its suitability for multi-religious diversity; and the inclusion of newcomers and settled populations in labour markets. It considers novelty and continuity in this change experience and comments on pivot points available for progress towards pluralism.

II. ORIGINS AND RESPONSES TO DIVERSITY: STATE, PEOPLE, NATION

The self-conscious adaptation of German national identity to new circumstances, often with profound consequences for minority and migrant populations, requires particular attention here. Post-1945 nationhood was open to different interpretations, motivated by the goal to emphasize discontinuity with National Socialist rule (1933–45) and to align the Federal Republic with Western allies, as well as for the purpose of post-war nation-building. As a result, a preoccupation with the national image acted as an ambiguous influence in policy-making about immigration and citizenship. The crucial decision to forego the mandatory rotation back to the country of origin of "guest worker" migrants in the 1950s and early 1960s, for example, reflected a concern with international perceptions and a desire for liberal-democratic normality. As Phil Triadafilopoulos and Karen Schönwälder summarize: "West Germany was not only determined to rebuild its economy; it was also keenly interested in presenting a new face to the world—an avowedly liberal democratic persona that distanced the Federal Republic from its past."[6] Yet the desire to retain a deliberately unfinished version of nationality in anticipation of reunification with the German Democratic Republic (East Germany) also allowed for, and justified, exclusionary policies towards "guest workers" and their descendants.

The main point of the historical sketch presented here is to remind us that political circumstances of national image-making matter and have shaped discourses of nationality in Germany. This is certainly the case for the departure from ethno-culturally exclusive understandings of national identity and the emergence of a "civic definition," which have both been circulating in political discourse and civil society over the last two decades. The promise of this "civic turn" in the

German case is not simply a more welcoming stance towards newcomers, and settled post-immigrant populations that are able to claim civic belonging, but also the symbolically-laden "normalization" of national identity.[7] As the paper suggests here, such symbolic shifts are important to consider, but they do not mean that exclusions that were based on an ethno-cultural idea of national identity have simply disappeared.

The starting point for the narrative underpinning the "civic turn" is a widely held account that, until the late 1990s, located German national identity at an ethno-cultural and primordial level.[8] Whereas belonging to the French nation could be attained through civic assimilation, this was not the case in Germany, where claims to belonging depended on fundamental cultural traits linked to family descent and culture. Such notions were confirmed in the principle of *jus sanguinis,* which, until 1999, provided the predominant path towards citizenship. Rates of naturalization were low. Where citizenship was legally accessible, exclusionary notions of national belonging discouraged candidates from seeking it.

One question about the direction of change since 1990 and the reunification of Germany is whether this story of ethnic exclusion can now be abandoned in favour of a new, inclusionary narrative. Has Germany moved conclusively "beyond ethnoculturalism"? Have membership and belonging come to approximate the civic universalism characteristic of neighbouring countries, including France or the United Kingdom, that have a better record of turning newcomers into citizens?

For the German case, these are not simply empirical questions, but part of an ongoing reflection about what is "normal." In a headline finding for its annual "barometer" of immigrant integration, the Council of German Foundations on Integration and Migration suggested that "the 'slumberous' (*verschlafen*) immigration country' Germany no longer needs to shy away from international comparison."[9] The report attested, with some pride, to the claim that the country now fell squarely within, or even exceeded, standards of constructive immigration policy-making in neighbouring countries of Western Europe.[10] This observation may be empirically accurate, but the historical meta-narrative of a "Long Road West" (Germany's delayed approximation of the civic norms and practices that prevail in Western Europe) is also present in such accounts.[11] The weight of national self-images is evident in progressive contributions to debates over immigration and also illustrated in the sense of pride regarding the popularity of Germany as a new destination country, which may help explain the welcoming response to refugees in 2015.

Some observers who argue for a long-standing paradigm of ethno-cultural nationhood as the foundation for the national community claim that it took shape in the 19th century. Rogers Brubaker, a well-known proponent of this view, notes that German citizenship, which he identifies as "*Volk*-centered and differentialist," emerged in response to the fragmentation between political units on German territory, which "fostered the development of an ethnocultural understanding of nationhood."[12] This argument draws on Friedrich Meinecke's (1908) earlier distinction between the German

Kulturnation and *Staatsnationen*, the latter being nations defined in civic terms, especially France.[13] This legacy, Brubaker suggests, was re-activated after 1949 when the Federal Republic of Germany (FRG, West Germany) was created. The provisional nature of the FRG's arrangements for membership, anticipating an eventual reunification with East Germany, enshrined the ethno-cultural paradigm.[14] Non-resident but ethnic Germans could easily claim German citizenship, whereas residents who were not ethnic German remained at arm's length.

Yet for 19th-century nation-building and state-formation, as well as after 1945, it is difficult to understand the weight of ethno-cultural and civic paradigms without considering specific political circumstances that are often contradictory. Drawing attention to such contradictions, some observers dispute the idea of stable ethno-cultural tendencies in the 19th century.[15] The aspiration in the Revolution of 1848 towards the democratic unity of ethnic Germans failed. The eventual unification of 26 kingdoms, duchies and principalities into the German Empire in 1871 under Chancellor Otto von Bismarck was dictated by Prussian raison d'État; it was a conservative project. The right-wing adoption of the theme of ethno-cultural nationality became more pronounced later, in the Wilhelmine period (1890–1918) and reflected important political re-orientations. The "shift from left and liberal to right and conservative nationalism" was a phenomenon of the third quarter of the 19th century, which saw the "usurpation of the national message by conservative forces" as well as the decline of liberal nationalism in a context of political instability.[16] Reinhard Rürup observes for this period also that "liberal-bourgeois emancipation did not represent

a first step towards envisioning a permanent presence for minorities and their equal standing," and late 19th-century German liberalism became entwined with aggressive ethno-national posturing on the inside and Wilhelmine expansionism internationally.[17]

These political shifts and turns, and their continuation today, complicate the understanding of German history as the long unfolding of an ethno-cultural logic. Indeed, there were—and still are—significant variations among different regions and authorities. Until 1934, German national citizenship resulted from provincial citizenship in provinces such as Prussia, Bavaria or Württemberg.[18] Their citizenship laws did not rely exclusively on descent for citizenship acquisition. Until 1913, provinces tended to strip long-term emigrants (to the United States and elsewhere) of the right to citizenship, a fact that is difficult to reconcile with any absolute principle of the reliance on family descent. In other words, there are at least complications in the narrative of continuity between citizenship and immigration in the post-war Federal Republic and 19th-century themes of ethno-cultural homogeneity.

Civic and ethno-cultural concerns are not necessarily irreconcilable and can be stated in terms, such as with the concept of "over-foreignization" (Überfremdung), that allow for changing uses.[19] As an instance of Überfremdung, the infiltration of Germany by "alien cultures" was already invoked to justify coercive policies towards Polish-speaking labour migrants in the late 19th century.[20] Against the danger of "Polonization" there was the desire for biological or culturally racist superiority, anticipating the dominant ideology

after 1933.[21] More recently, the term underpins the view that immigration constitutes an "infiltration of the German people [and] the Überfremdung of our language, culture and nationhood (*Volkstum*)."[22] It continues to appear in the conservative mainstream, where important policymakers suggest that "culturally alien immigration" (*kulturfremde Einwanderung*) into the welfare system needs to be fought "to the last bullet."[23] Yet, Überfremdung can also more simply refer to a lack of familiarity, pointing to a sense of homeliness that immigrants threaten to disturb. Or, it may be described as a calculated risk that can be endured, as the current Minister for the Interior suggests in the context of the "refugee crisis," as long as it corresponds to a strong insistence on "our values" and an emphasis on Christianity as a common ground.[24] As Überfremdung's multiple uses show, there is significant flexibility in the argument invoked to express anxiety over cultural diversity.

The defence of Germany's liberal achievements has become an important element in mobilizations against pluralism and these too allow for similar flexibility. The allegation is that newcomers pose a threat to Germany's liberal consensus, specifically by undercutting established standards and progress on homosexuality, women's rights and secularism.[25] This position draws on patchy reports of illiberal attitudes among new migrants, and was fuelled by the sexual offences and thefts committed during Cologne's 2016 New Year's Eve celebrations. Over 1,000 criminal complaints were filed, many detailing incidents of women being swarmed and sexually assaulted by groups of men. The perpetrators were allegedly of North African and Arab descent, and assumed to be asylum seekers,

though their immigration statuses were largely unknown. Such incidents have become a rallying cry amongst commentators that invoke a hard-edged liberalism for (often illiberal and coercive ways of) engaging Muslims. Whereas some other countries have only recently adopted exclusionary policies in the interest of defending liberal values, there is a particularly strong precedent for this type of "illiberal liberalism" in Germany: the defence of constitutional principles and liberal-democratic order (*freiheitlich-demokratische Grundordnung*) against political antagonists during the Cold War. Yet the defence of the liberal order today often invokes more than just points of political disagreement. It alleges that Muslim immigrants, as much as German citizens of Muslim faith, stand outside a civilizational consensus for reasons that are not just civic or political, but result from essential and group-based character traits.

In summary, the analysis in this paper reinforces the sense that the German case is up for grabs. Citizens mobilize both to welcome and to protest the arrival of refugees. Political and legal changes that have been adopted indicate new openings for pluralism, but also retrenchment under the impression of the "refugee crisis." Distinct practices among actors in the federal system complicate the case presented here. There is a patchwork of inclusionary and exclusionary practices as significant policy-making powers in areas that are relevant for the accommodation of cultural diversity, such as health, education or church-state relations, lie with the German *Länder* (provinces). Exclusions that had been based on the idea of ethno-cultural homogeneity have not just been dismissed, but have also taken on new forms. Today's reference

to a value-based consensus, as well as to notions of economic utility and deservingness, continue to be coloured by "culture." As the paper suggests, anxiety about mixing and everyday hybridity has been carried forward too. Rather than paradigmatic shifts that would lead from one "model" to the next, specific political constellations require attention to understand the shape of current exclusions and potentials for pluralism.

III. CASE NARRATIVE: PATTERNS OF INCLUSION AND EXCLUSION

German reunification did not immediately produce a policy shift in the accommodation of cultural diversity (although changes to the Alien Act in 1990 brought about some improvement to the status of non-citizen residents). Yet more cracks appeared at this point in the "the portrayal of Germany as an organic nation, a community of destiny."[26] The exclusionary status quo of citizenship law had become harder to defend and the reality of immigration more difficult to ignore. That resident non-citizens were going to "return" to their "home countries," the dominant policy paradigm up to that point, had even more clearly been revealed to be a myth.[27]

Conservative constituencies that had blocked reform proposals on grounds of ethno-cultural parochialism also experienced a political decline that culminated in the defeat of the CDU/CSU (Christian Democratic Party/Christian Social Union

of Bavaria) government in 1998, after 16 years in power. The new governing coalition of Social Democrats (SPD) and Greens set out to reform citizenship and immigration. These reforms were eventually adopted, constituting significant shifts in practical and symbolic terms. Together, they put immigration on the political agenda and facilitated access to citizenship.[28] However, the moment was also marked by contentious exchanges in legislative arenas and electoral politics that limited the scope of reforms, and attested to continued unease about the direction of change.

This resistance is reflected in restrictions on dual citizenship that were imposed and stayed in place until 2015. In addition to citizenship and immigration, the fields of religious recognition and labour market incorporation merit attention because they, too, act as domains where the scope of pluralism is negotiated both symbolically and in policy terms. This section therefore considers tendencies of exclusion and inclusion by introducing episodes and cases for: (a) the area of citizenship, with a particular focus on language as well as law; (b) questions of religious accommodation, with a particular interest in the terms of religious incorporation; and (c) the economic sphere, drawing attention to the public negotiation of belonging and deservingness.

Citizenship, Language and Belonging

The arrival of a "normalized" national identity has been associated with the visibility of the national flag during the 2006 Football World Cup. Organizers promoted the event with the slogan "the world is visiting with friends" (*Die Welt zu*

Gast bei Freunden), highlighting an openness and hospitability towards "guests." In public commentary, the celebratory patriotism of 2006 was widely welcomed for the benevolent expression of national pride it was seen to convey.

It is unclear how far the performance of a hospitable self-image has changed the terms of belonging for post-migrants that are not merely visiting, however. Research by Naika Foroutan et al shows a significant disjuncture between majority and minority constructions of identity.[29] On the one hand, a growing number of new arrivals and subsequent generations embrace a more open understanding that takes less notice of ethno-cultural boundaries. On the other hand, however, the popular portrayal of the second or third generation frequently highlights crisis. Accounts of "integration" trace success to individual efforts. More generally the notion of group-based failure is affirmed and the crisis of integration at the social level—the much-invoked failure of multiculturalism—is then mirrored in the troubled circumstances of stereotypical immigrant youth. In highly dramatized accounts, episodes of violence and educational failure are traced to cultural mis-adaptation and framed as deficiencies of integration. Supposedly caught between cultures, young post-migrants often feature either as perpetrators of violence or victims of circumstances beyond their control.[30]

There are inter-generational and other differences in these shifting portrayals of German identity. Familiarity, presence and visibility have a role to play in accounting for changing attitudes. Research suggests that increasing levels of contact for younger age groups corresponds with more positive

attitudes towards diversity. Naika Foroutan et al's 2015 analysis found that understandings of German nationality appeared less restrictive among younger age groups. For example, 40% of respondents over the age of 25 consider the hijab to be incompatible with national belonging whereas the figure is only 26% for younger respondents. Yet, at the same time, polling finds right-wing populists in the same age group, reflecting a growing polarization among young people.[31]

Therefore, if revised laws and understandings of German identity allow for new entrants, it is less clear how far change has gone and how this identity itself has been changed, unsettled or expanded. The much-invoked "welcoming culture" (*Willkommenskultur*) may capture an ideal of cosmopolitan hospitality, but it too reveals its limits.[32] Tendencies in the politics of citizenship and language illustrate this tension between conditional incorporation and continued exclusion in law as well as politics and everyday life.

As noted, a tendency of liberalization, qualified by concerns over national unity and constitutional loyalty, underpins the revision of German citizenship law away from an overwhelming focus on *jus sanguinis*. Until the reform of citizenship law, naturalization required a legal residence of 15 years and dual citizenship was impossible (with a few exceptions). The reforms of 2000 made naturalization easier by reducing the years of the residency requirement, although they also set the scene for new requirements of language capacity, cultural knowledge, and economic autonomy that were subsequently adopted. The new approach towards citizenship provides the most significant

piece of evidence for liberalizing tendencies, although it also demonstrates the conditionality within these tendencies.

CSU/CDU governments had already initiated some liberalizing reforms in the 1990s, but the push towards *jus soli* in 2000 took place over conservative resistance. Political debate centred on the loyalty of individuals holding dual citizenship. The compromise enacted in 2000 introduced a "duty to choose" (*Optionspflicht*). Germans who had acquired citizenship by birth, but whose parents were not German, would have to renounce their parents' citizenship (that they also held) between the age of 18 and 23 in order to retain German citizenship.[33] A compromise between the CDU/CSU and SPD in 2015 revisited the *Optionspflicht* without abandoning it, allowing for dual citizenship of *jus soli* citizens if the young person had graduated from or attended school in Germany for six years or had been a resident for eight years. However, those seeking naturalization who do not meet these criteria, and hail from a country outside of the European Union, must still renounce their parental citizenship.

In addition to the difficulty of legal reform, the episode illustrates continued uneasiness with multiplicity. In the case of citizenship, narrowly construed, this uneasiness refers to dual and therefore "divided" national loyalty, which is not merely a right-wing concern (as an editorial by Jakob Augstein, a prominent left-wing commentator, in the context of the failed coup d'État in Turkey shows).[34] The attitude also underpins stigma attached to cultural expressions of hybridity and mixedness in public life.[35] For

example, in many debates, the Muslim hijab tends to be viewed as symptomatic of the failure of "integration" in Germany.[36]

Language competency is also a terrain of political debate, where expectations of uniformity complicate the theoretical openness of German citizenship. Today, applicants for permanent residence or citizenship need to demonstrate a high level of competence in a test that is the culmination of compulsory "integration courses."[37] Such prerequisites for naturalization are often justified in civic terms, underlining the importance of linguistic competence for participation in public life, which has to be achieved before integration begins to take place. Yet expectations of linguistic proficiency are not merely civic. Survey data shows a strong insistence on near-perfect command of the German language in order to qualify as "genuinely" German, with 40% of those polled expecting that it should be spoken without an accent.[38] This opinion indicates longstanding uneasiness: although newcomers are welcome to demonstrate their belonging by aspiring to high standards, their presence remains problematic where such standards themselves are controversial. The concern and expectations about linguistic homogeneity correspond to the particular stigma attached to "ethnolects," in particular to the fusion of German with Turkish or Arab inflections, which tend to be viewed through the prism of "failed" integration.[39]

As in the case of citizenship law, the historical background for expectations of linguistic competence is instructive. Efforts at the coercive assimilation of Poles working in the western industrial regions in the late 19th and early 20th

centuries occurred against a background of comparable anxiety about linguistic purity. As a commentator at the time put it, "young Poles, especially the asocial elements among them had created a colorless mixed dialect."[40] The response towards "guest workers" and their families from the 1950s, in turn, was hands-off and native language instruction available, but as the myth of "return" began to crumble, language again became a hot button issue. The fear that "parallel societies" (*Parallelgesellschaften*) and ethnic ghettoes would develop has been made vivid with reference to linguistic difference and alternative cultural codes. For example, former Social Democratic politician and widely read author, Thilo Sarrazin, alleges that Muslim youths occupy a "linguistic nowhere-land." With reference to the Neukölln neighbourhood of Berlin, he suggests:

In a nutshell, the situation in Neukölln exemplifies the issue of Muslim immigration. It is about the concentration of a lack of education, deficient language skills, welfare dependency, traditional forms of life, youth criminality, cultural distance, and it is about the solidification of this mélange.[41]

Sarrazin combines elements of biological and cultural racism, denigrating Muslim post-migrants with reference to inherited intelligence and cultural backwardness. Although his idiosyncratic positions mean that he is not a representative figure, his views mirror closely an idea of "failed" integration" that resonates widely in the public mainstream. To summarize, if cosmopolitan and liberalizing tendencies have had an impact on law and politics, and prompted a number of legal and political changes in the areas of citizenship and immigration,

such openings also coincide with continued anxiety about the intrusion of "difference." This is particularly evident in concerns about divided loyalties and cultural mixing, viewed not as any welcome change, but as a social problem.

Religious Pluralism and the Corporatist Model

The religion of migrants that arrived as "guest workers" was not widely seen to be a relevant fact or significant risk. Outside of domains where pragmatic exemptions were sometimes granted, such as by employers who offered arrangements for the religious practice of Muslim workers, requests for more comprehensive forms of religious accommodation were not widely registered. However now, and as in other country cases, the discussion of religious accommodation today is coloured by security concerns, which also underpin new state initiatives to connect with Muslim organizations.

This is the background for a wave of new initiatives that aim to incorporate Islam into existing social and political arrangements. Initiatives are rarely ground breaking but simply seek to extend existing templates used for other faith groups. Therefore, the potential for greater accommodation of diversity or movement towards pluralism is dependent on the space available within existing models; and, in particular, on the possible incorporation of religious, group-based actors into a framework of constitutional law regulating German church-state arrangements. The relevant constitutional provisions date back to the Weimar Republic and confer important material benefits and stakeholder

rights on faith communities that are recognized as public corporations (*Körperschaft des öffentlichen Rechts*).

Such corporatist arrangements are a significant part of how public life in Germany is organized and how public services are provided. Privileges the two main Christian denominations (Roman Catholicism and Lutheran Protestantism) enjoy in education, social care and health, among other areas, are largely unavailable to other faith communities that until recently had not been granted recognition. This absence has been criticized as inappropriate for today's multi-religious circumstances and has become the starting point for attempts to expand the German religious settlement. Significantly, however, neither the adequacy of existing templates in light of a declining relevance of Christianity nor the possibility of reform is on the table. Nor does the movement towards recognition of other religions, especially Muslim faith communities, enjoy unanimous support, even from the left. For example, leading figures within the Green Party, which used to be the main carrier of multicultural ideas in the 1980s and early 1990s, now offer a scathing critique of state engagement with Muslim organizations.[42]

It is worth asking what the benefit of inclusion into the corporatist settlement might be. Minority religious organization in Germany have largely grown out of precarious and under-funded community initiatives or, as in the case of the Turkish-Islamic Union for Religious Affairs (DİTİB), retained strong homeland ties.[43] For such organizations, inclusion might be a way of building capacity as well as achieving visibility and voice. It accords symbolic recognition, strengthens the ability to offer a range of faith-based services to constituencies and allows for participation in consultations on important matters of public concern, ranging from the provision of social care for elderly people to the regulation of state broadcasters.

The most significant initiative towards Muslim incorporation has been the German Islamic Conference (*Deutsche Islam Konferenz*, DIK) that has provided a new phase of state engagement with Muslim organizations and individual representatives since 2006. The DIK's aim has been to develop a "reasonable relationship" between government and various Muslim representatives, and to explore "if and how Islam as a 'religion without a church' can live up to the organizational requirements of the German constitutional church law (*Religionsverfassungsrecht*)" and qualify for the benefits of state recognition.[44] Currently, the DIK's third phase considers welfare and issues of pastoral care. The German Islam Council (*Deutscher Islamrat*), which had been excluded from consultations in response to questions about its constitutional loyalty, has been re-invited.

It has become clear that state recognition comes with strings attached. Participating associations have been expected to re-iterate commitments to liberal values and constitutional principles. The state's interest in dialogue with Muslim organizations has also meant that groups have had to present themselves in religious terms and that issues that received space during the discussion had to be presented primarily within a religious framework.[45]

The status quo of religious accommodation across the Federal Republic shows considerable variance. The DIK's national initiative coincided with local attempts to open existing corporatist arrangements to Muslim associations for the provision of religious education, the training of Imams, and towards parity with Christian actors in the delivery of social and health services, for example. The city-states of Hamburg and Bremen have responded to requests by some Islamic organizations and adopted a "contract" (*Staatsvertrag*) with three groups each.[46] The larger Lower Saxony *Land* is currently finalizing a similar compact that would regulate, among other issues, Islamic burial, the recognition of Islamic holidays and the participation of Muslim organizations in public consultative bodies. Although such agreements respond to requests from and constitute a form of symbolic recognition that associations clearly desire, they also show traces of continued suspicion towards the Muslim presence. For example, the Bremen and Hamburg contracts make an explicit reference to gender equality, a mention that is not present in similar agreements with non-Muslim religions.[47]

Other *Länder*, especially where the capacity of Muslim organizations is less developed, have not made similar advances. Despite widespread popular support for the measure, Bavaria recently decided to deny exceptions to the mandatory use of coffins, preventing Islamic burials in that large *Land*.[48] North Rhine-Westphalia, with the largest population of any *Land*, favours a case-by-case approach to ordering the relationship with Muslim associations.

One of the main dilemmas in this area is not just a lack of desire to make space for a new religion, but the inflexibility of existing corporatist structures, which precludes progress. Some *Länder* have shown themselves to be recalcitrant or have simply chosen to ignore any request for change. The openings that other *Länder* are beginning to adopt are significant, however, and may lead to more comprehensive revisions of church-state structures over time.

The negotiation of individual rights and respect for diversity within such structures reveals comparable patterns of resistance, but also the gradual reduction of opposition over time, often instigated through the German courts. As in many other contexts, the visibility of women's religious dress or signs provides a site for the negotiation of secularism, national identity and rights-based claims.[49] The case of Fereshta Ludin, whose hijab was grounds for precluding her employment as a teacher, is emblematic of patterns of resistance and some recent progress. In 1998, Baden-Württemberg blocked Ludin's entry into the civil service and therefore her employment as a teacher. Educational authorities argued that (regardless of any desire to proselytize) the hijab would inevitably harm students' "negative religious freedom." A 2003 ruling by the Constitutional Court rejected Baden-Württemberg's argument that the headscarf was a statement of "cultural separatism and therefore not just a religious, but also a political symbol."[50] However, in a remarkable judicial contortion, the Court also facilitated the subsequent adoption of bans. As a principle for adjudicating religious symbols, it underscored the importance of an "objective horizon of reception" (*objektiver Empfängerhorizont*), and it gave significant weight to the possibility that the hijab could be

detrimental to "school peace."[51] Where provisions in *Länder*-based educational law did not allow for restrictions, the Court encouraged states to choose: either safeguard the practice; or adopt stringent laws banning the hijab on the grounds of preventing conflict in educational institutions. Half the German *Länder*, including those with the highest number of Muslim inhabitants, followed the second route, justifying their bans with hypothetical scenarios of disturbances to the peace in schools.[52]

In 2015, the Constitutional Court revisited its initial ruling in a case from North Rhine-Westphalia. Two state employees, a teacher and a social worker, brought the case jointly. Educational authorities terminated the employment of the teacher for wearing the hijab, whereas the social worker had sought to comply with the ban by replacing the headscarf with a woolly hat, along with a turtleneck sweater, before being given written warning from school authorities and threatened with termination. Tribunals up to the Constitutional Court, including the Federal Employment Tribunal, found that even a commercially available hat constituted an expression of faith and could be prohibited.[55]

Examining the ban that North Rhine-Westphalia had imposed, the Constitutional Court undertook a more thorough consideration of the religious freedom clause in the constitutional Basic Law (*Grundgesetz*). It took issue with local provisions that required teachers to "refrain from political, religious, ideological or other external statements that are liable to endanger or disturb the state's neutrality towards pupils and parents or political, religious or ideological school peace."[53] In the North Rhine-Westphalian case, these provisions

had explicitly exempted "Christian or Occidental values of education and culture or traditions" from requirements of neutrality as these were considered part of the state's "educational mission."[54]

In its 2015 dismissal of these provisions in the *Land*'s school law, the Constitutional Court found that they only made sense if Christianity were treated as the quasi-neutral ground on which all other expressions of religion were required to compete. Thus, the Constitutional Court struck down exemptions for "Christian-Occidental" religious signs. It reaffirmed the state interest in protecting "school peace and state neutrality," while qualifying the scope of that interest. Threats could no longer be invoked if they were hypothetical and abstract; they had to be realistic and concrete.[56] Even in such cases, they could not lead to the termination of teachers' employment, if other measures were available. Parental rights and the "negative" protection of pupils' religious freedom did not justify a wholesale ban on the headscarf. The North Rhine-Westphalian school law has since been revised and other *Länder* are also moving to make their school regulations compatible with this constitutional interpretation.

It is too early to judge the significance of this shift. The response among educators is mixed, and major teachers' organizations have condemned the 2015 judgment.[57] The distinction between abstract and concrete threats to school peace is likely to be blurred and leave scope for continued restrictions. Some *Länder*, such as the city-state of Berlin, continue their exclusion of the headscarf under comprehensive neutrality requirements that have so far not been successfully challenged. Popular views

on the issue are divided, although more than 70% of those under the age of 25 endorse teachers' right to wear the hijab.[58]

The exclusion of Muslim religious practice, while treating Christianity as neutral ground, is certainly not exceptional to Germany. Just as in other contexts, highly visible exclusions—as the case of mediatized conflicts over the hijab—are likely also to provoke forms of discriminations that are much less visible. Various studies have established that Muslim women in particular suffer from significant disadvantage. The "horizon of reception" that the Constitutional Court invoked in 2003 (penalizing Muslim women for negative perceptions of their Muslimness) has some role to play among such experiences. Expected discontent among customers, for example, provides grounds for excluding Muslim women from positions of customer-facing jobs in the service economy.[59] Despite the adoption of comprehensive equalities legislation in line with European Union requirements, such inequalities are also reflected in differential outcomes for post-migrants across many areas of social and economic life.[60]

The Economic Model, Labour Market and Welfare State

The state-sponsored recruitment of "guest workers" ended in 1973. After that, permission for labour migration could only be acquired under exceptional circumstances.[61] The early 2000s saw the re-emergence of political interest in labour migration, targeted at highly skilled migrants, particularly IT specialists, who were often believed to be in India and only waiting to move. Chancellor Gerhard Schröder celebrated the "competition for the best

and the brightest" in the early 2000s. Nonetheless, the move to loosen up recruitment provoked considerable resistance. In response to proposed migration quotas to meet the needs of the digital economy, the conservative candidate in North Rhine-Westphalia campaigned in 2000 for *Kinder statt Inder* ("children instead of Indians"). Nor did the temporary and restrictive visas (mis-labelled as "green cards") that were proposed as part of this first initiative attract the expected number of applicants.[62]

In the aftermath of the 2008 economic crisis, Germany again became a popular destination for labour migration from within and outside the European Union.[63] Structural shortages of system-relevant and specialized labour drives migration policy-making at this point, including recruitment of skilled labour and trainees for the country's system of vocational education upon which much of its economic success is considered to rest.

Since 2008 additional efforts to respond to the perceived requirements of global competitiveness have paved the way for a range of liberalizations. Advances in the recognition of foreign professional qualifications in 2012, for example, mean that Germany now can be described as a model case of labour market mobility.[64] Conservative politicians have reversed their opposition to a revision of the 2005 immigration law, which may be considered after the 2017 election.[65] With signs of a re-politicization of immigration in light of recent events, the direction of further reforms is difficult to predict, though it is clear that labour market and demographic considerations will play a role in future reform packages.[66]

Assumed economic benefits of immigration also shape the experience of recent migrants. The rationale for labour migration in the 1960s and 1970s had been a controlled absorption of migrants in niches that needed filling due to German workers' upward mobility. The resulting working conditions and discrimination that significant numbers experienced have been documented in reports, such as Günter Wallraff's *Ganz Unten* (*Lowest of the Low*, 1985).[67] In an economy that puts a premium on flexibility and knowledge, today's labour migrants are less likely to face such conditions. Yet growing chauvinism is directed at unskilled migrants whose economic utility is in doubt, often as a result of specific cultural markers.
There is indeed a stark contrast between the acceptance accorded to populations depending on their presumed ability to meet expectations of utility. As Thomas Faist and Christian Ulbricht suggest:

> [w]hen it comes to debates about the so-called highly qualified from abroad who Germany wants to attract, and highly qualified German citizens who work abroad as professionals and scientists, the absence of talk about integration is striking. […] Categorizations in terms of economic utility seem to be reserved for highly skilled immigrants and German citizens who are emigrants, whereas low-status immigrants have been categorized in terms of culture.[68]

A welcoming attitude towards highly skilled migrants contrasts with a negative assessment of the economic usefulness of many long-time residents and hostility towards unskilled migration, especially where it is considered a burden on social services

and the welfare state. In all this, recent immigrants and settled post-migrants tend to be painted with the same brush.

The openness towards diversity and the potential for pluralism that is encapsulated in *Willkommenskultur* does not gainsay this account of on-going patterns of exclusion and limited pluralism in the area of work. While it may be possible to discount PEGIDA or AfD as fringe movements, there is evidence of suspicion towards Muslims and many immigrants that is firmly rooted in the mainstream as well. It is sustained by new differentiations along boundaries of deservingness with respect to both employment and public services. These boundaries would limit the benefits of hospitality to individuals deemed skilled, mobile and cosmopolitan. The relevant expectations are especially demanding in the case of individuals and groups deemed suspect, disloyal and undeserving by default.

IV. EMERGING LESSONS

The focus of this paper has been on changes over the 25 years since the reunification of the two Germanys. These modifications have materialized in politics and law as well as in growing levels of contact, a new social visibility of difference and changing attitudes across generations.[69] The paper seeks to identify the spaces for greater pluralism in a situation traversed by contradictions, in particular with respect to civic and ethno-cultural interpretations of national identity in the domains of citizenship and immigration law, religious

recognition, and labour markets. In light of these contradictions, the prospects for progress as well as the risk of anti-pluralist retrenchment are difficult to anticipate accurately. The response by political actors and in civil society to the arrival of refugees reinforces a sense of uncertainty. Political decisions in the near and medium-term future, as well as the impact of growing xenophobic mobilization, are difficult to assess; they may fade away or profoundly change the tone of the narrative presented here. Prediction is further complicated as the drivers of immigration exceed domestic control. An overarching sense of "crisis" underpins increasingly desperate efforts by European states, including Germany, to reduce arrival numbers and implement a range of punitive anti-immigrant measures. It is distinctly possible that pluralist potentials that have been outlined in this paper will be squandered or destroyed as a result.

Focusing on domestic politics, this paper has considered tendencies of inclusion and exclusion that often emerge in close proximity and even in relationship to one another. Damani Partridge's notion of "exclusionary incorporation" usefully accounts for a form of conditional openness that is evident in the German case. Exclusionary incorporation envisages a place for newcomers and subsequent generations subject to wide-ranging expectations that are presented in the form of moving targets of desirable conduct and cultural assimilation. Rather than granting civic equality, it concedes inclusion to "compromised subjects" that continue to be monitored for markers of difference that are deemed threatening.[70] The cosmopolitan hospitality of the so-called welcoming culture (*Willkommenskultur*) and the pluralist

achievements that have been made over the past 25 years are compatible with this type of conditional acceptance of manifestations of diversity that remains conditional and provisional.

This concluding section reviews this narrative and considers contradictory tendencies of inclusion and exclusion with a focus on liberal ideas, political institutions and civil society, before outlining potentials for pluralist change.

Illiberal Liberalism

Just as in other Western European country cases, it is no longer ethno-cultural exclusions alone, but also new forms of "liberal intolerance," that shape the experience of ethno-cultural minority groups, especially Muslims.[71] In Germany, in particular the canon of attitudes and values that immigrant and post-migrant groups and individuals are asked to embrace have become subject to anxious debates over the terms of integration. The concepts invoked in such debates are not stable, and integration itself is an ambiguous concept. As previously suggested, it can mean assimilation and anxiety about it usually privileges causal stories in which individuals' or communities' lack of effort are invoked to explain failure. Its relative emptiness allows for representatives of the dominant majority to hold ill-defined standards over the heads of newcomers whose belonging remains in doubt and whose loyalty and deservingness require perpetual proof.[72]

The risk that the Muslim presence is seen to pose, for example, can be understood in relation to a Judeo-Christian dominant culture, to a civic settlement of liberalism and human rights or to the

proposition that Judeo-Christianity and liberalism align automatically. Each of these positions invokes a contrast between the Muslim "other" and a national self, and makes inclusion conditional upon ill-defined expectations being met.

Andreas Scheuer, the General Secretary of the CSU—the Christian Democratic Union's Bavarian sister party—recently issued a demand for a "German common culture (*Leitkultur*) instead of multiculturalism (*Multikulti*)," saying:

> Germany's common culture is much more than the Basic Law (*Grundgesetz*). It includes our traditions, our way of life and our common values. Someone who sends his wife into the street wearing a burqa does not violate the Basic Law. But he pays no respect at all to our common culture. [...] Integration cannot mean that the native population and refugees meet half way and that a new shared culture emerges. There is only one direction: accept our values.[73]

In this view, the constitutional minimum of the Basic Law is insufficient and needs to be complemented with forms of desirable conduct that are often vaguely defined or impossibly comprehensive. Regardless of how prominently either civic or ethno-cultural requirements of belonging feature in such arguments about belonging, inclusion of newcomers and acceptance of post-migrants remain conditional upon arbitrary expectations or targets that are moving. As described in Section III, this ambiguity in public policy is mirrored in popular expectations of cultural uniformity, in terms of dress (no hijab) and language (excellent German). The much-invoked

welcoming culture (*Willkommenskultur*) does not mean that an immigrant or post-migrant presence is welcome unconditionally or allowed to disturb established patterns and identities. As a group of three young authors in a book recounting their experience as "New Germans" put it:

> Including our passport and our language, we are German by socialization and upbringing; why one of us is made to feel alien, and the other isn't, results from decisions that others make on the basis of arbitrary criteria. Their rejection is directed at one group, then the next, and for some years it has been experienced in particular by Turks and Arabs. What remains is the feeling that one is always liable to the possibility of exclusion.[74]

This experience also casts doubt on two available paths towards pluralism—opening social and legal arrangements to newcomers, or expanding their rights as individuals—that the paper has considered at various points. On the one hand, inclusion into German citizenship, labour markets or corporatist church-state arrangements, is rarely unconditional and, where granted, it often remains insecure. In the aftermath of the failed coup d'État in Turkey in July 2016, heightened anxiety about the loyalty of dual citizens, and renewed initiatives to abolish their status, illustrate the conditionality of progress in the area of citizenship. On the other hand, the expansion of liberal rights that could buttress post-migrants' cultural claims while offering protections against discrimination on the basis of "race", is distinctly uneven. Significant decisions, such as the Constitutional Court's revocation of exclusionary school laws, often fail to cut through the patchwork

of practices in the federal system. As a result, the German case is characterised by differential practices of accommodation and continued exclusion.

There are additional reasons why the promise of expansion of liberal rights may be insufficient for progress towards pluralism. Liberalism is hardly conducive to pluralist inclusion if it demarcates a liberal "civilization"—a canon of values, attitudes and beliefs that are traced to historical legacies and cultural particularities. This civilizational rendering of liberalism, which has become prominent in German public debate, is sustained through the contrast with minority groups that are suspected of failing to adhere to liberal tenets or whose professed allegiance is deemed superficial and insincere. A series of contestations about religious minority practice illustrates such contrasts. In 2012, for example, a legislative initiative to secure an entitlement to practice underage male circumcision for Muslims and Jews, which a state court in the city of Cologne had found to be a violation of children's physical integrity, was met with considerable resistance.[75] Opponents of the practice mobilized predominantly liberal arguments, centring on children's rights and self-determination, and forged a powerful coalition against circumcision in the public mainstream. Yet the debate also revealed that anti-pluralist argumentation by self-described liberals is rarely *just* liberal. In the case of circumcision, it entailed the portrayal of minority practices as "bloody" and "barbarian," tracing alleged pathologies among German Turks, for example, to fanciful accounts of early-year trauma. It also reflected a cultural horizon that overlaps closely with Christian conceptions of normality,

such as when prominent opponents of circumcision offered an explicit invitation for Muslims and Jews to replicate the "moral progress" that Christianity had already achieved.[76]

In parts of the conservative mainstream, as well as among new actors on the populist right, the common request that newcomers comply with "our values", is hardly *just* about compliance with liberal principles. Distorted historical references to a "Judeo-Christian tradition" as the basis for the German commitment to liberal ideas often underpin such requests, which—as the paper has argued—often conceal expectations of cultural uniformity. Political rhetoric that invokes liberalism thus needs to be scrutinized and the multiple uses of liberal ideas in public debate need to be examined, which in the German case is likely to reveal that the civilizational rendering of liberalism provides an attractive language for today's ethno-nationalists. The current multiplicity of crises—affecting the economy, the domain of immigrant integration, and the legitimacy of the political system more generally—offers new opportunities for them to articulate their concerns. It allows for the stark framing of social problems as failures of previous policy approaches that, in the case of immigrant integration, are described as too lenient, accommodating, and tolerant.[77] The rejection of liberal permissiveness, and the demand for a more hard-edged "muscular" liberalism, draws on such accounts, which are attractive but rarely hold up to scrutiny. The prominent narrative that identifies Angela Merkel's hospitality towards refugees in 2015 as cause for catastrophic outcomes only follows established patterns. It continues prominent accounts that portray the ambition to achieve

pluralism in Germany to be in perpetual state of crisis.

Inclusion and Institutional Control

Ambivalence about the direction of change is also evident in state efforts towards institutional incorporation for German Muslims, in particular. The German Islamic Conference represents an avenue of inclusion that became possible due to state interest in controlling populations that were registered as Muslim and thus considered in need of safeguarding.[78] Initiatives by the *Länder* to bring Muslim associations into the framework of church-state relations continue to reflect a double interest in incorporation and control.

As different phases of the DIK experience show, the state approach towards Muslims still tends to focus on security. Elements of the current approach date back to earlier times, not least to the era of the Alien Act that framed the presence of non-citizens as a security challenge and under the authority of the police, particularly after 1973 and the end of labour recruitment, when the management of migration shifted from the Ministry of Labour to the Ministry of the Interior (*Bundesministerium des Inneren*, BMI).[79] The securitization of Islam after 9/11 reinforced already existing patterns.

The BMI continues to act as the main institutional actor in the federal state's outreach to Muslims. Under different ministers, strong concerns about the constitutional loyalty of Muslims were articulated from within the BMI, leading to questionable actions. In one recent episode, the ministry leaked survey findings to the right-wing tabloid press that were deliberately misinterpreted to arrive at the worst possible portrait of attitudes among young German Muslims.[80]

The BMI's attitude exemplifies the importance of organizational dispositions and knowledge, and institutional behaviour for the state's approach towards diversity. Recent lapses, in particular the failure to investigate a series of murders committed by the National-Socialist Underground (NSU), have challenged trust in institutions.[81] This applies in particular to the Federal Office for the Protection of the Constitution (*Verfassungsschutz*) and its *Länder*-based affiliates, which have the double role of being a domestic security agency and the adjudicator of constitutional loyalty. Their failure to detect the right-wing background of the murders, and a structural inclination to treat victims of racist violence as suspects or perpetrators, underpins a crisis of credibility. Half-hearted attempts to police right-wing protests, and the failure to respond strongly to violent attacks on refugees, are beginning to be more widely criticized. Such shortcomings are widespread, but have attracted particular interest in the case of Saxony, where a large number of attacks on refugee reception centres occurred. Saxon security agencies have been more inclined to suppress rather than support civil society resistance against such attacks and against the neo-fascist movements that are particularly powerful in the *Land*.

Civil Society and Change from Below

As a result of changes to the law, formal citizenship (*Staatsbürgerschaft*), has become more accessible, and this opening is also partially matched by

symbolic revisions of national identity and everyday understandings of citizenship.[82] If encounters across a variety of social settings are the relevant measure, it can be suggested that Germany is experiencing what Stuart Hall claimed for Britain in the 1990s, a multicultural "drift" resulting from "undirected sociological processes" rather than from "deliberate and planned policy."[83] The increasing visibility of difference challenges cultural expectations of homogeneity, and such challenges are no longer confined to urban areas that might have been painted as exceptions or to some neighbourhoods of concentrated "immigrant" populations and qualified as dangerous failures.

The hope that can be pinned on social change and bottom-up movement towards pluralism is limited, however. This type of progress is uneven at best, and a big picture often difficult to discern in the German case. There is evidence that attitudes and experiences have grown more de-synchronized between the former East Germany and the West, but also for growing disenchantment with new realities of diversity among sections of society that are becoming more fundamentalist and militant. The PEGIDA mobilizations of 2015 or the AfD's increasing electoral success, alongside the presence of the neo-Nazi National Democratic Party (*Nationaldemokratische Partei Deutschlands*, NPD) in regions with low to modest levels of diversity, illustrates the strength of anti-pluralist potential in civil society. The mobilization of the far right alongside large numbers of individuals self-described as "concerned citizens" (*besorgte Bürger*) has grown in force. Although these movements have not yet reached the strength of, for example, the French *Front National*, the AfD's electoral success

– exceeding 20% of the vote in some *Länder* – suggests that this can no longer be ruled out.

The mixed picture in this paper extends to symbolic acknowledgments of diversity within the nation, to policies intended to promote integration and practices of institutional incorporation, and to the normalization of difference in everyday settings alongside the rejection of the same in growing xenophobic mobilizations. Along with the incompleteness of pluralist advances in different domains, as emphasized in this paper, there are also potentials and pivot points for movement towards pluralism, such as in the areas of regulation, participation and mobilization.

Regulation

More than anything, the German case illustrates some of the pitfalls of regulation. The history of the Alien Act reflected fantasies of control and the attempt to subject diversity to stringent regulatory designs. Social processes that defy regulation have been met with hostility. This is the case for phenomena of cultural mixing, which often continue to be viewed as pathologies, not least because they occur outside of the state's regulatory purview. It is no surprise, then, that interventions such as Thilo Sarrazin's nativist commentary, hark back to an image of the homogeneous and well-ordered society in the 1950s and 1960s. The AfD's political agenda is equally distinguished by the desire to reduce complexity, such as its defence of state sovereignty against immaterial social forces or its commitment to rescue the "traditional family."[84]

More generally, progress towards pluralism may

depend on policy-making that takes notice of socio-political realities before seeking to bend them to regulatory designs. Historically, the German state has not shown this inclination and has—often based on wishful thinking (e.g., about "return")—implemented policies that bore little relationship to facts on the ground. This also evident in the policy area of integration, which continues to be subject to a series of detailed and tightly controlled schemes, sketched out in "integration measures" (*Integrationsmassnahmen*) or "integration schedules" (*Integrationsfahrpläne*). Such measures often envisage little scope for the unplanned and conceive of everyday processes of cultural production and exchange not as potential, but risk. Yet, in recent years, the failure of past regulations is more frequently registered. The active contribution of immigrant and post-migrant populations to measures that affect their livelihoods is (slowly) beginning be perceived as a relevant fact, not least also because these populations have become more visible and assertive.

Participation

Newcomers and subsequent generations have not been impassive to their situation, and have made claims for greater pluralism in the institutional and social spaces available. At times, they have been identified as "stakeholders" and invited to participate in consultations about the terms of their inclusion, such as through the DIK or in initiatives by the *Länder*. As the DIK illustrates, the opportunities that arise as a result do not necessarily provide for full empowerment, but are still being conducted within the rules of the game rather than questioning them, and reproducing a

hierarchy in which those invited to such so-called free exchanges still find themselves in subordinate positions.[85]

Yet there is potential in such initiatives. The DIK created openings by making contestation possible, allowing actors to make their presence known and criticize restrictions imposed on the terms of their participation. In this, it mirrors other forms of participatory governance mechanisms that, despite tokenism, can give new entrants a foot in the door.[86] The relevant policy designs often allow for some types of re-appropriation by actors that are invited to participate. The potential for a pivot towards pluralism, then, lies in new actors' capacity to make use of such spaces. The opening of corporatist structures that previously did not envisage a post-migrant voice should not only be judged by immediate outcomes; the changes that some *Länder* are beginning to adopt may lead to transformations that are not currently envisaged but emerge as unintended results of new and challenging forms of agency.

Mobilization

Potentials for pluralism require political mobilization to be achieved. The distinctive achievement of 2015, for example, was a significant civil society effort at welcoming refugees. Although now less visible, this effort continues, albeit with regional discrepancies and variation in the strength of neighbourhood initiatives. These local efforts often step in where public authorities fail to deliver. Such efforts give some credibility to the often evoked but not always well-defined notion of a *Willkommenskultur*. It also distinguishes recent

events from more widespread indifference and hostility towards refugees in the early 1990s when the arrival of asylum seekers from the war-torn Balkan countries prompted attacks against them, hostile rhetoric, and eventually tightened asylum laws.

Xenophobic mobilizations have also been countered, although the strength of this opposition varies. In 2015 PEGIDA protests in Dresden were often unhindered, indeed with local authorities discouraging counter-protests. Xenophobia is deeply embedded in many milieus across East and West Germany and in numerous localities so-called concerned citizens feel entitled not just to express verbal hostility to pluralism, but also to act on their beliefs, as the proliferation of violent attacks on refugee reception centres indicates. PEGIDA has embraced the slogan *Wir sind das Volk* (We are the people) that was previously associated with the 1989 East German revolution, and perpetrators of racist violence often present themselves as upright citizens acting in the interest and name of a silent majority. At this juncture, progress towards pluralism will require a very strong challenge to such claims but the de-synchronization of attitudes and growing levels of polarization make it likely that there will continue to be significant contestations in electoral arenas and civil society rather than any unanimous position.

NOTES

[1] I am grateful to Jane Jenson, Tariq Modood, Will Kymlicka and Poorvi Chitalkar for comments on draft versions of this paper.

[2] The available labels, including "New Germans," are problematic. The term *Migrationshintergrund* ("of migratory background") provides a frequently used encompassing classification, but has become pejorative. I will use the notions of "post-migrant" or "post-immigrant," without offering a strong defence for them. *Post-migrantisch* draws attention to Germany's unresolved status of pluralism. It describes the "phase after migration but an obsession with past migrations," despite the fact that national-level deployment of inclusive or hyphenated identities is often difficult. Local or city-based identifications appear easier to attain. Naika Foroutan (2010), "Neue Deutsche, Postmigranten und Bindungs-Indentitäten," *Aus Politik und Zeitgeschichte*, vol. 46–47: 9–15, 15 November; Riem Spielhaus (2012), "Studien in der postmigrantischen Gesellschaft," 4. Bundesfachkongress Interkultur, Hamburg, 26–28 October, 97; Werner Schiffauer (2004), "Cosmopolitans are Cosmopolitans: On the Relevance of Local Identification in Globalizing Society," in *Worlds on the Move: Globalization, Migration and Cultural Society*, edited by J. Friedman and S. Randeria (London: I.B. Tauris), 91–101; Mark Terkessidis (2010), *Interkultur* (Berlin: Suhrkamp).

[3] Özlem Topçu, Alice Bota and Khuê Pham (2012), *Wir neuen Deutschen: We wir sind, was wir wollen* (Reinbek: Rowohlt).

[4] K.J. Bade (1992), "Ausländer- und Asylpolitik in der Bundesrepublik Deutschland: Grundprobleme und Entwicklungslinien," *Friedrich Ebert Stiftung*, accessed 21 August 2016, http://library.fes.de/fulltext/asfo/01011002.htm#E10E5; Ulrich Herbert (2001), *Geschichte der Ausländerpolitik in Deutschland: Saisonarbeiter, Zwangsarbeiter, Gastarbeiter, Flüchtlinge* (München: Beck).

[5] Florian Flade, Marcel Pauly, Kristian Frigelji (2016), "1054 Strafanzeigen nach Übergriffen in Köln," *Die Welt*, 10 February, accessed 1 August 2016, http://www.welt.de/politik/deutschland/article152018368/1054-Strafanzeigen-nach-Uebergriffen-von-Koeln.html.

[6] Triadafilos Triadafilopoulos and Karen Schönwälder (2006), "How the Federal Republic Became an Immigration Country: Norms, Politics and the Failure of West Germany's Guest Worker System," *German Politics & Society* 80 (24): 13.

[7] Per Mouritsen (2008), "Political Responses to Cultural Conflict: Reflections on the Ambiguities of the Civic Turn," in *Constituting Communities: Political Solutions to Cultural Conflict*, edited by Per Mouritsen and Knud Jorgenson (London: Palgrave Macmillan).

[8] See Rogers Brubaker (1992), *Citizenship and Nationhood in France and Germany* (Cambridge, MA: Harvard University Press).

[9] SVR (2015), "Unter Einwanderungsländern: Deutschland im internationalen Vergleich," Jahresgutachten 2015, *Sachverständigenrat deutscher Stiftungen für Integration und*

Migration, 3, accessed 21 August 2016, http://www.svr-migration.de/publikationen/jahresgutachten-2015/.

10 The understanding that Western Europe converges on a liberal-universalist model, which often underpins the notion of a "civic turn," is problematic. It might distract from the resilience of citizenship traditions that, as Mouritsen suggests, "continue to mirror bounded cultural and institutional histories of nation states." Moreover, liberal-universalist normality allows for considerable variety. For example, the 2006 interview guide for the citizenship examination from Baden-Württemberg's conservative government confronted Muslim applicants only with questions on democracy, gender equality and violence. It was promoted as being liberal. Its abolition by a new SPD-Green Party coalition government was equally framed as liberal. This ambiguity is partially due to the framing of constitutional patriotism (*Verfassungspatriotismus)*, which presents an inclusive alternative to previous ethno-cultural closure, but also carries strong undercurrents of suspicion towards suspected enemies (*Verfassungsfeinde*). The newly liberal position that Germany has adopted in immigration and integration policy-making does not simply approximate the Western European liberal mainstream then, but foregrounds specific prerequisites for belonging that only make sense against the Federal Republic of Germany's particular history. Per Mouritsen (2013), "The Resilience of Citizenship Traditions: Civic Integration in Germany, Great Britain and Denmark," *Ethnicities* 13 (1): 100; SVR (2015), 156–66.

11 H.A. Winkler (2006), *Germany: The Long Road West, Vol. 1: 1789–1933* (Oxford: Oxford University Press).

12 Brubaker (1992), 1, 4.

13 Friedrich Meinecke (1908), *Weltbürgertum und Nationalstaat: Studien zur Genesis des deutschen Nationalstaates* (Berlin: R. Oldenbourg).

14 Simon Green (2000), "Beyond Ethnoculturalism? German Citizenship in the New Millennium," *German Politics* 9 (3): 109.

15 See A.K. Fahrmeir (1997), "Nineteenth-Century German Citizenships: A Reconsideration," *The Historical Journal* 40 (3): 721–52; Dieter Gosewinkel (2002), "Citizenship and Naturalization Politics in Germany in the Nineteenth and Twentieth Century," in *Challenging Ethnic Citizenship: German and Israeli Perspectives on Immigration*, edited by D. Levy and Y. Weiss (New York: Berghahn Books), 59–81.

16 Winkler (2006), 221; H.A. Winkler (1978), "Vom linken zum rechten Nationalismus: Der deutsche Liberalismus in der Krise von 1878–79," *Geschichte und Gesellschaft* 4 (1): 28; Dieter Langewiesche (2000), *Liberalism in Germany* (Basingstoke: Palgrave Macmillan).

17 Reinhard Rürup (1975), *Emanzipation und Antisemitismus: Studien zur "Judenfrage" der bürgerlichen Gesellschaft* (Göttingen: Vandenhoeck & Rupprecht), 85.

[18] The abolition of sub-state citizenships, which National Socialists framed as a show of national unity, was followed by the 1935 *Reichsbürgergesetz* (the second Nuremberg Law), which envisaged the racialized reorganization of German citizenship and the exclusion of "alien stock" (*artfremd*).

[19] Mouritsen (2008).

[20] Herbert (2001), 23.

[21] Leo Lucassen (2005), *The Immigrant Threat: The Integration of Old and New Migrants in Western Europe since 1850* (Chicago: University of Illinois Press), 60.

[22] Heidelberg Manifesto, cited in Peter Dudek and Hans-Gerd Jaschke (1984), *Entstehung und Entwicklung des Rechtsextremismus in der Bundesrepublik. Zur Tradition einer besonderen politischen Kultur*, Vol. 2. (Opladen: Westdeutscher Verlag), 302.

[23] Horst Seehofer, cited in Jörg Lau (2011), "Seehofer: Bis zur letzten Patrone gegen Zuwanderung," *Die Zeit*, 11 March, accessed 21 August 2016, http://blog.zeit.de/joerglau/2011/03/10/seehofer-bis-zur-letzten-patrone-gegen-zuwanderung_4714.

[24] Thomas de Maizière (2015), "De Maizière: Muslime sollen Beitrag zur Integration von Flüchtlingen leisten," *Evangelisch.de*, accessed 21 August 2016, https://www.evangelisch.de/inhalte/125932/17-10-2015/de-maiziere-muslime-sollen-beitrag-zur-integration-von-fluechtlingen-leisten.

[25] Indeed, the progress in question is usually incomplete and commentators who defend achievements against purportedly illiberal migrants are not necessarily committed to gender equality or sexual identity rights.

[26] Virginie Guiraudon (1998), "Citizenship Rights for Non-Citizens: France, Germany and the Netherlands," in Christian Joppke ed. *Challenge to the Nation-State: Immigration in Western Europe and the United States* (Oxford: Oxford University Press), 280.

[27] Dietrich Thränhardt (1995), "Germany: An Undeclared Immigration Country," *Journal of Ethnic and Migration Studies* 21 (1): 19–35.

[28] For an overview, see Kay Hailbronner (2010), "Country Report: Germany," *EUDO Citizenship Observatory*, rev. April, accessed 21 August 2016, http://cadmus.eui.eu/bitstream/handle/1814/19614/Germany.pdf?sequence=1&isAllowed=y.

[29] Naika Foroutan, Coşkun Canan, Sina Arnold, Benjamin Schwarze, Steffen Beigang and Dorina Kalkum (2014), *Deutschland postmigrantisch I: Gesellschaft, Religion, Identität* (Berlin: Humboldt Universität).

[30] Terkessidis (2010).

[31] Naika Foroutan, Coskun Canan, Sina Arnold, Benjamin Schwarze, Steffen Beigang and Dorina Kalkum (2015), *Deutschland postmigrantisch II: Einstellungen von Jugendlichen und jungen Erwachsenen zu Gesellschaft, Religion und Identität* (Berlin: Humboldt Universität), 52.

Moreover, Foroutan et al (2014) also found that members of the majority that signal a strong commitment to their identity are more likely to reject the claim by "New Germans" to belong. The liberal normalization of national identity falters if new patriotism proponents are more likely to favour exclusion.

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[33] Susanne Worbs (2014), "Bürger auf Zeit: Die Wahl der Staatsangehörigkeit im Kontext der deutschen Optionsregelung," PhD dissertation, accessed 21 August 2016, http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Beitragsreihe/beitrag-band-7-buerger-auf-zeit.pdf;jsessionid=C3B792CC431A7BB20F528D6076DCFAF3.1_cid286?__blob=publicationFile. There are exceptions for European citizens whose dual nationality does not risk divided loyalty and in cases where abandoning parental citizenship would be difficult, such as for Morocco and Iran. Young Germans of Turkish origin were most affected by the *Optionspflicht*. Karen Schönwälder and Triadifilos Triadifilopoulos (2012), "A Bridge or Barrier to Incorporation? Germany's 1999 Citizenship Reform in Critical Perspective," *German Politics & Society* 30 (1): 52–70; Eniko Horváth and Ruth Rubio-Marín (2010), "Alles oder Nichts: The Outer Boundaries of the German Citizenship Debate," *International Journal of Constitutional Law* 8 (1): 72–93.

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[38]Foroutan et al (2014, 2015).

[39] Inci Dirim and Peter Auer (2004), *Türkisch sprechen nicht nur die Türken: über die Unschärfebeziehung zwischen Sprache und*

Ethnie in Deutschland (Berlin: Walter de Gruyter).

[40] Ernst Franke cited in Ulrich Herbert (1990), *A History of Foreign Labor in Germany, 1880–1980: Seasonal Workers, Forced Laborers, Guest Workers* (Ann Arbor: University of Michigan Press), 83.

[41] Thilo Sarrazin (2010), *Deutschland schafft sich ab: Wie wir unser Land aufs Spiel setzen* (München: Deutsche Verlags-Anstalt), 291, 304.

[42] C. Özdemir and V. Beck (2015), "Islam einbürgern," accessed 21 August 2016, http://www.oezdemir.de/files/Bilder/Artikel/Oezdemir-Beck_Islamische-Verbaende-und-Religiongsgemeinschaft.pdf.

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[49] Korteweg and Yurdakul (2014).

[50] Cited in BVerfG 2BVR 1436/02–24 September (2003), para. 3.

[51] BVerfG (2003), para. 53.

[52] Schirin Amir-Moazami (2007), *Politisierte Religion: Der Kopftuchstreit in Deutschland und Frankreich* (Bielefeld: Transcript).

[53] NRW (2006), "Neues Schulgesetz," Ministerium für Schule und Weiterbildung, para. 57.4.1.

[54] NRW (2006), para. 57.4.3.

[55] 2 AZR 499/08. The Constitutional Court later ruled that this clothing combination did not threaten "school peace." BVerfG, 1 BvR 471/10–27 January (2015), para. 121.

[56] BVerfG (2015) para.80, 99.

[57] A *Philologenverband* representative suggested "it would be a great proof of their tolerance towards rules governing schools if the female plaintiffs would simply decide to put on their headscarf only outside of school grounds. Fervent proselytism […] is not compatible with our professional ethos." Robert Tophofen (2015), "Kommentar—Zum Kopftuch-Urteil des Bundesverfassungsgericht," *Philologenverband Rheinland-Pfalz*, 3 May, accessed 21 August 2016, http://www.philologenverband. de/diverses/texte/?tx_ttnews%5Btt_news%5D=656&cHash=a787d173d949 d0be978abaf93d21b418.

[58] Foroutan et al (2014), 67.

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