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DIETER GOSEWINKEL, *Einbürgern und Ausschließen: Die Nationalisierung der Staatsangehörigkeit vom Deutschen Bund bis zur Bundesrepublik Deutschland*, Kritische Studien zur Geschichtswissenschaft, 150 (Göttingen: Vandenhoeck & Ruprecht, 2001), 472 pp. ISBN 3 525 35165 8. EUR 46.00

Academic doubts about the meaning and usefulness of the term notwithstanding, common speech has come to endorse the view that we live in an age of 'globalization'. The widespread feeling that all the peoples of the earth now really do inhabit one world, indivisible, has sparked increasing efforts to make sense of past discrimination and persecution based on race, nationality, and other socially constructed criteria, and to ensure that these injustices are repeated 'never again'. Much of this activity of reconsideration and repair has been spurred by the Holocaust—or, more precisely, by the ways in which the Holocaust has come to be seen as a decisive turning point in modern life, the 'zero hour' of a different, more self-critical modernity. In combination with the perception (largely mistaken) that there has been a dramatic upsurge in human migration in connection with 'globalization,' the exclusionary implications of citizenship laws have thus come to comprise a central concern of scholars in history and the social sciences. In a context in which the Holocaust has grown central to thinking about the potentialities (and extremes) of exclusion, analyses of the origins, determinants, and consequences of German citizenship laws assume a special poignancy.

From a republican perspective, the particular deficiencies of German citizenship law were brought sharply into focus in the book that defined the terrain of socio-historical discussion of citizenship in the early 1990s, Rogers Brubaker's *Citizenship and Nationhood in France and Germany*. Brubaker played off Germany's 1913 citizenship law, which enshrined *jus sanguinis* ('the law of the blood', that is, attribution of citizenship on the basis of descent) as the chief means of attributing nationality to Germans, against the allegedly more civic-minded *jus soli* ('the law of the soil', that is, attribution of citizenship on the basis of birth in the territory) practised by the French under the authority of their 1888 citizenship law. These differences in patterns of attributing state-membership, Brubaker argued, flowed from variations in the understanding of nationhood, conceived in terms of the degree of commitment to a civic rather than an ethnic

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conception of belonging. No special instruction was necessary to discern which of the two was preferable.

The 'civic vs. ethnic' distinction resonated deeply with the '*jus soli* vs. *jus sanguinis*' distinction, and helped to load the dice in favour of the view that the Nazi descent into barbarism was of a piece, at least, with this ethno-cultural approach to citizenship attribution. The persistence in official circles, well into the 1990s, of the notion that Germany was 'not a country of immigration', despite the obvious presence of millions of non-German permanent residents, only confirmed for many observers that German laws and policies concerning the attribution of citizenship were irredeemably and unconscionably retrograde – indeed, that they retained something of the Nazis' racist designs.

The problem with this approach is that the sharp distinction between *jus soli* and *jus sanguinis*, so useful for analytical purposes, is misleading in other respects. First, it remains as true now as when Aristotle first pointed it out (in the *Politics*) that *jus soli* is an exceptional mode of attributing membership, orientated towards increasing population, often after extraordinary events such as decimation in war; at the same time, some variant of *jus sanguinis* is the norm in most countries around the world. Next, the distinction is largely irrelevant as a practical matter, because most people acquire their citizenship on the basis of the fact that they are born in the territory of the state of which their parents are citizens. The one or the other would suffice to make them citizens, and hence the question of whether they receive their citizenship status on the basis of the one or the other does not arise. The distinction in patterns of citizenship attribution is therefore relevant mainly for newcomers and their families – though for them it is a matter of great significance, of course.

Finally, the allegedly strong overlap between the distinctions civic/*jus soli* and ethnic/*jus sanguinis* suggested that these were deeply ingrained modes of perceiving and organizing the flux of new immigration, with little prospect of meaningful change. Yet historical analysis has shown that these categories have not always overlapped; *jus soli* turns out often to have been part of the demographic policy of mercantilist monarchs who, following Jean Bodin's dictum ('Il n'est force ni richesse que d'hommes'), viewed population as wealth. There is, moreover, considerable convergence among patterns of attributing membership in current citizenship practice, indi-

cating that these modes of granting citizenship are not as mutually exclusive as one might have assumed based on earlier arguments.

It is also important to note that English usage blends together two phenomena for which German has admirably precise terms. In English, 'citizenship' refers both to the legal category of 'nationality' (in the sense of 'state membership', not in the Eastern European meaning of 'ethnicity') *and* to the bundle of rights to which that category is typically a gateway. In German, these phenomena are referred to as *Staatsangehörigkeit* and *Staatsbürgerschaft* respectively. The separation of the two in German and their conflation in English reflect divergent histories of the incorporation of commoners into the bodies of rights-bearing members. In the Anglo-American world in the modern era, acquisition of membership in the political body and access to rights tended to go hand in hand, whereas membership and rights tended to be quite distinct matters in the Germanic *Sprachraum*.

Hence when, on the very cusp of a de-colonization process that would gradually send millions of former colonial subjects to the territories of the metropolises, T. H. Marshall developed his still-canonical tripartite analysis of citizenship rights, he remained blissfully silent on the question of *who* should enjoy citizenship rights. Marshall took for granted that such rights were to be accorded to all members of a political order; he also took British development to be normative, at least for all industrial countries. In contrast, the historical separation of state-membership and rights helped reinforce the notion of a peculiarly undemocratic German *Sonderweg* into the modern world that would eventually smooth the path to the Nazi dictatorship.

Finally, if Brubaker was the progenitor of the studies of the formal attribution of citizenship, Yasemin Soysal's *Limits of Citizenship* (1994) set the agenda for discussion of the rights available to foreigners in the states of the Euro-North American world by focusing less on laws concerning acquisition of citizenship and more on the actual access to rights among contemporary 'guest workers' and other migrants. Observing that many non-nationals had access to civic and social (though not political) rights irrespective of their alien status, Soysal posited the emergence of a 'post-national' form of membership rooted not in nationality/citizenship/state membership, but rather in the abstract quality of personhood. If Brubaker's treatise bespoke the persistence of sharply divergent national political cultures and of self-regarding states, Soysal seemed to glimpse a world

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in which the 'rights of man' were on the road to vindication beyond the stuffy confines of the narcissistic nation.

These scholarly and political developments provide the essential background to Dieter Gosewinkel's finely nuanced study of 'the nationalization of state membership' in Germany from roughly 1815 to the advent of the Federal Republic of Germany out of the ashes of the Third Reich. Ranging confidently across a century and a half of German history, Gosewinkel shows in great detail the vicissitudes of the parameters of state membership and the gradual achievement of a coherent citizen body across the previously particularistic domains of the German lands with the coming of the German empire. The process of 'nationalizing' state-membership—that is, of making it a common possession of those resident in Germany as long as, after 1913, they were also the legitimate children of male citizens—bears every indication of fulfilling Max Weber's dictum that democratization has typically entailed the 'levelling of the governed', their transformation into a relatively egalitarian mass confronted by a rationalized ruling bureaucracy.

Gosewinkel emphasizes, however, that there have always been gender, national/ethnic, and religious limitations on the potential universalism of citizenship inclusiveness. Indeed, it is one of the great strengths of this study to have shown the ways in which religion, gender, and ethnicity have operated as constraints on the achievement of across-the-board inclusion. This fact is, of course, an unavoidable aspect of any discussion of German citizenship laws during the Third Reich, but Gosewinkel takes great pains to show the various times and places in which Jews, women, and those of other ethno-national backgrounds did, or did not, have access to German citizenship.

The process of achieving a unitary national citizenship depended to a considerable degree on overcoming the parochial *Kleinstaaterei* once decried by Heine in his classic of the *Vormärz* period, *Deutschland: Ein Wintermärchen*. A good deal of the particularism in German citizenship law flowed, Gosewinkel shows, from the *kleindeutsche* solution to the national question in the aftermath of the abortive 1848 revolution. Once the multi-ethnic Habsburg empire was excluded from the would-be German national state, the door was open to a closed-door policy with respect to many residents of non-German ethnicity—Poles and Danes, in particular.

Despite the ethnically narrow conception of German citizenship that resulted, Gosewinkel gives us good reason to re-consider the significance of the much-maligned citizenship law of 1913. In Brubaker's account, as in that of many others, the law represents the crystallization of the ethnic conception of belonging that would continue to plague Germany and its foreigners down to the present day. It goes without saying that there is indeed something to this view; it remains to be seen whether (or, if so, how quickly) recent changes in citizenship law that will make it easier for non-Germans to acquire German nationality will also lead to a more open conception of membership in the German nation. Yet Gosewinkel insists that the 1913 law – which enshrined *jus sanguinis* as the principal basis upon which citizenship in the German nation-state was to be acquired – cannot be adduced in support of the idea of a peculiarly racist and undemocratic German *Sonderweg*.

First, Gosewinkel objects to the very notion of the *Sonderweg* on familiar theoretical grounds – namely, that the notion of a 'special path' posits as normative other experiences that, when examined more closely, are themselves equally peculiar. More specifically, however, he points out that the 1913 law was not *per se* ethnic in character. Although ethnically restrictive in intention, to be sure, the law always maintained a certain openness to non-German outsiders and was little different from the screening practices of other countries during the same period. For Gosewinkel, the fundamental point is that there was a substantial difference between the *jus sanguinis* principle for the acquisition of state-membership that was enunciated in the 1913 law, which made room at the margin for naturalizations, and the strict, racially exclusive laws adopted by the Nazis. To be sure, radical nationalists hammering on the virtues of 'blood and soil' subsequently made much of the 'blood' dimension of the citizenship law. Yet a dispassionate analysis of the law such as that offered by Gosewinkel demonstrates that it was a far cry from the National Socialists' impenetrable, racist laws on membership.

Gosewinkel's analysis fits neatly into the schema recently adumbrated by George Fredrickson in his *Racism: A Short History* (2002), in which he argues that racism – as opposed to the more or less universal antipathy toward different 'others' – must involve a conception of difference that is ineradicable and unbridgeable. Where such a conception is implemented in law rather than merely practised in every-

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day life, we have what Fredrickson calls an 'overtly racist regime'. Examples of these have been the South African *apartheid* order, the American South before the 1960s, and, of course, the Nazis. In keeping with this kind of framework, Gosewinkel concludes that the 1913 law 'was not the vehicle of a racial state, and it did not create any direct line of continuity that led to National Socialist racial policy' (p. 426). As so often in the historiography of Germany since 1945, the problem is that many have read the later, catastrophic history backwards into its predecessors, so that all of preceding German history becomes a run-up to the Nazi debacle. Gosewinkel argues convincingly that this posture cannot be maintained with regard to the 1913 citizenship law.

Gosewinkel's special attention to the ways in which religion, gender, and ethnicity undercut citizenship universalism is salutary, but it tends to mask the fact that very often the most significant kind of discrimination embodied in immigration and citizenship laws concerns *class*. Many of the debates that he so meticulously recounts regarding who gets in and who does not, and who may become a citizen/state-member and who not, revolved around the question of who has responsibility for the person if he or she were (to become) indigent. This is, in fact, a staple feature of all immigration laws, for it raises the problem that some people may gain access to benefits without having contributed their fair share. That is, the settled contributors to the well-being of a community may feel affronted if they are asked to support the impoverished members of another jurisdiction, who may have landed in their impecunious state because they were improvident, lazy, or otherwise morally reprobate, rather than merely unfortunate. Hence, for example, a 1996 United States law forbids giving benefits (such as lower in-state college tuition fees, say, in New York) to any immigrant if any US citizen (say, from New Jersey) cannot also enjoy those benefits. The relative de-emphasis of the class dimension of discrimination in immigration and citizenship law appears to be a result of the triumph of the 'race, class, gender' paradigm in recent social science and historical writing, which despite its nominally triangular configuration all too often tends to neglect the hypotenuse of class.

Gosewinkel's study goes far toward his aim of supplying 'a history of modern German state-membership that conceives the latter as an institution of the national state and, at the same time, as the out-

Citizenship from the German Confederation to the FRG

come of concrete decisions' (p. 20). It is well written, encyclopaedic in scope, and innovative in its arguments and analyses. Anyone interested in the social history of the category of citizenship, so important for understanding the degree of openness of a political community to outsiders and for making sense of its own conception of itself, will find this book of inestimable value. We will now need a companion volume on the history of German 'citizenship' understood as 'access to rights'. *Einbürgern und Ausschließen* will serve as an essential starting point for that much-needed work.

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