

TWO COUNTRIES

Grappling with IMMIGRATION POLICY

By Judith Bernstein-Baker

In mid-April, I was fortunate to be selected by the American Council on Germany as a participant in a five-day German Immigration Study Tour. I joined a diverse group of academics, immigration and other attorneys, journalists, policy advocates, a state court judge and government officials from 14 different states.

There was some bit of irony in having been chosen; after all, my organization HIAS (Hebrew Immigrant Aid Society) Pennsylvania worked for decades to assist European immigrants fleeing anti-Semitism, and of course, played an active role in post-Holocaust resettlement. But more than 70 years have passed and there have been massive changes in Germany and the world. I realized this was an excellent opportunity to learn more about the country and about comparative immigration policies.

After arriving in Berlin by air, I traveled by bus and subway to my hotel. My first impressions were how comfortable an English speaker could

be in Germany; almost everyone spoke the language and signage was generally in English and German. The buses and subway were used by a cross-section of the population who happily and freely offered advice about directions when I asked. As I walked toward the hotel I heard Spanish and Italian conversations, underscoring the reputation of Berlin as an international city.

It is difficult to imagine that 25 years ago Berlin and Germany were divided, when today the chancellor of all of Germany, Angela Merkel, was formerly from East Germany. Berlin is a thriving city of more than 3 million people; my hotel was located in what was formerly East



Walking through the "Memorial to the Murdered Jews of Europe," also known as the Holocaust Memorial, near the Brandenburg Gate.

Berlin. There are wide boulevards and trees and many cultural institutions. Berlin has three opera houses and beautifully reconstructed government buildings with simple and striking designs containing huge windows and open, lighted spaces. Our intense schedule did not allow much sightseeing – we were in meetings from 8 a.m. to 9 p.m. We did visit the Jewish Museum, where its unique architecture such as its outdoor “garden of exile” which creates a sense of unbalance so visitors experience the instability and turmoil brought about by forced migration and persecution.

IMMIGRANTS IN GERMANY¹

Germany is undergoing a demographic shift; 20 percent of the population of Germany has an immigrant background and currently close to 10 percent of Germany’s 82 million people are foreign citizens. Immigrants generally reside in urban areas; in some major cities, 70 percent of the children have parents with immigrant backgrounds. Most of the immigrants – 36 to 40 percent – come from other European Union countries. With the economic downturn in Spain, Greece and Italy, many professionals arrive in Germany seeking work. Another dominant group includes ethnic Germans, many of whom lived in Eastern Europe or the former Soviet Union for generations and were permitted to migrate to Germany following World War II. Jewish people from the former Soviet Union were also allowed to emigrate; the Jewish population in Germany is now 200,000. A large proportion of foreign-

born are Turkish nationals and their descendants, consisting of about 4.5 million residents, or 5 percent of the population.

A significant group of immigrants are asylum seekers. Asylum requests can take up to five years or longer to resolve. Germany is second only to the U.S. in the number of those requesting asylum; an estimated 64,000 individuals requested asylum in Germany compared to 74,000 in the U.S. in 2012. Germany tightened its asylum laws in 2005, but even with new restrictions, there are 3 1/2 times more asylum seekers proportionally in Germany than in the United States.

The situation of those of Turkish descent led to early debates on immigration policy and immigrant integration. Recruited as guest workers in the 1960s and 70s, both Turkish residents and the German government expected the influx of the new workers to be temporary. With an increasing number of migrants and a downturn in the economy, Germany ended the guest worker program in 1983 under Chancellor Helmut Kohl, although family members of those already in Germany continued to come. “My parents talked as if our suitcases were packed and we would soon leave,” explains Özcan Mutti, a spokesperson for the Alliance '90/Greens party. “Now, we are entering our third generation and realize we are here permanently.”

Our group met with 18 present or former members of the government from three mainstream parties – Christian Democratic Union (CDU), Social Democratic Party (SPD) and the Greens, along with a media commentator and NGO



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Gabriel Hauser, head of the Department of Immigration, Federal Ministry of the Interior, with other government officials meeting with the delegation.

leaders. All representatives were extremely knowledgeable about the U.S. and sensitive to events, expressing sorrow at the Boston Marathon bombing, which occurred during the visits. There was general agreement across party lines on the need to maintain the European Union, the importance of trade with the U.S. and the need to view Germany as a “welcoming” country. On this last point, there was a consensus that Germany faced a demographic challenge that required immigration. Germany has an aging population, and only 1.6 children per family – 1.3 for German women. Thirty percent of all German women chose not to have children. There are labor shortages in the health care/aging field, among IT professionals and in engineering.

The differences among Germany’s political parties turned on the extent to which the government was dealing with public and institutional resistance to immigrants and embracing diversity. Most of the Turkish leaders we met were members or leaders in the Greens party, which has taken a leading role in pushing for immigrant rights. One incident that often came up was the trial of a member of a Neo-Nazi group responsible for the murder of eight people, largely of Turkish descent between 2000 and 2007. There was a feeling that government officials underestimated the strength of right-wing groups, and focused their investigations on minority communities instead. Another cause of concern was a 2010 book by banker and former SDP politician Theolo Sarrazin that was on the bestseller list. The author argued that immigrants are harming German culture, and that Turkish immigrants and others from Africa or the Middle East had lower intelligence. Given Germany’s Nazi past that declared the superiority of the “pure” German race, the popularity of the book dismayed many in the establishment, not to mention ethnic communities.

Both Germany and the United States are grappling with immigration policy, molded around different histories and culture but cognizant of the global realities. Several areas struck me as important to compare – who can enter legally;

enforcement regimes; diversity and the integration of newcomers; and citizenship.

WHO GETS TO COME

“Germany is now an immigrant country – but the issue is how to bring in quality immigrants,” Karstein Voight, a former member of Parliament and coordinator for German-American Cooperation at the German Federal Foreign Office, told our delegation. Germany’s immigration policy is almost wholly based on labor needs. Many of its provisions that affect non-

European Union immigrants became operational only in the last two years. Members of the EU are allowed to work in Germany without a residence permit; for all others it is required. Borrowing from the U.S. jargon of “green cards,” Germany now issues temporary resident permits or “blue cards” which lead to permanent resident permits provided a person has a job offer. If the intending immigrant has a college degree and the job offer exceeds a significant salary threshold, the foreign national’s spouse receives a resident permit. If the foreign national has a university degree, the job does not infringe on German labor, and the wage is less than the threshold amount, then the path to permanent residency is longer and the spouse must

demonstrate a basic knowledge of the German language BEFORE emigrating. The government has begun training courses for nurses in selected countries like Vietnam; those trained will gain a resident permit. Non-graduates who have an employment contract in areas of labor shortage can also earn a temporary resident permit. This is the first time in 40 years that less-educated workers from non-EU countries can achieve permanent residence.

In contrast to Germany’s emphasis on labor immigration, the core of U.S. immigration policy is the family. Annually, about 700,000 immigrants enter the U.S. and earn permanent residence under family sponsorship. The Senate immigration bill (S. 744) proposed by the “Gang of Eight” moves us slightly closer to the German model. The bill expands the

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number of H1-B visas available to those with a bachelor's degree or specialty occupation from 65,000 a year to between 110,000 and 180,000 and also creates a "merit" or point system where immigrants who are more highly educated, speak the language and have ties to the U.S. can immigrate without a job. Agricultural workers are favored in the bill and can achieve permanent resident status in five years and citizenship in 10 years. There is an acknowledgement in S. 744 that close ties to the U.S. and family unity continue to be valued. Children, known as "Dreamers" can achieve citizenship in five years if they arrived before the age of 16, completed high school or GED, and have two years of college or four years of military service. S. 744 provides an arduous 13-year path for individuals who are undocumented. Initially, such immigrants would receive Resident Provisional Immigrant (RPI) status and after 10 years can apply for permanent residency. Currently individuals with "green cards" who sponsor children and spouses have a five-year wait before their spouses and children can emigrate legally. Under S. 744, green card holders would be able to bring them to the U.S. immediately. However, in exchange for these new routes to

permanency, S. 744 abolishes the ability for parents to petition for married children over the age of 31 or for U.S. citizens to sponsor their siblings. Abolishing the ability of some family members has been criticized by many immigrant advocates, as extended immigrant families often become a supportive unit that leads to self-sufficiency.

ASYLUM SEEKERS

Under an agreement known as the Dublin Accords, Germany has a right to return asylum seekers to the European country where the seekers first arrived. Recently Germany has opted to retain asylum seekers who arrived in Spain and Greece and made their way north, due to the economic downturns faced by those nations. Asylum seekers are not permitted to work but are entitled to housing and social welfare benefits. In the United States those applying for asylum can neither work nor access public benefits.

IMMIGRANTS AND SOCIAL WELFARE

One member of our delegation observed that even with Germany's policy changes it is more difficult to gain



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The delegation in front of Brandenburg Gate.

residency in Germany than the U.S. But in Germany, asylum seekers and those who obtain resident permits gain access to many social welfare benefits. While permanent migration to the U.S. may be easier than to Germany due to family sponsorships, immigrants in the U.S. are generally expected to fend for themselves and denied social welfare. This principle of barring immigrants in the U.S., including lawful permanent residents and those who work legally, from social welfare benefits is reinforced by S. 744. Immigrants in RPI status, up through permanent residency, are prohibited for 13 years from receiving any means-tested public benefits, including subsidized medical insurance. Indeed, S. 744 goes even further; immigrants in RPI status cannot be unemployed for more than 60 days or earn below the poverty level in order to remain eligible for the legalization program.

IMMIGRATION ENFORCEMENT

The Immigration Department of the German Police in Berlin is located in a former Nazi SS building. Climbing the stairs to meet members of the police in the old structure was unnerving. The visit by contrast, revealed a rather kind and thoughtful perspective on enforcement of the immigration laws. Being an unauthorized immigrant in Germany is a crime; but the status alone is not a priority for the police; they prioritize violent crimes, arson and racial/ethnic tensions. The police do extensive outreach into the community as a means to gain trust. If they discover an undocumented person, the immigrant is referred to federal authorities, but deportation is rare. In 2010 only 7,500 people were deported from Germany; many immigrants who are not considered dangerous are allowed to stay in a humanitarian category, and may be eligible for some public benefit support, and after a period of time can gain a resident permit.

In the U.S. enforcement is at an all-time high. In 2012, \$18 billion was spent on border control and internal enforcement. In 2011, it was estimated that half of all federal criminal cases concerned immigration violations. In the past two years, more than 800,000 people have been deported from the U.S. The

trend to continue enforcement is captured by the proposed Senate bill, which requires a border control plan to be in place before provisions leading to legalization can be implemented.

DIVERSITY AND INTEGRATION

Tensions around diversity are intertwined with ethnicity and religion. Germany is evolving into a multi-faith country, with a significant Muslim population; Islam is the third-largest religion in Germany. Religious practice in the Turkish community varies from secular to observant, but on the whole Muslims are more religious than other denominations. Turkish talk show host Ali Aslan shared that the issue of religious pluralism was heightened after Sept. 11. “I went to bed a Turk and I woke up a Muslim” as perceived by the larger society he explained. The concept of being a “German Muslim” is being addressed through a government funded German Islam Conference and by supporting instruction of Islam in schools and the training of imams. The U.S. Embassy also promotes interfaith relations in a popular program that hosts films and programs bringing together immigrants and native Germans. Another component is the development of a media campaign that embraces diversity. Brochures and a website with the theme “make it in Germany” depicts Germans of different races and nationalities in various activities. The media campaigns and new policies lay the groundwork for a new German identity. The unanswered question is whether the German public will accept a multicultural society.

The U.S. is further along in embracing diversity. It is common to be proud of a hyphenated American identity, such as African-American or Chinese-American. Immigrants of color either in our delegation or Germans with whom we spoke who had been to the U.S. all reported feeling more comfortable in America. One Southeast Asian member of our delegation who grew up in Germany, completed high school there, and then moved to the U.S. said that to this day Germans are shocked to hear her speak German. She felt more accepted in the U.S. where an immigrant background is shared by so many Americans.



Judith Bernstein-Baker in the reconstructed Reichstag, where graffiti from Russian troops after they took Berlin in 1945 was preserved.

A cornerstone of Germany’s more open immigration policies is a mandatory 660-hour language and civic integration course that is required of most foreign nationals before they renew their resident permits. “Speaking the same language and accepting the basic values of the receiving society are basic requirements for maintaining societal cohesion,” explains one government publication. To their credit, the German government generally funds these courses. Mekonnen Mesghena, an Eritrean German from the Heinrich Böll Foundation, had a more critical perspective. He explained that integration meant the government wants to make immigrants speak and act like traditional Germans; however, he pointed out that immigrants need opportunity, not just integration.

Education in Germany is highly segmented. There are three general “tracks.” First, is the academic track where students attend “gymnasium” as a preparation for university study. Next is a middle track, the realschule. The last is a general educational track known as hauptschule; these students are not expected to enter university. Immigrants, including a large number of Turks, dominate the third track and many don’t complete their high school education. Decisions about which track to enter are made when the child is 10. Several representatives, particularly those representing minority communities, thought the track system poses a major obstacle in promoting immigrant opportunity and was discriminatory. When talk show host Aslan was asked by the delegation if Germany needed an affirmative action policy to break out of the tracking system he immediately replied, “no, our situation is much different than the history of slavery and the African-American experience in the U.S.” He urged systematic change that involved more flexibility in students’ course of study. Since each of the 16 German states governs its own educational system, reform is dependent on each state’s willingness to engage in changing the status quo.

The U.S. is only recently examining immigrant integration on a federal level. There are few federally funded programs that encourage integration; newcomers become integrated through the labor market or by taking courses offered by

local schools or agencies. Our current policies require a knowledge of English at the stage when someone applies for naturalization, not when they receive permanent residence status. The Department of Homeland Security provides some grants to schools or nonprofits to prepare individuals for the citizenship test. But the number of hours of instruction most programs can provide with the funding – from 20 to 40 hours – is far below the 660-hour requirement in Germany. If comprehensive immigration reform is achieved, that might change. Under S. 744, immigrants granted RPI status for 10 years, must demonstrate knowledge of English before they are eligible for a “green card.” Whether there will be additional resources allocated for English instruction is not clear. At this time, English language instruction and adult education has been left largely to the state and local governments. S. 744 sets up an Office of Citizenship and New Americans to promote additional programs.

CITIZENSHIP IN GERMANY AND THE U.S.

For a long time, Germany relied primarily on *jus sanguinis* – or citizenship by blood or ancestry. Under this doctrine, a person had to be born to a German. The principle of *jus soli*, enshrined in the 14th Amendment, guarantees citizenship to any person born on U.S. soil. One of the criticisms of the German model is that many minorities continued to live outside the mainstream because of the difficulties of the naturalization process. In 2000, the German policy on citizenship became more like the American one when it passed a law that permitted individuals who are born to non-Germans who have lived in the country legally for eight years to acquire both German citizenship and the citizenship of his or her parents. When the person is between 18 and 23 he or she must choose the citizenship desired. The citizenship policy potentially can have a dramatic effect on immigrant integration and empowerment. Since its passage, more than 1.4 million people have become German citizens.

MOVEMENT TOWARD EACH OTHER: SOME FUNDAMENTAL DIFFERENCES

If Germany and the U.S. are moving toward each other in the areas of labor immigration and citizenship, I ended my trip treasuring two pillars of U.S. immigration policy. The first pillar is the U.S. traditional emphasis on family unification. Immigrant families provide economic and social security to each other, especially in our system where the government plays a limited role in providing benefits to newcomers. The second pillar is the 14th Amendment of the U.S. Constitution and the gift it bestows on each person born in our country – the right to be treated like everyone else, even if one’s parents are foreign-born. These fundamental principles have served as a mechanism for acceptance and integration of newcomers and continue to define the U.S. as a nation of immigrants. ■

¹All the information is taken from notes and materials given to delegates during the trip by public officials or policy experts.

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