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Becoming and Belonging? Lived experiences of naturalization and the implementation of citizenship law in Germany and Canada

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6 Comparing the Legal Consciousness of New Citizens

Perceptions of Naturalization in Canada and Germany

6.1 Introduction

Citizenship is often described as a state institution guaranteeing equal rights for the members of a citizenry. However, research examining notions and understandings of citizenship by individuals has complicated that description as citizenship intersects 'with race, gender, class, sexuality, disability and other markers of social location to determine the contours of lived realities of citizenship' (Abrego, 2019: 642). In an effort to understand the role of policy procedures in the creation of an individual's citizenship identity, this article examines the legal consciousness of new citizens in Canada and Germany. Based on 30 semi-structured interviews with naturalized citizens conducted in the Greater Toronto Area as well as in the governmental district of Cologne, this chapter explores how new citizens experience their relationship with the law across differing policy implementation systems.

Comparing these two cases with one another offers an interesting opportunity to examine both a centralized and a decentralized implementation system alongside one another. Both countries are federations and have federal laws governing citizenship policy but differ significantly in how far citizenship policy execution is handed down to the lower levels of government. Canadian citizenship policy is implemented by the department of Immigration, Refugees and Citizenship Canada (IRCC). Applications are collected in a central location, checked for completeness, and then send on to one of the IRCC's 23 local offices across the country, where they are fully processed. The German bureaucratic structure passes the implementation of citizenship law all the way down to the municipality level. The *Ausländerbehörden* (ABs; Foreigners' Offices) are run locally by counties and municipalities; North-Rhine Westphalia alone hosts 82 of these offices (Dörrenbächer, 2018). The front-line worker putting law into action is working with the legal text as well as guidelines produced at the federal level, the state level, the district government, their local department, and, as explored in chapter 3, individually crafted guidelines.

These differences in implementation of policies between both countries beg the question whether these discrepancies in how the law is brought into action can affect new citizens' legal consciousness. At face value, the naturalization process produces very different types of relationships between state and citizen. In the Canadian case, the relationship with the state remains mostly anonymized. A deeper sentimental connection is fostered during citizenship

oath ceremonies, when the presiding citizenship judges introduce themselves to the naturalizing citizens and give a speech on the meaning of Canadian citizenship. During the application process, migrants might foster new relationships with their immigration lawyer or consultant, but only rarely with a state official. In contrast, the German system cultivates a different set of relationships as applicants are required to have in-person consultations with their respective caseworker, who will handle their application for citizenship (in most cases, applicants are assigned a caseworker based on their last name). Additionally, having an immigration lawyer is far less common in Germany, but migrants might still foster relationships with, for example, immigration advisors working for foundations or non-governmental organizations.

This chapter contributes to the relevant scholarship on naturalization and legal consciousness by examining two aspects of the legal consciousness of new citizens in Canada and Germany. Firstly, and similar to de Hart and Besselsen (2021), this chapter makes use of Ewick and Silbey's approach of studying legal consciousness through the narratives of 'ordinary' people about the law in their daily lives, differentiating between stories of being *before the law, with the law*, and *against the law* (Ewick and Silbey, 1995, 1998). Secondly, within these narratives, the analysis pays special attention to the relational dimension of legal consciousness (Chua and Engel, 2019; Young, 2014). As the Canadian and German naturalization procedures differ significantly in their approaches to policy implementation, different kinds of relationships are cultivated between new citizens and their state as well as their new citizenry. Hence, this chapter explores where new citizens see themselves in relation to the law and how this perception is further influenced in its relational dimension by the respective state's citizenship policy implementation. I find that (1) in both cases migrants experience the law, at times, as arbitrary, obscure, and as producing inequality while it also explicitly plays a role in how they define what it means to be Canadian or German; (2) what differentiates new Canadians' and new Germans' legal consciousness is their experiences of what part of the state system produces this felt inequality. While Canadians are more likely to see legislation and regulations themselves as unfair, Germans perceive those who implement these regulations to be the creators of inequalities.

The subsequent sections will first offer a brief introduction to German and Canadian Citizenship law followed by a closer discussion of the legal consciousness scholarship and its relational aspect. The analysis then examines both Canadian and German new citizens' legal consciousness. The chapter concludes with a discussion of limitations and propositions for further research.

6.2 Comparing Canadian and German Citizenship Law

Germany and Canada are both Western liberal democracies with citizenships established within the last 100 years. Germany's population is about double that of Canada (82 versus 40 million people), while immigrants in Canada naturalize at a much higher rate than those living in Germany: 80.7 percent of eligible permanent residents had become Canadians in 2021 compared to the German naturalization rate of 1.1 percent (Die Bundesregierung, 2024; Statistics Canada, 2022). Canada has branded itself as a country of immigration and multiculturalism. In contrast, Germany has struggled with the label of an 'immigration country' and governments avoided the self-categorization until recently (Eule, 2016). Both states host significant migrant communities – which make up 23 percent of the Canada's population and 14 percent of Germany's (Bundeszentrale für politische Bildung, 2023; Government of Canada, 2022) – and have seen reforms of their citizenship law in recent decades with Germany being on the precipice of another considerable reform in early 2024.

At the time of writing, the two differ in their requirements for naturalization and contrast each other significantly in the implementation of said policy. Canadian citizenship acquisition requires permanent residence and 1095 days spent on Canadian soil. The applicant must also be free of criminal charges, demonstrate sufficient skill in either French or English, and submit their income tax returns in the years leading up to their naturalization. After an initial evaluation of an individual's file, applicants are asked to take the citizenship test and upon passing this test, they are invited to a citizenship ceremony to take the oath and become a formal member of the nation (Citizenship Act, 1985).

German applicants do not need permanent residence, but they must have lived in the country legally and habitually for at least 8 years, 7 or 6 years depending on certain exceptions. They are also required to demonstrate a B1-level proficiency of the German language and their ability to sustain their life financially without receiving funds from the state. Their legal identity must also be fully proven, which constitutes a distinction to the Canadian trajectory of naturalization. For a migrant in Canada, the application for permanent resident status (PR) constitutes the largest hurdle in terms of paperwork and being able to fully prove their identity. After PR has been granted, applicants are not subject to further inquiry concerning their legal identity. In Germany, however, citizenship applications apply a higher threshold of scrutiny to questions of legal identity than other status applications do. If someone, for example, entered the country without a passport, they may be able to acquire a legal and permanent status to reside in Germany, but in order to become a citizen, they would need to take further steps in order to fully prove their legal identity (Haller and Yanaşmayan, 2023). In this sense, there is a distinct variation in how these formal processes are prioritized by German and Cana-

dian authorities that can be seen in the amount of scrutiny they employ at the stages of naturalization and PR.

In some sense, the formal Canadian citizenship procedure is more straightforward and for most applicants simply boils down to the (re-)submission of documents and a waiting period. If one imagines a person's entire migration trajectory as a certain total of bureaucratic labor that has to be done, then the requirement of PR functions as a forward displacement of workload in the Canadian case. Most of the bureaucratic work has already been done by the time the migrant applies for citizenship. While the German citizenship application is also much more straightforward than those for primary statuses, it can still involve more workload than the Canadian system would allow for. The *Stufensystem* (tier system) of proving one's legal identity requires the caseworker processing the application do more work than a Canadian citizenship officer would have to complete.

Besides these differences in requirements and their effects on the general dynamics of each citizenship trajectory, Canada and Germany differ greatly in the manner of implementation of immigration and citizenship policy. The Canadian system operates centralized through the department of Immigration, Refugees and Citizenship Canada (IRCC). Applications are collected in one location and checked for completeness. Once an application has been formally 'acknowledged as received', it is sent to one of 23 local offices across Canada, where it is processed. Communication with applicants occurs mainly through e-mail, with messages only being signed by an officer's code number, not their name. It is also quite common for migrants to hire a lawyer or immigration consultant, who will handle their application and communication with the IRCC. The German bureaucratic system stands in stark contrast to what was often described by interviewees as the 'black box' of the IRCC: Germany's implementation structure is decentralized with immigration policy being put into action by local municipalities, where formal guidelines for implementation can differ by state, district government or municipality (Dörrenbächer, 2018). The state of North-Rhine Westphalia alone, which hosts about 17 million inhabitants, has 82 local offices (ibid.).

These differences in naturalization policy and implementation structure create a key characteristic that will be explored as influential on migrants' notions of citizenship and law: the relationships cultivated during the naturalization process. Canada's centralized system would be unable to conduct its daily affairs in the way Germany does through in-person consultations. There are simply not enough IRCC offices and staff to handle this type of implementation at their caseload. Consequently, the average applicant in Canada is much further away from the frontline bureaucrats within the IRCC than their counterparts in Germany are from their caseworkers, who they meet and know. It is thus clear that each system is constructed in a way that supports its bureaucratic culture: Germany's local offices operate largely in-person, while

communication between the IRCC and immigrants takes place almost exclusively online.

6.3 Studying Legal Consciousness in a Migration Context

The concept of legal consciousness first emerged in the early 1980s and quickly proliferated throughout socio-legal research – particularly scholarship on the US context – as the commonsense notions of the law (Chua and Engel, 2019; Merry, 1990). One of the most prominent conceptualizations of legal consciousness was coined by Patricia Ewick and Susan Silbey in *The Common Place of Law* (1998). The authors examined how ordinary people talk and think about law in their daily lives and how their perceptions of law impact the way they navigate it. According to Ewick and Silbey, no matter the gender, ethnicity or class of an individual, people view law through three different 'stories': *before the law*, *with the law* and *against the law*. The *before the law* story denotes that someone sees laws as just, impartial, and rational with clear and well-known rules and procedures that are separate from everyday life. People who are *with the law*, so to say, see laws as a resource that can be utilized to serve their own goals. Working *with the law* is a competition that can be played with the appropriate means and resources, such as money and/or a good lawyer. Lastly, those that see themselves positioned *against the law* perceive law as an unjust, oppressive system, which is the product of unequal power. Within this story, law is neither objective nor fair, but rather unreliable and arbitrary. Each of these narratives invokes a different set of normative claims, justifications, and values to express how the law is supposed to function, as well as the constraints on legal action. Therefore, as Ewick and Silbey argue, it is impossible to reject the law as a whole. Criticism of the law requires possessing an ideal of how the law would be fair and just, meaning that even when the law is perceived negatively, its power and hegemony are confirmed. Consequently, people often mention all three narratives of law at the same time, and it is not possible to categorize individuals' overall 'story' of the law.

Due to the plethora of literature examining legal consciousness, researchers have sought to categorize the existing scholarship. Ewick and Silbey's work is part of what Chua and Engels categorize as the Hegemony School of legal consciousness research (2019). Other schools include the Identity school, which focuses on 'the fluidity and multiplicity of legal consciousness and identities' (ibid: 337), and the Mobilization school, where studies aim to understand 'law's potential for transforming society' (ibid: 340). These schools of legal consciousness scholarship differ in their assumptions and objectives but are not clearly delineated with the lines between the categories often blurring.

This study positions itself within the hegemony school with a specific focus on the relational dimension of legal consciousness. In order to fully conceptualize legal consciousness as it is applied here, a short note on the terms 'legal'

and 'consciousness' is necessary: 'Legal' refers to migrants' legal consciousness in relation to state law. Migration trajectories are of course mainly impacted by destination state regulations, but especially concerning citizenship law and matters like dual nationality, country of origin legislation matters as well. Following Chua and Engel's (2019) conception of the term, 'consciousness' here includes both people's perceptions of the law as well as their actions towards it.

Socio-legal scholars agree that legal consciousness is never formed in a social vacuum (Abrego, 2019; Chua and Engel, 2019). However, Young's study of Hawaiian cockfighting (2014), which explores the social processes underlying the understanding of and actions involving the law, was the first piece of scholarship to explicitly address the relational element of legal consciousness. In 2022, Young and Chimowitz extended Young's elaborations on relational legal consciousness in their study of parole boards' decision-making. They differentiate between 'relational legal consciousness' – the umbrella term capturing all ways a person's legal consciousness 'is shaped by their relationships to another person or group' – and 'second-order legal consciousness', a subset of relational legal consciousness, which describes how 'Person A's perceptions of Person B's or Group B's legal consciousness' in turn shapes Person A's perception of the law (2022: 242). Second-order legal consciousness thus specifies an aspect of a relationship between individuals or groups that can influence legal consciousness: how one person thinks another person thinks about the law. Hertogh (2023) differentiates in his quantitative analysis of Dutch welfare recipient's legal consciousness between how clients view official's understanding of the law and how their own legal consciousness is impacted by their relationships with officials.

Within studies of migration, research on legal consciousness has centered on immigrants, in particular undocumented migrants, which points to the scholarship's ambition to highlight the experiences of underrepresented and vulnerable populations (Abrego, 2011; Gleeson, 2010; Güdük and Desmet, 2022). Further legal consciousness research in the field of migration studies includes, as reviewed by Güdük and Desmet (2022), (mixed-status) families and family migration (Abrego, 2019; de Hart and Besselsen, 2021; Kulk and Hart, 2013) as well as return migrants and refugees (Chakraborty et al., 2015; Kubal, 2015). Migrants with other (regular) statuses such as naturalized citizens have not been studied extensively (Güdük and Desmet 2022). When examining the relational dimension of migrants' legal consciousness, scholars have examined family and community ties (e.g. Hirsh and Lyons, 2010; Kulk and de Hart, 2013), but have not taken up second-order legal consciousness regarding state agents or institutions. This chapter contributes to the field of legal consciousness research concerning migration by investigating new citizens' legal consciousness, taking into account second-order legal consciousness through the relationship between citizenship applicants and the state actors they interact with. Comparing the Canadian and German context, this chapter delves into

the connection between the architecture of citizenship policy implementation and individuals' perceptions of their formal membership and how it was granted to them. Firstly, this chapter takes a look at what types of narratives – as developed by Ewick and Silbey – are most prominent in how new migrants reflect on their naturalization process. In a second step, the focus lies on the relational dimension of legal consciousness.

6.4 METHODOLOGY

This comparative case study of the Canadian and German citizenship policy implementation is based on the thematic analysis of 30 semi-structured interviews conducted with naturalized Canadians (16[1]) as well as naturalized Germans (15).[2] It contributes to the citizenship and naturalization literature that studies the acquisition of citizenship 'from below' focusing on the experiences of migrants (see also: Aptekar, 2016; Badenhoop, 2021; Winter, 2021). The interviews took place in 2021 and 2022 and were conducted in-person in the governmental district of Cologne, Germany (13), the city of Toronto, Canada (7), and as video calls via WhatsApp (1), Webex (1) and Zoom (8). The in-person interviews were conducted in various places including parks, cafes, interviewees' homes or places of work, or the interviewer's office – depending on the preference of the respective interviewee. Interviews lasted between half an hour to over three hours. An average interview lasted between 60 to 80 minutes and consisted of two parts. Firstly, it chronicled the participant's migration history starting with when and why they entered Canadian or German territory (if they had not been born in Germany). Secondly, and depending on how much the respective interviewee had already said on the matter, participants were asked to take the interviewer through their memories of the naturalization process. Subsequent questions also focused on when interviewees had first become aware of their new citizenship in their daily lives and to what extent they felt Canadian or German. German new citizens were interviewed in German; Canadian new citizens were interviewed in English. Out of the 31 interviewees, 17 were women and 14 men. Participants previously held 19 different nationalities across Europe (9), the Americas (2), Asia (5), and Africa (3). All interviews were fully transcribed and coded in Atlas.ti.

1 One couple was interviewed together.
2 Of the Canadian interviewees, 12 were fully naturalized and 4 were in the process of doing so; German interviewees were split 12/3.

6.5 Analysis: Black Box vs. Decentralized Discretion

Naturalized citizens have often gained a singular perspective of a country's immigration system, after having completed the typical trajectory of long-term migration though 'entry, temporary stay, settlement, and citizenship' (Anderson, 2013). Examining their understanding of a country's legality offers a unique view on how its laws are made sense of and felt in practice. The subsequent sections first take a look at interviewees' legal consciousness concerning citizenship policies itself, followed by their notions concerning the implementation of said policies.

6.5.1 Understandings and Impact of the Letter of the Law

Structural criticism – expressions of stories oriented *against the law* focusing on the law on the books are present in both groups of interviewees. These frustrations ranged from criticisms of specific aspects within the formalized naturalization process to distaste for the nation state system as a whole. Filiz, who was born to Turkish immigrant parents in Germany and did not qualify for birthright citizenship, remarked, 'I really never understood why I didn't have German citizenship to begin with. That is something that I still do not understand to this day.' For her, having grown up in and finishing high school in Germany, having 'German' as part of her identity had never been a question. The need to apply for and be granted citizenship put her *against the law* in a way that did not reflect her own understanding of herself. 'I take a dim view of the whole concept of nation states and nationalism. To me, the German passport is a piece of paper that puts me into a privileged position. And a position where I, as a German – and I do identify with this country – get to have certain rights and privileges, which I am entitled to. And which I also want to make use of' (Filiz, 2021). There is a clear tension in her distaste for the nation state centered system she lives in and her self-identification as part of one of these states. This ambivalence demonstrates the difficulty of rejecting certain parts of legality. It is so prevalent that even stories of criticism end up reaffirming the law.

Isaac, who immigrated to Canada from Ghana as a PhD student, became a Canadian citizen in 2022. When asked about the citizenship ceremony and the oath he took, which includes a pledge of allegiance to the reigning monarch of the United Kingdom, his answer was a pragmatic one:

> 'I saw it as part of the package. (...) If I had my own way, I'd do it differently. But if I want to be Canadian, I cannot want to (...) change how and what it is to be Canadian. If you get what I mean, I like it and all, but if I had my own way, we shouldn't be swearing allegiance to an individual. If I had my own way, I don't think that is right. And if you're coming from the Global South like me and understand how the Crown and the Empire treated colonies (...) you can begin to see

> why. (...) I understand it, it's the Canadian culture of sustaining that relationship with the British Empire today. (...) I want to be part of this community. (...) So then it's for me to choose. (...) So if I had my own way, would it be different? Yes, but it's not a big deal.' – Isaac, 2022

For Isaac, the formal step of having to swear allegiance to the British monarchy did not necessarily create an injustice as to what was asked of him. Swearing the oath is a necessary 'part of the package' of becoming a Canadian citizen and being part of the community, according to him. In his weighing of interests, the decision to fulfill the condition of the oath positions him *with the law*. According to Isaac, there is a logic to the system he is navigating and even if he does not agree with the system's logic, he chooses to fulfill its requirements in order to access citizenship.

This understanding of the 'logic' of certain parts of citizenship policy was not universal among interviewees. Irina moved from a Balkan state to Toronto as a teenager more than 13 years ago and was able to naturalize in 2022. During her interview, we discussed the Canadian points system, which was established in 1967 and is utilized to admit skilled workers through the economic immigration stream (Elrick, 2021). In 2021, 58% of migrants, who had permanently settled on Canadian soil, had entered the country as part of the economic immigration stream (Statistics Canada, 2022). Irina recalls her pathway towards permanent resident status: 'Throughout the entire permanent residency process one of the biggest stressors is like you're playing this delusional game of your life, where you're like 'oh my gosh, I need to get more points! More points! Like, do I have enough?'' (2022). Her descriptions of coming up with a 'game plan' in order to navigate the points system positions her story clearly as one of being *with the law*. Much like Ewick and Silbey describe it, immigration law is gamified by those navigating it.

Looking back on the process now that she is a citizen, Irina is frustrated by the memories of having to 'score' points: 'It's like playing a game in the dark, you know? You navigate it in darkness with no explanations. Like, there's no logic to this point system. I don't think anyone would be able to tell you, really' (2022). Even though she was able to play the game of the points system successfully, her understanding of it situates her also *against the law*. Without the necessary explanations and no discernable logic, the policy functions arbitrarily to her. Irina further outlines the effect of having to wade through a long and exhausting immigration process that remains at least partially opaque at all times:

> 'Like, at that point people are a little bit disillusioned and I think perhaps less inclined to be as active as citizens as they would be earlier on [if they were formally integrated quicker] (...) If you are shutting me out in every other way and I have to like really prove myself for this, well, it's like, 'I don't want to be part of your club', like by the end of it' – Irina, 2022

The participation in a game, where the rules are not clear to all players lead in Irina's case to her being hindered in easily embracing her new formal identity.

A process experienced as unjust devalues the status gained through it. Stories of being *against the law* in the context of citizenship policy impact new citizens' ability of fully embody their new identity. When asked how far she feels Canadian, Lochani does not hesitate before answering, 'Not a lot. And (...) that's actually a really nuanced thing because I don't know how many immigrants actually feel fully Canadian. I think their children will. But for me, I don't belong anywhere' (2022). Lochani grew up in the Middle East as a Sri Lankan citizen on temporary status. She recounts her experiences there before coming back to the Canadian context: 'And then here, it's funny but I don't think I'll ever feel free. Maybe I will one day but in my opinion it's difficult for me. Because even in the last 10 years I always carried myself as someone that can get kicked out' (Lochani, 2022.). Working in immigration as a law clerk, she says she knows 'too much' to feel fully secure about her status in Canada: 'See, most people don't know that citizenship can be revoked, and it can. (...) I'm a citizen, yeah, but you can take it away. So, am I really a full Canadian? I'm not' (Lochani, 2022). Being a naturalized citizen in Canada thus constitutes a continuous state of being *against the law* for Lochani, as the existences of denaturalization clauses put her on unequal footing to those with birthright citizenship.

Filiz, who had stated as outlined above that the German part of her identity had always belonged to how she saw herself, described her naturalization experience as what could be paraphrased as a state-mandated identity crisis, which included rescinding her Turkish nationality and being told by an official at the Foreigners' Office that he would do everything to have her deported.

> 'The naturalization itself was relatively unproblematic. All the feelings and emotions connected to it were the more problematic bit. This being put on the spot... the manifestation of my identity conflict in a bureaucratic process. And that it's coming from the authorities, that you need to and must have this conflict, because you have a migration background. That was the bad thing about it. The tough thing – because experiences of being 'other' used to come from interactions with regular people, not from the authorities.' – Filiz, 2021

For her, dealing with 'othering' or being excluded by other people had not induced a conflict of identity. She had seen herself as German and viewed naturalization simply as a formal process she would fulfill to also claim this part of her identity legally. But citizenship acquisition constituted not only a formal process but necessitated a questioning of her identity and belonging. It created a chasm between individual and state she had not perceived to exist before.

It is important to highlight that the experiences interviewees shared of their migration history were not all difficult or manifestations of injustice. For many,

gaining access to their destination country (if they had not been born in it) and acquiring citizen rights constituted an alignment with the law that they had not encountered before. Zafer, who had fled to Canada from Turkey in 2016 and submitted his application for citizenship in 2022, illustrated being 'existentially grateful for Canada' (2022). As a gay man, submitting his joint tax returns with his partner meant he was positioned *before the law* in a way he had not been before: 'I went to my accountant, we filled [out] the forms together and I looked at the form and cried. So probably I'm the first person, who cried [over] a tax form. (...) I'm not crying because I'm going to pay taxes, but I was crying because for the first time, I am with a person and I'm in love with him. And [the state says] 'yeah, just give your name' (Zafer, 2022). Natasha, who had come to Germany first as an au pair and then went on to study at and graduate from a German university, described in a similar vein that through all the opportunities she had been given, she had always felt 'very wanted in this country' and had been given 'so much' (2022). For her, becoming a citizen and working for the German state felt like a way to repay the country for the chances it offered her.

In both Canada and Germany, interviewees were most likely to report notions of being positioned *against the law* when discussing citizenship policy and requirements in their destination country. A procedure of citizenship acquisition that was perceived as unjust saw some new citizens being less inclined to fully embrace their new formal identity. Requirements for gaining membership such as the ceremonial oath are understood as more than formalities, but a meaningful part of what it means to be Canadian. At the same time, citizenship rights and privileges still hold enough meaning and importance in interviewees' lives that they continued on their pathway to formal citizenship. It can be observed yet again that the hegemony of the law as illustrated by Ewick and Silbey continues to be omnipresent in migrants' ambivalent notions of immigration policy. At the same time, migration outcomes, specifically the legal inclusion of immigrants as new citizens, still constitute a highly meaningful step to naturalized citizens and are often part of their self-realization.

6.5.2 Understanding the Relationships Built through Implementation

Analyzing the notions of legal consciousness of new citizens in Germany and Canada side by side demonstrates that while the structural differences in how policy is delivered might not impact the stories told about the reigning legality (whether one is *with*, *before* or *against the law*), the mode of implementation – be it centralized or decentralized, personal or impersonal – does impact who individuals see as 'the law' as the implementation systems produce differing sets of relationships between state and migrant.

When talking about the implementation of citizenship policy and its shortcomings, Canadian interviewees would most often refer to 'the IRCC' as the actor they were up against: Kamran, who moved from the UK to Canada in 2011 and now works as an immigration lawyer, states, 'The government is the 'them', you know, it's the behind-the-scenes. (...) and I mean, even for us working in the field, the government agencies make it so difficult to try and communicate with them' (Kamran, 2022). Irina hits a similar tone saying, 'Frequently even lawyers and consultants will tell you like, 'well, the black box that is the IRCC? We don't know!'' (Irina, 2022). Frustrations about the inability to contact the right people at the IRCC in order to get an update for an application and the opaqueness of the organization to an outsider were frequent topics in the interviews with new Canadian citizens. Aweke, who came to Canada from Ethiopia in 2013, describes his ambivalence towards his new home state, 'I am happy that I'm Canadian. (...) I am grateful and happy. Disappointed with the... government, and especially this department, IRCC. Incompetence, to tell the truth (...) and it is very discriminatory (...) It is not predictable. And if it is not predictable, it will create a lot of stress' (Aweke, 2022). It is this inability to anticipate how fast an application will be processed as well as insecurity about how applications are reviewed, which lead to applicants telling stories of being *against the law*.

Whereas Canadian interviewees mainly understood the IRCC as part of the government – which of course is also factually correct as the department is headed by the Minister of Immigration, Refugees and Citizenship – German interviewees often understood the Foreigners' Offices as well as the naturalization departments to be more separate and sometimes in opposition to government and law. Naijm, who was trained as a lawyer in Syria, arrived in Germany in 2014 and naturalized in 2021, recounted how for a part of 2021, local offices where rejecting naturalization applications due to legal uncertainty regarding whether applicants needed B1-level proficiency German overall or to also pass each sub-category of the B1-level exam.

> 'They rejected many applications in that period. Until the legislative amendment on August 18th, that's when [the government] changed it and said that the overall result of the exam matters and not the three separate parts. That means that the local authorities don't have any leeway anymore. This office had required the overall result– another wanted all three parts – now it's clear.' – Najim, 2021

In Najim's – and many fellow new German citizens' – understanding of the policy implementation process, the local authorities have agency. When bringing in second-order legal consciousness, it becomes clear that while the Canadian IRCC is viewed as one actor, be it opaque, that is implementing the will of the government, local authorities implementing immigration policy in Germany appear to have their own objectives and reasons for implementing the same policy in varying ways. In moments of contention, when applicants find themselves *against the law*, the law in question is often not the literal legal

text, but the implementer of said policy: applicants find themselves *against their caseworker.* It is thus the interpretation of the law by the caseworker that creates certain injustices according to how migrants understand the law.

When discussing the state of the current naturalization requirements, in particular financial conditions, Najim further states that even though the law allows for certain exceptions, these exceptions will only apply if the caseworker decides that they do. According to Najim's understanding of the workings of German government offices, this outcome is often unlikely: 'The agency has leeway. Always. They cannot – if they don't want to then they don't do anything. The law is a little slack' (2021). The central assumption of how citizenship law implementation in Germany operates is thus that if offices have discretionary power, then they will use it arbitrarily. Similarly, Rohat, who came to Germany as a small child with his family and grew up in a rural part of Germany, described how his family repeatedly resubmitted their documents for permanent residence but was only granted temporary status until he finished high school. Looking back now, he could not pinpoint what made the exact difference in their last application but he remembered feeling frustrated about its timing: 'Back then I thought 'cool, now that I have the *Abitur* [qualification for university entrance] and can go to university, I get the stupid PR' as if the German authorities were just waiting to see if I was good for anything' (2022). It is once again not the fulfilling of a set of requirements that is perceived as the determining factor for whether one is granted a certain status, but rather that the authorities implementing the regulations control the success of an application.

German interviewees often felt they were at the mercy of a single civil servant's disposition. Elena had come to Germany as an au pair and student in 2005 from Georgia. She recalls having been refused permanent resident status for what she felt was an unjust reason:

> 'The caseworker there said they couldn't grant me permanent residence, because... my income wasn't enough. Even though... they are supposed to add it up, because I'm married to my husband and she said 'no that is excluded from your data' (...) How am I supposed to understand that? My impression is... a lot of the time, they just do what they want to.' – Elena, 2021.

Hani, who had come to Germany as a Syrian refugee in 2015 when he was 25 and now works as a welfare administrator, illustrated how perplexing it was to see friends and acquaintances, who all fulfilled the requirements for a certain status, be granted said status after vastly different waiting periods: 'Why? In my opinion it's the people that are employed by the authorities that process the applications. (...) there should be proper oversight that the civil servants are doing their job correctly' (Hani, 2021). Calls for greater oversight came up often during the interviews with German new citizens, who felt less impacted by the requirements for a status, such as citizenship, but rather by the people deciding whether they met said requirements. Interviewees also

reported experiences of implementation strategies differing between local authorities or between caseworkers. Zahra, who came to Germany as a medical student from Azerbaijan, had to reapply for PR after she had moved from one municipality to another which had a significant effect on her status due to her new caseworker:

> 'That woman, she said to me – I basically met all the criteria for permanent residence, I speak German, I have a work contract, all these things, pay slips. (...) Everyone in the neighboring city [office] told me I fulfilled the requirements, and she then showed me some small print, some law, that said that each local administration could decide for themselves through discretion.' – Zahra, 2022

As evidenced by their perceptions of the implementation of citizenship policy, new German citizens recalled having been *against the law* in the form of the street-level bureaucrat processing their applications. While some Canadian interviewees would mention an imagined person sitting at a computer and looking over their file, they did not assign them as much agency and power as their German counterparts did. In some interactions with street-level bureaucrats, Canadian interviewees reported a frustration with how impersonal these meetings would be. For example, Caroline had become a Canadian citizen after emigrating from the US. Her naturalization certificate, however, was missing one of her middle names compared to her older Ontario ID which proved problematic when she attempted to get a driver's license during a longer stay in British Columbia: 'They had multiple offices around where I was living. And so, I went to one and then I went to another one. I think I've been three times. I think I went to one office once and the other offices twice. And so it was like three, two different offices, three different bureaucrats' (2022). After being refused three times, Caroline contacted her Provincial Parliament Member in hopes of setting up an appointment at the relevant agency where the street-level bureaucrat would have prior knowledge of her situation. 'I want them to know what I'm bringing or what I'm not bringing. (...) And then I want to know who I'm going to see, like I want to see a person who is expecting me and knows all this information' (2022). The scheduled meeting ultimately fell through, but Caroline's inquiry for someone to already know about her situation before she arrives describes the role of a caseworker: A bureaucrat responsible for her case who has all the relevant documents on file and is familiar with her administrative issues. When asked whether she felt that it was an individual or systematic decision to refuse her application for a driver's license, Caroline agreed with the latter: 'They all really, really took very seriously [that] policing' (2022). In contrast to many of the German interviewees, Caroline did not place the blame for the specific decision on the individual frontline bureaucrat.

The decentralized bureaucratic structure of the German policy implementation system thus seemingly creates a distance between the legislator and the implementor of the legislation in the interviewees' legal consciousness.

New German citizens were impacted by their second-order legal consciousness of their caseworkers. Their experiences led them to believe that their caseworker viewed the law as something the bureaucrat got to shape and use at their convenience. How much of the implementation of a policy is visible to immigrants will have an impact on how they make sense of this process. While frustrations with *the law* in the Canadian context focus either on the legal requirements themselves or the IRCC as one entity, these issues in the German context are often influenced by the individual's personal relationship with their caseworker demonstrating the enormous impact of second-order legal consciousness regarding state actors.

6.6 Conclusion

The analysis of the legal consciousness of naturalized citizens in Canada and Germany demonstrates that in both cases migrants employ stories where they are *against the law*. The law and more specifically the requirements for naturalization are often interpreted as being a meaningful part of what it means to be Canadian or German. A key difference that is apparent in the interviews with both new Canadians and new Germans is the emphasis put not only on having an understanding of the law itself, but how individuals come to understand its implementation process. How law is put into action makes a difference to how law is understood – 'the law' being perceived as just not only denotes the rules as they are set up, but also their implementation. Legal consciousness is impacted by both aspects of the legality someone is living in.

Where new citizens' experiences concretely differ is that 'the law' they are up against takes a different shape depending on the national context. In the Canadian case, the law remains more abstract: The IRCC is blamed as an entity and the rules and regulations are often what interviewees see themselves being *against*. The IRCC is understood as the long arm of the legislature with little inherent agency. The opaqueness of the IRCC – and to a large part Canadian citizenship policy implementation as a whole – contributes to feelings of uncertainty and arbitrariness in migrants. In the German context, understandings of where procedural injustices stem from are negotiated through the individual's personal relationship with their caseworker. In this bureaucratic system, the borders between what is due to a literal 'law' and what is due to the person implementing said law has become blurred to migrants. In Germany's decentralized implementation structure, interviewees assign local authorities and individual caseworkers more agency and power than their Canadian counterparts do. The local German authorities are assumed to hold significant discretionary leeway and that they make use of said leeway whenever they see fit and not necessarily in the interest of the immigrants. Some interviewees call on the legislature to formulate regulations in a stricter manner

to reduce the discretionary powers of the implementing agencies. Here, we see a stark contrast to how naturalized Canadians understand the relationship between their legislature and the IRCC.

What becomes apparent is that the bureaucratic structure does not necessarily impact which 'story' of the law is told the most, but that there is a difference in how it is told – the closest point of contact will be the one that is most associated as being what the applicant is up *against*, which can be an impersonal system or a single individual i.e. the caseworker. Every new type of relationship created by the implementation system adds to the relational dimension of migrants' legal consciousness. In their experience, caseworkers hold an immense amount of power that some use at their own whim. In this understanding of the law, impacted by their perceptions of how the responsible frontline bureaucrats see the law, unequal outcomes of immigration policy are due to how it is implemented, not the literal policy as it was formulated.

This rare comparative view of naturalized citizens' legal consciousness offers a new understanding of how state-citizen relations can impact perceptions of legality whenever the state is personified and thus second-order legal consciousness, as coined by Young and Chimowitz (2022), is enabled. It also raises questions concerning the purpose of the respective implementation structures. Firstly, how do the experiences of new Germans locating the root of many injustices in the decision-making of street-level bureaucrats reflect the levers of legal power? Do street-level bureaucrats hold the reigns of citizenship law or do they function as scapegoats within a system that structurally hampers the exclusion of some while aiding others? Conversely, what does a state like Canada gain from keeping its implementation evidently in the dark while putting the focus on its legislators? Future research has the opportunity to home in on these questions as well as broadening the scope of this study geographically beyond the Greater Toronto Area as well as the governmental district of Cologne.